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MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

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SUBJECT: Guidance to Federal Agencies Regarding the Implementation of FAST-41 and Recommended Information Reporting for Environmental Reviews

The Office of Management and Budget and the Council on Environmental Quality are issuing revised guidance for agencies to carry out responsibilities under Title 41 of the Fixing America's Surface Transportation Act (hereinafter "FAST-41"). This guidance is responsive to the recommendation of the Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) to replace the 2017 Guidance to (1) incorporate the substantial body of practice, documentation, Permitting Dashboard management protocols and tools, policies, and other procedures developed since issuance of the 2017 Guidance; (2) address recurring questions from Federal agencies implementing FAST-41 and sponsors of FAST-41 projects; and (3) reflect statutory amendments made since 2017 (the Consolidated Appropriations Act, 2021, Pub. L. 116-260; the Infrastructure Investment and Jobs Act, Pub. L. 117-58; Pub. L. 117-173; and the Fiscal Responsibility Act of 2023, Pub. L. 118-5).

The statutory requirements of FAST-41 are intended to provide

- increased predictability through the publication of project-specific permitting timetables and clear processes to modify permitting timetables and resolve issues;
- increased transparency and accountability over the Federal environmental review and authorization process; and
- improved early coordination of agencies' schedules and synchronization of environmental reviews and authorizations.

In addition to addressing statutory requirements, this guidance also provides a framework to increase the transparency of the environmental review process through tracking a project's environmental and community outcomes on the Permitting Dashboard.

Attachment



Where projects see progress

The Permitting Council
Washington, DC 20036

January 3, 2025

Consistent with my statutory authority as Executive Director of the Federal Permitting Improvement Steering Council, I recommended that the Office of Management and Budget (OMB) and Council on Environmental Quality (CEQ) update the FAST-41 guidance to reflect changes made to statute and in practice since 2017. I am pleased to have worked with the leadership of OMB and CEQ to finalize this updated guidance to Federal agencies.

When OMB and CEQ released the previous guidance in 2017, the FAST-41 process was still a nascent initiative and the Permitting Council was subject to a 7-year sunset clause and largely staffed by detailees from other agencies. Seven years later, the Permitting Council is a permanent and growing agency that has enabled more than 40 projects to successfully complete all Federal environmental reviews and approvals, in addition to nearly 30 more that are currently planned or in progress.

The implementation lessons learned in supporting these major projects helps inform this update of the FAST-41 guidance. This updated guidance will better enable agencies to achieve the goals of the Permitting Council to provide transparency, predictability and accountability to the environmental review and authorizations of covered infrastructure projects.

Eric B. Beightel
Executive Director, Permitting Council

Guidance to Federal Agencies Regarding the Implementation of FAST-41 and Recommended Information Reporting for Environmental Review

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List of Acronyms

CEQ	Council on Environmental Quality
CERPO	Chief Environmental Review and Permitting Officer
CPP	Coordinated Project Plan
EA	Environmental Assessment
EIS	Environmental Impact Statement
ERIF	Environmental Review Improvement Fund
FIN	FAST-41 Initiation Notice
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
OMB	Office of Management and Budget

Glossary of Key Terms

Cooperating agency – At the invitation of and designation by the lead agency, a cooperating agency is any Federal, state, Tribal, or local agency with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal. Cooperating agencies are responsible for assisting the facilitating or lead agency (*see Section 2*).

Coordinated project plan (CPP) – A concise plan for coordinating public and agency participation in and completion of any required Federal environmental review and authorization for a covered project, including the permitting timetable (*see Section 4(D)*).

Covered project – An infrastructure project that an agency or the Executive Director determined meets the FAST-41 eligibility criteria and has been added to the Permitting Dashboard (*see Section 3*).

Facilitating agency – The Federal agency that receives the initial notification of initiation of a proposed covered project from an applicant under the FAST-41 process. In cases where there is not a lead agency, the facilitating agency is responsible for determining whether a project meets the covered project eligibility criteria, creating the CPP and managing the permitting timetable, and fulfilling most of the substantive project management responsibilities under FAST-41 (*see Section 2*).

FAST-41 performance schedule – A recommended schedule that agencies use as a baseline for establishing covered project permitting timetables for sectors and sub-sectors of covered projects, including intermediate and final completion dates for the environmental reviews and authorizations that are most commonly required for covered projects in a particular sector (*see Section 4(D)*).

Lead agency – When a covered project is subject to NEPA, the lead agency is the lead agency

under NEPA and its implementing regulations. The lead agency is responsible for determining whether a project meets the covered project eligibility criteria, creating the CPP and managing the permitting timetable, and fulfilling most of the substantive project management responsibilities under FAST-41 (*see Section 2*).

Participating agency – An agency likely to have financing, environmental review, authorization, or other responsibilities with respect to a covered project, and that is invited and designated by the lead or facilitating agency to participate an environmental review or authorization for a covered project in accordance with the FAST-41 process. These agencies are expected to generally overlap with NEPA participating agencies, and are included in the FAST-41 process to improve coordination across any Federal environmental reviews and authorizations required for the project (*see Section 2*).

Permitting timetable – A list of all the intermediate and final completion dates for each participating agency’s environmental review or authorization process for a covered project that is posted on the project page on the Permitting Dashboard (*see Section 4(D)*).

Sector – A project must satisfy multiple criteria to be eligible to be a FAST-41 covered project. One requirement is the project must be an infrastructure project that falls within the distinct sectors specified by statute or established by the Permitting Council (*see Section 3*).

Transparency project – An infrastructure project that the Executive Director determines should be posted to the Permitting Dashboard in the interest of transparency (*see Section 5*).

Section 1 General Information

1.1 What is the context for this guidance?

The Director of the Office of Management and Budget (OMB) and the Chair of the Council on Environmental Quality (CEQ) provide this Memorandum for agencies carrying out responsibilities under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41).¹ This Memorandum supersedes and replaces OMB M-17-14, Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects, issued jointly by the OMB Director and CEQ Chair on January 13, 2017 (2017 Guidance).

This joint guidance is responsive to the recommendation of the Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) to replace the 2017 guidance to (1) incorporate the substantial body of practice, documentation, Permitting Dashboard management protocols and tools, guidance, and other procedures developed since issuance of the 2017 Guidance; (2) address recurring questions from implementing Federal agencies and project sponsors; and (3) reflect the statutory amendments made by the Consolidated Appropriations Act, 2021,² the Infrastructure Investment and Jobs Act,³ and Pub. L. 117-173.⁴

1.2 To whom does this guidance apply?

This guidance applies to all Federal facilitating, lead, cooperating, and participating agencies involved in the environmental review and authorization of a FAST-41 covered project or with responsibility for implementing a requirement of FAST-41.

1.3 What is the scope of this guidance?

This guidance provides detailed information on

- the roles and responsibilities of Permitting Council members;
- identifying and adding FAST-41 “covered projects”⁵ to the [Permitting Dashboard](#) for Federal Infrastructure Projects (Permitting Dashboard);⁶
- creating and maintaining permitting timetables for covered projects;
- conforming to permitting timetables;

¹ 42 U.S.C. §§ 4370m–4370m-12. Section 4370m-1(c)(1)(D) in particular authorizes the issuance of this guidance. For projects not subject to FAST-41, agencies may consider elements of this guidance and the FAST-41 procedures as a collection of best practices where practicable and as appropriate.

² Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. S, § 101(d), 134 Stat. 1182, 2250 (2020).

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. G, tit. VIII, § 70801, 135 Stat. 429, 1287 (2021).

⁴ Pub. L. No. 117-173, 136 Stat. 2103 (2022) (amending FAST-41 to include certain digital and technology-related projects).

⁵ Except where explicitly stated otherwise, the term “covered projects” as used in this guidance means the projects that have been added to the Permitting Dashboard pursuant to 42 U.S.C. § 4370m-2(b)(2)(A)(i)–(ii), which addresses projects added to the Permitting Dashboard either because they are part of the inventory created by the Executive Director pursuant to § 4370m-1(c)(1)(A) or because a project sponsor has submitted a notice of the initiation of a covered project under § 4370m-2(a)(1).

⁶ See www.permits.performance.gov/projects.

- completing FAST-41 project reviews;
- identifying and managing transparency projects;⁷ and
- understanding the FAST-41 limitations on judicial review.

This guidance also provides advice to agencies on collecting and reporting data and information on community and environmental outcomes of the environmental review and authorization process for all Federal actions under NEPA, and includes instructions for using the Permitting Dashboard to report this information for all projects that appear on the Permitting Dashboard.

This guidance incorporates by reference the [Permitting Council Charter](#),⁸ the Permitting Dashboard Technical User Guide,⁹ the Permitting Council’s [Data Management Guide for FAST-41 Covered Projects on the Permitting Dashboard](#),¹⁰ and relevant memoranda, policies, and standard operating procedures¹¹ governing the administration of the Permitting Council, the FAST-41 process, and the Permitting Dashboard.

1.4 How does FAST-41 relate to other statutes?

The FAST-41 process is layered over the substantive statutory and regulatory schemes Federal

⁷ 42 U.S.C. § 4370m-2(b)(2)(A)(iii) (“The Executive Director may direct a lead agency to create a specific entry on the Dashboard for a project that is not a covered project and is under review by the lead agency if the Executive Director determines that a Dashboard entry for that project is in the interest of transparency.”).

⁸ www.permits.performance.gov/documentation/current-permitting-council-charter.

⁹ www.permits.performance.gov/documentation/permitting-dashboard-user-guide.

¹⁰ www.permitting.gov/resources/data-management-guide.

¹¹ See, *Standard Operating Procedure: Applying the Discretionary Standard for FAST-41 Covered Projects* (Apr. 30, 2018), available at www.permitting.gov/resources/sop-standard; *Executive Director Memorandum: Ensuring that Permitting Council Member Agencies and Covered Project Sponsors Receive Full Benefit of 2-Year Limitations Period Provided in FAST-41* (Jan. 12, 2021), available at www.permits.performance.gov/sites/permits.dot.gov/files/2021-01/2021-01-11%20Permitting%20Council%20ED%20Memo%20re%20Implementing%202017%20Limitations%20Period%20Guidance.pdf; *Executive Director Memorandum: Executive Director Role and Responsibilities in Determining Whether a Project is a Covered Project Pursuant to FAST-41* (Jan. 12, 2021), available at www.permits.performance.gov/sites/permits.dot.gov/files/2021-01/2021-01-12%20Permitting%20Council%20ED%20Role%20and%20Responsibilities%20in%20FAST-41%20Project%20Coverage%20Determinations.pdf; *Standard Operating Procedure: Adding a New Infrastructure Sector Under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), and Modifying or Removing Previously Added Infrastructure Sectors* (Mar. 31, 2022) (revising prior 2017 and 2020 published procedures), available at www.permits.performance.gov/sites/permits.dot.gov/files/2022-09/2022-03-31%20Permitting%20Council%20Sector%20Vote%20SOP.pdf; *Data Management Guide for FAST-41 Covered Projects on the Permitting Dashboard* (Aug. 2022) (updating September 2020 version), available at www.permitting.gov/resources/data-management-guide; *Executive Director Memorandum: Management of FAST-41 Permitting Timetables During a Lapse in Appropriations* (Sept. 29, 2023), available at www.permits.performance.gov/sites/permits.dot.gov/files/2023-10/2023-09-29%20ED%20Memo-Permitting%20Timetable%20Mgmt%20During%20Shutdown.pdf; *Executive Director Memorandum: Requesting Executive Director Authorization to Modify Completion Dates in a FAST-41 Covered Project Permitting Timetable* (Nov. 13, 2023), available at www.permits.performance.gov/sites/permits.dot.gov/files/2023-11/2023-11-13%20ED%20Memo%20on%20Requesting%20Authorization%20to%20Modify%20Completion%20Dates.pdf; Off. of Mgmt. & Budget, Council on Env’t. Quality, and Fed. Permitting Improvement Steering Council, OMB M-23-14, *Implementation Guidance for the Biden-Harris Permitting Action Plan* (Mar. 6, 2023), available at www.whitehouse.gov/wp-content/uploads/2023/03/M-23-14-Permitting-Action-Plan-Implementation-Guidance_OMB_FPISC_CEQ.pdf.

agencies administer when conducting environmental reviews or authorizations for a covered project. The FAST-41 statute has savings and limitations provisions, and agencies must apply FAST-41 to be consistent with other Federal requirements. Nothing in FAST-41 “supersedes, amends, or modifies any Federal statute or affects the responsibility of any Federal officer to comply with or enforce any statute.”¹² FAST-41’s limitations provision states that nothing in FAST-41 “preempts, limits, or interferes with . . . any power, jurisdiction, responsibility, or authority that a Federal, State, or local governmental agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to any project, plan, or program.”¹³

FAST-41 does not create a presumption that an agency will approve or favorably review a covered project, and it does not affect, supersede, amend, or modify any Federal statute or affect agency responsibility to comply with or enforce their other statutes and authorities. FAST-41 also does not amend the National Environmental Policy Act (NEPA).¹⁴

In addition, FAST-41 does not require the public disclosure of any information that another Federal law may otherwise protect (*e.g.*, Freedom of Information Act¹⁵ exemptions). FAST-41 includes additional protections for information relating to Native American resources submitted by a project sponsor.¹⁶

When provisions of FAST-41 or implementation of these provisions implicate other laws, agencies should address them on a case-by-case basis. An agency should contact the Executive Director in the event the agency identifies a potential conflict between FAST-41 and other laws or anytime clarification is needed.¹⁷

¹² 42 U.S.C. § 4370m-6(d)(1).

¹³ *Id.* § 4370m-6(e)(2).

¹⁴ *Id.* §§ 4370m-6(d), 4370m-11.

¹⁵ 5 U.S.C. § 552.

¹⁶ 42 U.S.C. § 4370m-2(a)(1)(D) (“Any information relating to Native American natural, cultural, and historical resources submitted in a notice by a project sponsor . . . shall be—(i) kept confidential; and (ii) exempt from the disclosure requirements under section 552 of title 5 (commonly known as the “Freedom of Information Act”) and the Federal Advisory Committee Act . . .”).

¹⁷ For example, because FERC and NRC are independent regulatory agencies, the FAST-41 provisions that require interagency concurrence on certain permitting timetable completion date modifications will not apply, in some circumstances, to FERC and NRC. More specifically, FERC and NRC’s environmental review schedules, and modifications thereto, are not subject to the limitations on modifications described in Sections 4.30 through 4.35. FERC and NRC will still inform project sponsors of schedule changes and maintain and update environmental review schedules on the Permitting Dashboard to ensure the transparency required by FAST-41.

Section 2 Roles and Responsibilities

The Permitting Council website¹⁸ provides a further description of the authorities and responsibilities of the key parties in the FAST-41 process.

2.1 Who chairs the Permitting Council?

The Permitting Council is chaired by an Executive Director, appointed by the President.¹⁹

2.2 Who designates the members of the Permitting Council?

The thirteen heads of Federal agencies below must designate an individual in the agency in a position of deputy secretary (or the equivalent) or higher to serve as a member of the Permitting Council:²⁰

- The Secretary of Agriculture
- The Secretary of the Army
- The Secretary of Commerce
- The Secretary of the Interior
- The Secretary of Energy
- The Secretary of Transportation
- The Secretary of Defense
- The Administrator of the Environmental Protection Agency
- The Chair of the Federal Energy Regulatory Commission
- The Chair of the Nuclear Regulatory Commission
- The Secretary of Homeland Security
- The Secretary of Housing and Urban Development
- The Chairman of the Advisory Council on Historic Preservation

FAST-41 allows the Executive Director to invite any other head of a Federal agency to designate an individual in the agency in a position of deputy secretary (or the equivalent) or higher to serve as a member of the Permitting Council.²¹ The OMB Director and the CEQ Chair are additional members of the Permitting Council.²²

2.3 What are the authorities and responsibilities of the Permitting Council?

The Permitting Council administers certain provisions of FAST-41 and helps facilitate a deliberate, synchronized, and transparent Federal environmental review and authorization process for FAST-41 covered projects. The Permitting Council's responsibilities include

¹⁸ <https://www.permitting.gov/resources/appendix-fast-41-guidance>

¹⁹ 42 U.S.C. § 4370m-1(b)(1).

²⁰ *Id.* § 4370m-1(b)(2).

²¹ *Id.* § 4370m-1(b)(2)(A)(ii), (B)(xiv).

²² *Id.* § 4370m-1(b)(3).

- identifying additional sectors to include in the FAST-41 process;²³
- identifying projects that could benefit from the enhanced oversight and coordination under FAST-41;²⁴ and
- developing and issuing recommendations for best practices to implement FAST-41.²⁵

2.4 What are the authorities and responsibilities of the Executive Director?

The Executive Director helps agencies administer FAST-41 and, as Permitting Council Chair, presides over the Permitting Council’s agenda and meetings. Responsibilities of the Executive Director include

- maintaining an online Permitting Dashboard to track the status of environmental reviews and authorizations for covered projects;
- publishing covered project permitting timetables on the Permitting Dashboard that are created by lead or facilitating agencies;
- posting narrative explanations of reasons for covered project permitting timetable modifications;
- approving or denying requests to modify a covered project’s final completion date by more than 30 days;
- mediating permitting timetable disputes;
- reporting quarterly to Congress on agency compliance with FAST-41 requirements;
- establishing recommended performance schedules for agencies to use as a baseline for establishing covered project permitting timetables;
- directing a lead agency, in the interest of transparency, to post to the Permitting Dashboard a project that is not a covered project;²⁶ and
- administering the Environmental Review Improvement Fund (ERIF).

2.5 What are the authorities and responsibilities of the heads of the Council member agencies with respect to FAST-41?

The heads of the Permitting Council agencies designate a Council member of at least deputy secretary “or equivalent” rank.²⁷ Each agency head must always have a designated Council member and update the Permitting Council in the event the designated Council member changes. Pursuant to the [Permitting Council Charter](#),²⁸ Council members act and vote on behalf of their respective agencies.²⁹

The heads of the Council member agencies³⁰ also designate one or more members of the agency

²³ *Id.* § 4370m(6)(A).

²⁴ *Id.* § 4370m(6)(A)(iv).

²⁵ *Id.* § 4370m-1(c)(2)(B).

²⁶ *Id.* § 4370m-2(b)(2)(A)(ii).

²⁷ 42 U.S.C. § 4370m-1(b)(A)(i)–(ii).

²⁸ www.permits.performance.gov/documentation/current-permitting-council-charter.

²⁹ See *FAST-41 Fed. Permitting Improvement Steering Council Charter*, Permitting Dashboard 4–5 (2017).

³⁰ www.permits.performance.gov/fpisc-content/federal-agencies.

to serve as the agency's chief environmental review and permitting officer (CERPO).³¹ Permitting Council agency heads should designate an appropriate number of CERPOs within their agency to effectively implement the agency's FAST-41 responsibilities. Agencies with multiple sub-agency components should consider designating a CERPO in each sub-agency component. Heads of Council member agencies should ensure that all CERPOs within an agency are adequately and effectively implementing, coordinating, and deconflicting all FAST-41 related duties and responsibilities.

The Executive Director maintains a [list of agency CERPOs](#)³² on the Permitting Council website. The relevant Council member should furnish the Executive Director with current contact information for their respective CERPOs and provide the information necessary for the Executive Director, other Federal, state, Tribal, and local agencies, project sponsors, and the public to easily determine which CERPO to contact for any given FAST-41 permitting timetable issue.

2.6 Who can be an agency CERPO, and what are their authorities and responsibilities?

CERPOs may be political appointees or career officials. At a minimum, each CERPO should

- be knowledgeable about and experienced in the agency's environmental review and authorization responsibilities;
- be placed at an appropriate position within the Council member agency's organizational structure to coordinate and manage the agency's permitting and environmental review responsibilities;
- advise the respective agency Council member on matters related to the agency's environmental reviews and authorizations as required under FAST-41;³³
- act on behalf of their agency and take steps within their agency, or between their agency and other Federal agencies, to support timely identification and resolution of potential disputes as required by FAST-41;³⁴
- make recommendations to the respective agency Council member for ways to improve their agency's environmental review and decision-making process as required by FAST-41;³⁵ and
- review and develop training programs for agency staff that support and conduct environmental reviews or authorizations as required by FAST-41.³⁶

Although the agency CERPOs are ultimately responsible for certain statutory duties, a CERPO may delegate certain responsibilities related to technical support or training to others in the agency that are capable of performing the duties in accordance with the statutory requirements.

³¹ 42 U.S.C. § 4370m-1(b)(2)(A)(iii)(I).

³² www.permitting.gov/resources/steeringcouncil-cerpo.

³³ 42 U.S.C. § 4370m-1(b)(2)(A)(iii)(II).

³⁴ *Id.* § 4370m-1(c)(3)(B).

³⁵ *Id.* § 4370m-1(c)(3)(C).

³⁶ *Id.* § 4370m-1(c)(3)(D).

2.7 What are the roles of the OMB Director and the CEQ Chair under FAST-41?

As well as serving as members of the Permitting Council, the OMB Director and the CEQ Chair have other roles pursuant to FAST-41. These roles include issuing guidance to agencies on implementing FAST-41 requirements upon the recommendation of the Executive Director in consultation with the Permitting Council,³⁷ and resolving disputes regarding permitting timetables when they are not resolved within 30 days of submittal to the Executive Director.³⁸

The OMB Director may also permit the Executive Director to authorize a facilitating or lead agency to extend a covered project permitting timetable by more than 150 percent of the original length of the timetable under certain conditions identified in the statute.³⁹ If the OMB Director does so, the OMB Director must provide an explanatory report to Congress.⁴⁰ Additionally, before the Executive Director may transfer ERIF funds to another Federal agency or a state, Tribal, or local government, the OMB Director must review and approve the transfer.⁴¹

Additional roles of the CEQ Chair include

- resolving disputes over facilitating or lead agency designations⁴² and
- providing guidance on the use of existing documents for environmental reviews of covered projects.⁴³

2.8 What is a facilitating agency and what are its roles and responsibilities?

The facilitating agency is the agency that receives the initial notification of initiation of a proposed covered project under the FAST-41 process.⁴⁴ In cases where there is not a lead agency, the facilitating agency is responsible for determining, as appropriate, whether a project meets the covered project eligibility criteria, creating the FAST-41 coordinated project plan (CPP)⁴⁵ and managing the FAST-41 permitting timetable.⁴⁶ The Executive Director has identified a [list of designated facilitating agencies](#)⁴⁷ for each FAST-41 covered project sector. If the Executive Director has not designated a facilitating agency for a sector, then the agency that receives the initial notification becomes the facilitating agency.⁴⁸ In many instances, the facilitating agency for a project will also serve as the lead agency. In those instances where the lead agency is likely to be different from the facilitating agency, the facilitating agency should attempt to identify a lead agency as early as practicable, based on all known information regarding the covered project.

³⁷ *Id.* § 4370m-1(c)(1)(D).

³⁸ *Id.* § 4370m-2(c)(2)(C)(ii).

³⁹ *Id.* § 4370m-2(c)(2)(D)(iii)(II).

⁴⁰ *Id.*

⁴¹ *Id.* § 4370m-8(d)(3).

⁴² *Id.* § 4370m-2(a)(6)(B).

⁴³ *Id.* § 4370m-4(b)(1)(B).

⁴⁴ *Id.* § 4370m(13).

⁴⁵ *Id.* § 4370m-2(c)(1)(A).

⁴⁶ *Id.* § 4370m-2(c)(2)(A).

⁴⁷ www.permits.performance.gov/sites/permits.dot.gov/files/2019-10/project-types-and-facilitating-agencies.pdf.

⁴⁸ 42 U.S.C. § 4370m-2(a)(1)(B).

2.9 What is the lead agency and what are its roles and responsibilities?

FAST-41 defines “lead agency” as the lead agency under NEPA and its implementing regulations.⁴⁹ The CEQ NEPA regulations define “lead agency” as the Federal agency that proposes the agency action or is designated to prepare the environmental impact statement (EIS) or environmental assessment (EA).⁵⁰ Under FAST-41, the Federal NEPA lead agency will be the Federal agency with primary responsibility for the environmental review and authorization of a covered project.

The lead agency is responsible for fulfilling most of the substantive project management responsibilities under FAST-41, including creating the FAST-41 CPP and permitting timetable, and managing and modifying the FAST-41 permitting timetable. Under FAST-41, when an agency other than the facilitating agency is the lead agency under NEPA, the lead agency replaces the facilitating agency as the primary agency for implementing the FAST-41 responsibilities. In such cases, the facilitating agency may become either a cooperating or participating agency.⁵¹

NEPA provides for a joint lead agency, which may be another Federal agency or a state, Tribal, or local agency.⁵² The Federal lead agency is responsible for complying with FAST-41 requirements, including when there is a state, Tribal or local joint lead agency, and in coordination with any Federal joint lead agency.

2.10 What is a cooperating agency under FAST-41, and what are a cooperating agency’s roles and responsibilities?

A cooperating agency for FAST-41 is the same as a cooperating agency under NEPA and the CEQ NEPA regulations.⁵³ At the invitation of and designation by the lead agency, a cooperating agency is any Federal, state, Tribal, or local agency with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal.⁵⁴

Cooperating agencies are responsible for assisting the facilitating or lead agency by identifying necessary reviews and authorizations for inclusion on the permitting timetable. Cooperating agencies additionally must work closely with the facilitating or lead agency on any necessary modifications to the permitting timetable, as described in Section 4(E).

A state, Tribal, or local agency that serves as a cooperating agency in the NEPA environmental

⁴⁹ *Id.* § 4370m(15) (“The term ‘lead agency’ means the agency with principal responsibility for an environmental review of a covered project under NEPA and parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).”).

⁵⁰ 40 C.F.R. § 1508.1(u) (“*Lead agency* means the Federal agency that proposes the agency action or is designated pursuant to [40 C.F.R.] § 1501.7(c) for preparing or having primary responsibility for preparing the environmental impact statement (EIS) or environmental assessment (EA).”); *see also* 42 U.S.C. § 4336e(9) (defining “lead agency”).

⁵¹ 42 U.S.C. § 4370m-2(a)(5)(B).

⁵² *See id.* § 4336a(a)(1)(B); *see also* 40 C.F.R. § 1501.7(b).

⁵³ 42 U.S.C. § 4370m(4).

⁵⁴ 40 C.F.R. § 1508.1(g); *see also* 42 U.S.C. § 4336e(2) (defining “cooperating agency”).

review process for a covered project does not become subject to FAST-41's requirements for cooperating agencies, except for a state agency that a State government makes subject to the requirements of FAST-41 in the manner described in Section 2.12.

2.11 What is a participating agency under FAST-41, and what are a participating agency's roles and responsibilities?

The term "participating agency" under FAST-41 means an agency participating in an environmental review or authorization for a covered project in accordance with 42 U.S.C. § 4370m-2.⁵⁵ These agencies are expected to generally overlap with NEPA participating agencies, and are included in the FAST-41 process to improve coordination across any Federal environmental reviews and authorizations required for the project.⁵⁶

The FAST-41 statute states that the designation of an agency as a participating agency alone shall not give the agency authority or jurisdiction over a covered project that it does not already have. Invitations for participating agency may be established on a programmatic basis or a project-by-project basis. For programmatic designation, for example, Council member agencies may designate a list of agencies that should always be invited as participating agencies for each FAST-41 project type.

2.12 How can states participate in the environmental review and authorization process under FAST-41?

FAST-41 specifically allows a state in which a FAST-41 covered project is located to elect to participate in the environmental review and authorization process under FAST-41.⁵⁷ When a state opts into the FAST-41 process, the state is agreeing to apply the same permitting timetable and management requirements to themselves as apply to Federal agencies.⁵⁸ State agencies are eligible to opt in if they have jurisdiction over the covered project; must conduct or issue a review, analysis, opinion, or statement for the covered project; or must make a determination whether to issue a permit, license, or other approval or decision for the covered project.⁵⁹

If a state opts into the FAST-41 process, the lead agency must include coordination plans, to the maximum extent practicable, in a memorandum of understanding (MOU) with the state that integrates state agency activities related to review or authorization responsibilities for the covered project into the CPP and permitting timetable management.⁶⁰ The lead agency may invite the Executive Director to join the MOU as a party to help facilitate implementation of the state's FAST-41 responsibilities on the Permitting Dashboard. The Executive Director has a provided a template MOU for implementing the state opt-in provision.

⁵⁵ 42 U.S.C. § 4370m(17); *see also* 40 C.F.R. § 1508.1(cc).

⁵⁶ 42 U.S.C. § 4336e(8). The CEQ regulations define a "participating agency" as "a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action." 40 C.F.R. § 1508.1(cc).

⁵⁷ 42 U.S.C. § 4370m-2(c)(3)(A).

⁵⁸ *Id.* § 4370m-2(c).

⁵⁹ *Id.* § 4370m-2(c)(3)(A).

⁶⁰ *Id.* § 4370m-2(c)(3)(C).

2.13 How should the lead agency coordinate with state, Tribal, and local government agencies?

FAST-41 requires the facilitating or lead agency to coordinate Federal environmental review and authorization processes with any state, Tribal, or local agencies responsible for conducting separate reviews or authorizations for the covered project to ensure timely and efficient completion of environmental reviews and authorizations.⁶¹ The facilitating or lead agency may develop a coordination plan, which must be contained in an MOU, to the maximum extent practicable, and sent to the Executive Director for posting on the Permitting Dashboard.⁶² Such coordination plan MOUs may be combined with an MOU addressing NEPA roles and responsibilities for a covered project.

2.14 Who can be a project sponsor under FAST-41, and what are a project sponsor's responsibilities?

A project sponsor may include any private, public, or public-private entity seeking an authorization for a covered project.⁶³ Project sponsors' responsibilities include

- preparing and submitting complete FAST-41 initiation notices;
- consulting with facilitating and lead agencies on permitting timetables;
- participating in meetings on the modification of completion dates; and
- providing necessary information to agencies to complete their actions in a timely manner.

⁶¹ *Id.* § 4370m-2(c)(3)(B).

⁶² *Id.* § 4370m-2(c)(3)(C).

⁶³ *Id.* § 4370m(18).

Section 3 Covered Projects

This section describes the FAST-41 infrastructure sectors, criteria for the four pathways to become a covered project, and statutory exclusions from FAST-41.

3.1 What projects are eligible for FAST-41 coverage?

A project is eligible to be a FAST-41 covered project if it is an infrastructure project that requires Federal agency authorization or environmental review, meets other specified criteria in Section 3.2, and is not covered by an exclusion as discussed further in Section 3.3. Such projects must fall within the sectors specified by statute or established by the Permitting Council. As of the date of this implementation guidance, these sectors include renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity, carbon capture, and energy storage.

3.2 What are the pathways to becoming a covered infrastructure project under FAST-41?

There are four pathways to become a FAST-41 covered project. Each covered project pathway has different criteria that an infrastructure project, which falls within one of the designated sectors, must meet in order to be eligible to become a covered project. A project only needs to qualify for one of the four pathways.

- (1) The standard pathway⁶⁴ includes infrastructure projects that fall within a designated sector and meet the following criteria:
 - subject to NEPA;
 - likely to require a total investment of more than \$200,000,000; and
 - does not qualify for abbreviated authorization or environmental review processes under any applicable law.
- (2) The carbon capture covered project pathway⁶⁵ includes infrastructure projects that fall within a designated sector and are covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines.
- (3) The Tribal covered project pathway⁶⁶ includes projects that meet the following criteria:
 - subject to NEPA;
 - sponsored by an Indian Tribe (as defined in 25 U.S.C. § 5304), an Alaska Native Corporation, a Native Hawaiian organization (as defined in 20 U.S.C. § 7517), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs; and

⁶⁴ *Id.* § 4370m(6)(A)(i).

⁶⁵ *Id.* § 4370m(6)(A)(ii).

⁶⁶ *Id.* § 4370m(6)(A)(iii).

- located on land owned or under the jurisdiction of the sponsor.
- (4) The discretionary covered project pathway⁶⁷ includes projects that meet the following criteria:
- subject to NEPA; and
 - the Permitting Council determines the projects are likely to benefit from enhanced oversight and coordination because of their size and complexity, including projects likely to require
 - the authorization of or environmental review by more than two Federal agencies; or
 - preparation of an EIS under NEPA.

3.3 What projects are ineligible for FAST-41 coverage?

FAST-41 and other provisions of the FAST Act exclude certain projects from FAST-41 coverage, even if they otherwise meet the definition of a “covered project.” The following categories of projects are statutorily excluded:

- Any project subject to 23 U.S.C. § 139,⁶⁸ which provides an environmental review process statute for highways, transit, railroad, and certain multimodal projects.
- Any project subject to 33 U.S.C. § 2348,⁶⁹ which is the general environmental review and authorization process for water resources development projects carried out by the Secretary of the Army.
- Any project carried out under a U.S. Department of Transportation (DOT) program under titles 23, 46, or 49 of the United States Code, or any other agency under title 49 of the United States Code.⁷⁰ This exclusion covers all DOT highway, rail, transit, aviation, port, and multimodal projects, including projects funded under DOT’s discretionary grant programs.

3.4 What does it mean for a project to be “subject to NEPA”?

For the “standard,” “Tribal,” and “discretionary” covered project pathways, NEPA must apply to a project⁷¹ in order to be eligible for FAST-41 coverage. Agencies should determine whether NEPA applies to their activities or decisions for a proposed project consistent with the NEPA

⁶⁷ *Id.* § 4370m(6)(A)(iv).

⁶⁸ *Id.* § 4370m(6)(B)(i).

⁶⁹ *Id.* § 4370m(6)(B)(ii).

⁷⁰ Pub. L. No. 114–94, div. A, title XI, § 11503(b), 129 Stat. 1312, 1692 (2015) (codified at 42 U.S.C. § 4370m note) (excluding, with certain exceptions, “programs administered now and in the future by the Department of Transportation program [DOT] or its operating administrations under titles 23, 46, or 49 of, the United States Code, including direct loan and loan guarantee programs, or other Federal statutes or programs or projects administered by any other agency pursuant to their authority under title 49, of the United States Code”). There may be situations where a FAST-41 covered project may require authorizations from the DOT and its operating administrations. In such cases, DOT will provide the appropriate information on the intermediate and final completion dates to the facilitating or lead agency for its inclusion on the Permitting Dashboard. DOT may also elect to accept a cooperating or participating agency invitation.

⁷¹ 42 U.S.C. § 4370m(6)(A).

statute and CEQ regulations, including 40 C.F.R. § 1501.3(a).⁷² A project may meet the “subject to NEPA” criterion before the agency determines the appropriate level of NEPA review consistent with 40 C.F.R. § 1501.3(c).⁷³

3.5 How should the facilitating or lead agency determine a potential covered project’s cost?

For the standard covered project pathway, a project must be likely to require a total investment of more than \$200 million. To determine whether a project is likely to meet the investment threshold, the facilitating or lead agency should consider information provided by project sponsors about the project’s total investment in the FAST-41 Initiation Notice (FIN),⁷⁴ which must demonstrate that the project meets the definition of a covered project.⁷⁵ The agency should use its experience and judgment to determine whether the project sponsor has adequately demonstrated that the project’s total investment would indeed be greater than \$200 million. If the information contained in the FIN is insufficient for the agency to make this determination, the agency may request additional supporting information from the project sponsor. The agency may also consult the Executive Director on the sufficiency of the cost information provided by the project sponsor.

3.6 What are the “abbreviated authorization or environmental review processes”?

For the standard covered project pathway, a project must not qualify for abbreviated authorization or environmental review processes under any applicable law⁷⁶ in order to be eligible to be a FAST-41 covered project.

An abbreviated authorization is a statutory or regulatory process that is required to be on a fixed, short timeline (*e.g.*, less than one year) or subject to a simplified process (*e.g.*, U.S. Army Corps of Engineers Clean Water Act Section 404 general permitting). An abbreviated environmental review includes the application of an applicable categorical exclusion for each action required for a project with a decision requiring a NEPA analysis and where no extraordinary circumstances exist requiring preparation of an EA or EIS.⁷⁷ This includes exclusions established by Congress or categorical exclusions established by agencies programmatically or in their NEPA implementing procedures.⁷⁸ It also includes regulatory determinations that are based entirely on programmatic NEPA documents such as U.S. Army Corps of Engineers Clean Water Act Section 404 general permits.

⁷² This aligns both with the definition of “environmental review” in FAST-41, 42 U.S.C. § 4370m(11) (defining “environmental review” as the “agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment (EA), an environmental impact statement (EIS), or other document required under NEPA”), and with CEQ regulations implementing NEPA, which require agencies to identify applicability of NEPA, 40 C.F.R. § 1501.3(a), and identify the level of NEPA review for CEs, EAs, and EISs, 40 C.F.R. § 1501.3(c); *see also* 42 U.S.C. § 4336.

⁷³ *See also* 42 U.S.C. § 4336.

⁷⁴ *Id.* § 4370m-2(a)(1).

⁷⁵ *Id.* § 4370m-2(a)(1)(C)(v).

⁷⁶ *Id.* § 4370m(6)(A)(i)(III).

⁷⁷ *See* 40 C.F.R. § 1501.4(b).

⁷⁸ *See, e.g., id.* §§ 1501.4, 1507.3(c)(8).

The Permitting Council will determine whether a process constitutes an abbreviated authorization or environmental review. The Permitting Council website provides [a list of abbreviated authorizations and environmental reviews](#)⁷⁹ that agencies should consult when determining whether all of a project’s authorization and environmental review processes are abbreviated. The list is not exhaustive, and an agency should notify the Permitting Council if it identifies an additional abbreviated authorization or environmental review to recommend for inclusion on the list.

3.7 Is a project eligible to be a covered project if only some of its authorizations and environmental review processes are abbreviated?

Yes, a project is eligible to be a covered project if only some of its authorizations and environmental review processes are abbreviated.⁸⁰ A project is not eligible if all of its authorizations and all of its environmental review processes are abbreviated.

3.8 How does an agency assess whether a project meets the criteria for a carbon capture covered project?

Determining whether a project is an eligible carbon capture covered project involves a two-pronged analysis:

- First, the project must meet the definition of construction of infrastructure for carbon capture.⁸¹ Construction of infrastructure for carbon capture includes construction of any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture and carbon dioxide pipelines.⁸²
- Second, the project must be covered by a programmatic plan or environmental review that was developed for the primary purpose of facilitating development of carbon dioxide pipelines.⁸³

If a lead or facilitating agency determines that a project may qualify as a covered project under this pathway, the agency should contact the Executive Director as promptly as practicable—and prior to the submission of the FIN, if possible—for further guidance.⁸⁴

3.9 How does an agency apply the criteria for the Tribal covered project pathway?

Section 3.2 lists the criteria for the Tribal covered project pathway. Tribal covered projects must

⁷⁹ www.permits.performance.gov/sites/permits.dot.gov/files/2019-10/Abbreviated%20Environmental%20Reviews%20and%20Authorizations.pdf

⁸⁰ When the U. S. Army Corps of Engineers is the only Federal agency with NEPA responsibilities met through an abbreviated authorization process or does not require an EIS, then the Executive Director will identify a different lead agency for purposes of complying with FAST-41.

⁸¹ 42 U.S.C. § 4370m(6)(C).

⁸² *Id.* (providing that FAST-41 may cover “construction of (i) any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture (as defined in paragraph (6)(B)(i) of section 7403(g) of the Clean Air Act); and (ii) carbon dioxide pipelines”).

⁸³ *Id.* § 4370m(6)(A)(ii).

⁸⁴ *Id.*; see also *infra* Section 4.1 (discussing early engagement).

be sponsored by an Indian Tribe and located on that Tribe's lands.⁸⁵ A project generally is eligible for this pathway even if the Indian Tribe is not the sole project sponsor, or the project is located only partially on land managed by the Tribal sponsor.

3.10 How does an agency apply the criteria for the discretionary covered project pathway?

The Permitting Council may extend FAST-41 coverage to projects that do not meet the criteria for one of the other three pathways to become a covered project. Such discretionary covered projects must

- fall within one of the FAST-41 designated sectors;
- not be expressly exempted or excluded from FAST-41;
- be subject to NEPA; and
- in the opinion of the Permitting Council, be of a size and complexity that the project is likely to benefit from enhanced oversight and coordination, given, for example, the number of agencies involved or the required preparation of an EIS.⁸⁶

The Permitting Council has established a [standard operating procedure for implementing the discretionary criteria](#), which is available on the Permitting Council website.⁸⁷

3.11 What infrastructure-related actions are ineligible for FAST-41 coverage?

The following is a list of example activities and projects that could not be covered projects⁸⁸:

- Actions considered in a programmatic environmental review or that do not authorize individual projects. For example, resource and land-use management plans covered by a programmatic NEPA review that does not sufficiently analyze individual projects. In such cases, a site-specific project whose environmental review tiers off of the land management plan's programmatic NEPA review may be eligible for FAST-41 coverage if it meets the relevant criteria for a covered project.
- Any project or action that fits in a designated sector but does not involve construction of infrastructure (including siting, construction, reconstruction, and commencing operations), such as
 - natural resource exploration activities (land-based and offshore);
 - geological exploration;
 - offshore renewable energy site assessments;
 - lease auctions;
 - license renewals that do not involve construction such as nuclear power plant operating licenses and nuclear power plant license renewals;

⁸⁵ 42 U.S.C. § 4370m(6)(A)(iii).

⁸⁶ *Id.* § 4370m(6)(A)(iv).

⁸⁷ Fed. Permitting Improvement Steering Council, *Standard Operating Procedure: Applying the Discretionary Standard for Fast-41 Covered Projects* (Apr. 30, 2018), available at www.permits.performance.gov/documentation/sop-applying-discretionary-standard-fast-41-projects.

⁸⁸ 42 U.S.C. 4370m(6)(A).

- offshore oil structure decommissioning-related activities;
- Bureau of Reclamation projects that do not include an authorization to construct; and
- any rulemaking actions.

3.12 Does FAST-41 require that agencies approve, endorse, or fund a covered project?

No, designation of a project as a covered project does not imply

- Federal endorsement of or support for the project;
- a presumption that an agency will approve a covered project;
- a favorable review by any agency;⁸⁹ or
- the receipt of Federal funding.

Agencies must remain objective as they carry out environmental reviews of covered projects under applicable laws. A key purpose of FAST-41 is to provide transparency⁹⁰ into the environmental review and authorization process for infrastructure projects, which is accomplished by posting projects on the Permitting Dashboard. FAST-41 covered projects that are likely to experience complex review processes or require an EIS may particularly benefit from being posted on the Permitting Dashboard. Agencies are not required, however, to prioritize the authorization and environmental review processes for covered projects over other projects. Further, the lead agency for a FAST-41 covered project must inform all project sponsors in writing that the project's inclusion on the Permitting Dashboard does not imply Federal endorsement of or support for the project; or create a presumption that the project will be approved, favorably reviewed by any agency, or receive Federal funding. The lead agency may also provide such information in writing to any other interested parties.

⁸⁹ *Id.* § 4370m-6(d)(2).

⁹⁰ 161 Cong. Rec. S. 6045, 6063–64 (July 28, 2015).

Section 4 Project-Specific Guidance for FAST-41 Covered Projects

This section provides guidance for each phase of the FAST-41 process:

- A. Early Engagement
- B. Project Initiation
- C. Interagency Coordination
- D. Development of the Coordinated Project Plan and Permitting Timetable
- E. Modifications to the Permitting Timetable
- F. Coordination of Required Reviews, and
- G. Completion and Cancellation of the Process.

The deadlines and milestones described in this section are stated in calendar days, not business days, except as otherwise noted. Deadlines and milestones that would occur on a Saturday, a Sunday, or a Federal holiday occur instead on the following business day. Deadlines and milestones are computed from the first day following the day on which the initiating event occurs.

A. Early Engagement

4.1 **How should an agency engage with a project sponsor before the submission of a FAST-41 Initiation Notice (FIN) for a proposed covered project?**

As described in Section 4(B), a project sponsor formally initiates the FAST-41 process for its proposed covered project by submitting a FIN to the Executive Director and the facilitating agency. When appropriate, however, an agency can begin assessing whether a project qualifies for FAST-41 in advance of receiving a FIN. To that end, agencies should engage as early as practicable with the Executive Director, one-another, and the project sponsor to discuss the eligibility of a project for FAST-41 coverage before the project sponsor develops a FIN.

In particular, when a project sponsor contacts an agency or submits an application to an agency regarding a project that has the potential to be a covered project, that agency should (i) notify the project sponsor that the project may qualify for the FAST-41 process and (ii) offer to help the project sponsor assess the project's eligibility, in consultation with the Executive Director as appropriate.

If the project sponsor accepts the agency's offer of early engagement, the agency should explain what information the project sponsor would have to include in a FIN and the factors the agency would consider in determining whether to accept the FIN, such as

- whether the proposed project is sufficiently defined enough for the facilitating agency to determine whether the project is eligible to be a covered project;⁹¹
- whether the project sponsor's senior leaders will prioritize the project and will help

⁹¹ 42 U.S.C. § 4370m(6); *see also* Section 4.4 below.

- resolve problems in the permitting process;
- whether the project sponsor has developed the project enough to clearly demonstrate that it is technically and financially feasible and past the early concept phase; and
- whether the project sponsor understands the FAST-41 qualification requirements and how they interact with the agency's statutory and regulatory authorities.

In addition, the agency should explain the requirements of the FAST-41 process, its anticipated benefits, and the project sponsor's responsibilities if its project is subject to the FAST-41 process. The agency should also indicate, based on its programmatic or regulatory requirements, whether it has any legal or practical considerations for when in the project development process the project sponsor should consider submitting its FIN.⁹²

In coordination with the project sponsor, the facilitating agency should begin discussing the potential covered project with other agencies or interested parties as early as practicable. This engagement will also facilitate the early consultation that NEPA directs agencies to undertake with appropriate state, Tribal, and local governments and with interested persons and organizations when their involvement in the environmental review process is reasonably foreseeable.⁹³

The Executive Director will also engage with the project sponsor and the facilitating or lead agency early in the process to assist the project sponsor in preparing a FIN that satisfies the requirements that FAST-41 establishes for FINs (as described in Section 4.4), and to discuss the practical considerations of the requirements and applicable policies of the environmental review and authorization processes that apply to the project, including circumstances created by how those requirements interact with one another.⁹⁴

4.2 What is the Environmental Review Improvement Fund (ERIF)?

The early engagement stage provides a good opportunity for the agencies, project sponsors, and the Executive Director to identify projects that could benefit from additional resources from the Permitting Council to promote the efficiency of the FAST-41 process. The Executive Director administers the Environmental Review Improvement Fund (ERIF).⁹⁵ With approval of the OMB Director, the Executive Director may transfer ERIF funds to Federal agencies and state, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects.⁹⁶ The Executive Director also may use the ERIF to support the role of the Permitting Council as a Federal center for permitting excellence, which includes supporting

⁹² Agencies may also provide this information to the Executive Director for posting on the Permitting Dashboard.

⁹³ See 40 C.F.R. § 1501.2(b)(4)(ii).

⁹⁴ See, e.g., Memorandum from the Executive Director of the Permitting Improvement Steering Council to the Fed. Permitting Improvement Steering Council & Agency Chief Env't Rev. and Permitting Officers (Jan. 12, 2021), available at www.permits.performance.gov/sites/permits.dot.gov/files/2021-01/2021-01-12%20Permitting%20Council%20ED%20Role%20and%20Responsibilities%20in%20FAST-41%20Project%20Coverage%20Determinations.pdf; see 42 U.S.C. § 4370m-6(e) (providing that FAST-41 does not preempt, limit, or interfere with "any power, jurisdiction, responsibility, or authority that a Federal . . . agency . . . has with respect to carrying out a project or any other provision of law applicable to any project, plan, or program").

⁹⁵ 42 U.S.C. § 4370m-8(d)(2).

⁹⁶ *Id.* § 4370m-8(d)(3).

interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and fora for sharing information and lessons learned.⁹⁷

B. Project Initiation

4.3 How does a project sponsor initiate the FAST-41 process?

A project sponsor applies for coverage of its project under the FAST-41 process by submitting a complete FIN to the Executive Director and the appropriate facilitating agency.⁹⁸ The project sponsor should submit the FIN to the appropriate facilitating agency—as identified in the [list of facilitating agencies](#)⁹⁹ that the Executive Director maintains on the Permitting Dashboard—or to the lead agency, if the project already has a lead agency.¹⁰⁰ A link to [submit a FIN](#)¹⁰¹ is available on the Permitting Council website.

4.4 What must the FIN contain?

Each FIN must include the following information:

- a statement of the purposes and objectives of the proposed project;
- a concise description of the project, including its general location and a summary of geospatial information, if available, illustrating the project area and the locations, if any, of environmental, cultural, and historic resources;
- a statement regarding the project sponsor’s technical and financial ability to construct the proposed project;
- a statement of any Federal financing, environmental reviews, and authorizations anticipated to be required to complete the proposed project; and
- an assessment that the proposed project meets the definition of a covered project (see Section 3 of this guidance) and a statement of reasons supporting that assessment.¹⁰²

The information must be sufficient to enable the Executive Director and the facilitating or lead agency to (i) understand what the project is and where it is located; (ii) determine which Federal environmental reviews and authorizations the project sponsor will need to obtain to construct or commence operations of the project; (iii) determine that the project sponsor is likely to successfully complete the project if the Federal Government authorizes it; and (iv) conclude that the project qualifies as a FAST-41 “covered project,” because it satisfies the statutory criteria, which are described in Section 3 of this guidance, and does not fit within any of the statutory exceptions to FAST-41 described in Section 3.3.

⁹⁷ *Id.* § 4370m-8(d)(2).

⁹⁸ The sole purpose of the FIN is to allow the agency to determine whether the project is a FAST-41 covered project; the FIN does not constitute an application for any environmental review or authorization for the project.

⁹⁹ <https://www.permits.performance.gov/sites/permits.dot.gov/files/2019-10/project-types-and-facilitating-agencies.pdf>.

¹⁰⁰ 42 U.S.C. § 4370m-2(a)(1)(A) and (a)(5)(A). *See* also Section 2.8 for a description of the facilitating agency’s designation and role.

¹⁰¹ <https://www.permitting.gov/projects/apply-now/fin>.

¹⁰² 42 U.S.C. § 4370m-2(a)(1)(C).

4.5 What happens after the project sponsor submits a FIN?

Upon receipt of a FIN for a project, the Executive Director must add the project to the Permitting Dashboard within 14 days, *unless* the Executive Director or the facilitating or lead agency determines within that time that the project does not qualify as a covered project.¹⁰³

If a covered project has a lead agency at the time that the project sponsor submits the FIN, the lead agency assumes the facilitating agency's responsibility to review the FIN.¹⁰⁴ Accordingly, if the project sponsor submits a FIN to the facilitating agency for a covered project that has a lead agency, the facilitating agency must forward the FIN to the lead agency immediately.

To allow adequate time for assessment, the agency with responsibility for reviewing a FIN should notify the Executive Director that it has received a FIN within 7 days of the date of submission. To support the timely evaluation of a FIN, the Executive Director will consult with the facilitating or lead agency as promptly as possible to evaluate the FIN. However, if there is no determination whether the project is eligible to be a covered project within 14 days of receipt of the FIN, the Executive Director must post the project on the Permitting Dashboard.

4.6 What if the Executive Director or the facilitating or lead agency does not determine that a project qualifies for FAST-41?

If, during the 14-day evaluation period described in Section 4.5, the Executive Director or the facilitating or lead agency determines that (i) the project does not qualify as a covered project or (ii) the agency or the Executive Director cannot determine whether the project qualifies as a covered project due to insufficiencies in the FIN, such as the omission of a required element or ambiguities in the project description, the agency or the Executive Director should notify the project sponsor in writing that, based on the information the project sponsor has provided, the agency (or the Executive Director, as the case may be) has determined that the project presented in the FIN is not a covered project.¹⁰⁵

The agency should make this written notification as soon as practicable, and copy the Executive Director. The agency or the Executive Director must provide this written notice within the 14-day evaluation period. The written notice should explain the agency's basis for the determination and describe the ability for the project sponsor to provide further explanation to the Executive Director, as described below.

Within 14 days of receiving the written notice, the project sponsor may provide the Executive Director with further explanation of why the project qualifies as a covered project.¹⁰⁶ The Executive Director will then review the agency's determination that the project presented in the FIN is not a covered project and may coordinate with the facilitating or lead agency to make a

¹⁰³ *Id.* § 4370m-2(b)(2)(A)(i). If a project sponsor submits a FIN, and the Executive Director has not designated a facilitating agency for the type of project being proposed, the agency that receives the FIN is the facilitating agency. *Id.* § 4370m-2(a)(1)(B).

¹⁰⁴ *Id.* § 4370m-2(a)(5)(A).

¹⁰⁵ *Id.* § 4370m(6).

¹⁰⁶ *Id.* § 4370m-2(b)(2)(B).

final determination.

The Executive Director must make a final and conclusive determination as to whether the project qualifies as a covered project within 14 days following the Executive Director's receipt of a further explanation.¹⁰⁷ If the Executive Director determines that the project qualifies as a covered project, then the Executive Director will post the project to the Permitting Dashboard.

If the project sponsor provides its further explanation to the facilitating or lead agency rather than the Executive Director, the facilitating or lead agency must immediately transmit the explanation to the Executive Director to avoid delay. The time for the Executive Director to make a final determination will commence upon the Executive Director's receipt of the explanation.

As described in Section 4.5, by the end of the 14-day evaluation period, if the agency or the Executive Director have not provided the project sponsor with written notice that the project presented in the FIN is not a covered project then the Executive Director will post the project to the Permitting Dashboard.¹⁰⁸

4.7 If the Executive Director or the facilitating or lead agency determines that a project does not qualify for FAST-41, may a project sponsor submit a new FIN?

Yes. The project sponsor may submit a new FIN after receiving a determination that a project does not qualify as a covered project. The new FIN should provide additional or new information that demonstrates the project qualifies as a covered project.

The project sponsor is not required to provide the further explanation described in Section 4.6 with respect to a FIN in order to submit a new FIN for the same project.

4.8 What happens when a project qualifies for FAST-41?

The Executive Director will add the project described in a FIN to the Permitting Dashboard following (i) the conclusion of the 14-day evaluation period described in Section 4.5, unless the facilitating or lead agency or the Executive Director provides the notice described in that section; or (ii) the Executive Director's final determination that the project is covered by FAST-41, in the case of a project for which a project sponsor has provided a further explanation, as described in Section 4.6.

The FAST-41 process begins when the Executive Director creates an entry for the project on the Permitting Dashboard. FAST-41 requires the Executive Director and the facilitating or lead agency as well as the cooperating and participating agencies for a covered project to post certain information to the Permitting Dashboard about the covered project.¹⁰⁹ A covered

¹⁰⁷ *Id.* § 4370m-2(b)(2)(C).

¹⁰⁸ *Id.* § 4370m-2(b)(2)(A)(ii) (providing that within 14 days of FIN receipt, the Executive Director must post a project to the Dashboard unless an agency or the Executive Director determines that the project is not a covered project).

¹⁰⁹ *Id.* § 4370m-2(b)(3), (4).

project's Permitting Dashboard entry consists of two components:

- a project page; and
- a postings by agency page.

The facilitating or lead agency and cooperating and participating agencies may add content to the postings by agency page, but only the Executive Director may modify the project page.

The [Data Management Guide](#)¹¹⁰ provides agencies with standard operating procedures for interacting with the Permitting Dashboard, which includes establishing, maintaining, modifying, and completing permitting timetables for a covered project.

4.9 What happens after the Executive Director adds a covered project to the Permitting Dashboard?

Once the Executive Director adds a project to the Permitting Dashboard, the facilitating or lead agency must take a series of actions within specific timeframes to coordinate the environmental review and authorization process for the covered project, disclose key information to the public, and coordinate with the project sponsor. It is the facilitating agency's obligation to carry out all FAST-41 requirements until the project has a lead agency. Once a project has a lead agency, the lead agency assumes all of the facilitating agency's FAST-41 responsibilities.¹¹¹

Within 5 business days,¹¹² the agency must post project-related information, including the FIN, to the Permitting Dashboard.¹¹³ The agency must withhold any commercial or financial information contained in the FIN, if customarily and actually treated as private by its owner,¹¹⁴ and any information related to Native American natural, cultural, or historical resources.¹¹⁵

Within 21 days, the facilitating or lead agency must

- identify all of the Federal and non-Federal agencies and governmental entities that are likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project (*see* Section 4.10);¹¹⁶ and
- invite each Federal agency it has identified to be a cooperating or participating agency (*see* Sections 4.11 and 4.12).¹¹⁷ The facilitating or lead agency should also issue invitations at this time to the non-Federal agencies and governmental entities it has

¹¹⁰ www.permitting.gov/resources/data-management-guide.

¹¹¹ 42 U.S.C. § 4370m-2(a)(5)(A).

¹¹² The dates in this Section are computed from the date on which the Executive Director's obligation to add the covered project to the Permitting Dashboard arises, *i.e.*, the day following the end of the 14-day evaluation period described in Section 4.5, or the day on which the Executive Director makes a final and conclusive determination that a project is a covered project, as described Section 4.6, as the case may be.

¹¹³ 42 U.S.C. § 4370m-2(b)(3)(A)–(B).

¹¹⁴ If an agency is uncertain if specific information in a FIN is considered confidential or proprietary by its owner, it should clarify how the owner of the information has customarily and actually treated it.

¹¹⁵ 42 U.S.C. § 4370m-2(a)(1)(D)(i).

¹¹⁶ *Id.* § 4370m-2(a)(2)(A)(i).

¹¹⁷ *Id.* § 4370m-2(a)(2)(A)(ii).

identified to be cooperating or participating agencies for FAST-41 (*see* Section 4.15).

Within 60 days, the agency must develop a CPP that includes a permitting timetable, in coordination with each coordinating and participating agency (*see* Sections 4(C) and 4(D)).¹¹⁸

The facilitating or lead agency and Federal cooperating and participating agencies must keep the project page for the covered project current by

- working with the Executive Director to post any modifications to the permitting timetable, including a narrative explanation for each such modification (*see* Section 4.30);
- posting information about project-related public meetings, public hearings, and public comment periods, in English and the predominant language of the community or communities that would be most affected by the project, as such information becomes available;¹¹⁹ and
- posting updates to the information that the FAST-41 statute requires the agency to make available about the project, within 5 business days of receipt.¹²⁰

C. **Interagency Coordination**

4.10 How should the facilitating or lead agency identify potential participating and cooperating agencies?

Within 21 days of the addition of a covered project to the Permitting Dashboard, the facilitating or lead agency must identify each Federal or non-Federal agency or governmental entity likely to have responsibilities related to the proposed project.¹²¹ The facilitating or lead agency should identify relevant agencies using the [Federal Environmental Review and Authorization Inventory](#);¹²² the agency's experience with similar projects; existing data about the project; and other pertinent data and tools, such as geographic information systems (GIS).

4.11 How should the facilitating or lead agency invite potential participating and cooperating Federal agencies into the FAST-41 process?

When the facilitating or lead agency identifies another Federal agency likely to have responsibilities related to the proposed project, the facilitating or lead agency should invite the agency to join the FAST-41 process for the project by emailing (or otherwise providing written notice to) the other agency's CERPO. The facilitating or lead agency may copy any additional officials of the other agency whose involvement will facilitate the invited agency's review of the

¹¹⁸ *Id.* § 4370m-2(c)(1)(A).

¹¹⁹ *Id.* § 4370m-2(b)(3)(A)(iii).

¹²⁰ The posting requirements for covered projects are listed in 42 U.S.C. § 4370m-2(b)(3).

¹²¹ 42 U.S.C. § 4370m-2(a)(2)(A) (directing the facilitating or lead agency to “identify all Federal and non-Federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project” and “invite all [such] Federal agencies . . . to become a participating agency or a cooperating agency”).

¹²² www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory.

invitation. The Executive Director will provide template invitation letters to an agency upon request. The invitation must include a deadline for the invited agency to respond, which must be 14 calendar days from the date on which the facilitating or lead agency sends the invitation.¹²³

Because cooperating agency has the same definition for purposes of NEPA and FAST-41, a cooperating agency under NEPA will also be a cooperating agency under FAST-41.¹²⁴ Likewise, the criteria for qualifying as a participating agency are equivalent under NEPA and FAST-41.¹²⁵ Generally, a participating agency under NEPA will also be a participating agency under FAST-41. A Federal agency may only decline an invitation to be a participating or cooperating agency if (i) it has no jurisdiction or authority with respect to the proposed project or (ii) it does not intend to exercise authority related to, or submit comments on, the proposed project. In that case, the agency must inform the facilitating or lead agency that it declines the invitation in writing, explicitly citing one or both of these two reasons for declining an invitation.¹²⁶

A Federal agency may have more than one kind of authority over a particular project, as when two different statutes give the agency jurisdiction over two distinct attributes of a project. If an agency has multiple authorities over a project described in an invitation and does not intend to exercise all of them, it must decline the invitation only with respect to the authorities it does not intend to exercise. An agency in this position must state in its response to the invitation which authorities it does and does not intend to exercise.

A Federal agency that accepts an invitation prior to the deadline becomes a participating or cooperating agency, as stated in the invitation. If a Federal agency fails to respond to an invitation prior to the deadline, or its response does not follow the procedures described in this Section, the facilitating or lead agency should seek clarification from the invited agency's leadership and, in the interim, treat it as a participating agency.

4.12 How should the facilitating or lead agency facilitate early consultation between the project sponsor and participating and cooperating agencies?

The facilitating or lead agency must provide an expeditious process for the project sponsor to confer with cooperating and participating agencies,¹²⁷ and should engage as early as practicable with the project sponsor in developing the CPP.¹²⁸ Accordingly, the facilitating or lead agency should provide the project sponsor with appropriate contact information for each cooperating and participating agency as early as possible.

In addition, if practicable, the facilitating or lead agency should host an initial meeting (or

¹²³ 42 U.S.C. § 4370m-2(a)(2)(B).

¹²⁴ *See id.* § 4370m(4) (“The term ‘cooperating agency’ has the meaning given in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).”); *see also id.* 4370m-2(e)(1).

¹²⁵ *See id.* § 4370m(17) (“The term ‘participating agency’ means an agency participating in an environmental review or authorization for a covered project in accordance with section 4370m-2 of this title.”); 40 C.F.R. § 1508.1(dd) (“*Participating Federal agency* means a Federal agency participating in an environmental review or authorization of an action.”).

¹²⁶ 42 U.S.C. § 4370m-2(a)(3)(A).

¹²⁷ *Id.* § 4370m-2(d) (requiring an early consultation process).

¹²⁸ *Id.*

kickoff meeting) with the project sponsor and all of the cooperating and participating agencies prior to establishing the CPP and the permitting timetable. During this initial meeting, the project sponsor should provide information to agencies about the project and the timing of the project activities it will undertake, and the project sponsor and the agencies should discuss development of the CPP and the permitting timetable.¹²⁹

4.13 How does the project sponsor obtain information from cooperating and participating agencies?

Upon the project sponsor's request, a Federal cooperating or participating agency must provide the project sponsor with information about

- the availability of information and tools, including pre-application toolkits, to facilitate early planning efforts;
- key issues of concern to the agency and to the public; and
- issues that the project sponsor must address before the agency can complete its environmental review or issue an authorization.

A Federal cooperating or participating agency must provide the information within 60 days of the date of the request.¹³⁰ The facilitating or lead agency must assist the project sponsor in timely obtaining this information by coordinating as necessary with the cooperating or participating agency and the Executive Director.

4.14 How can a state participate in the FAST-41 process?

If the facilitating or lead agency determines that a Federal environmental review for a covered project is being implemented within the boundaries of a state, that state may choose to participate in the FAST-41 process for that project through the opt-in process (see Section 2.12), in which case, the state must make subject to the FAST-41 process all state agencies that

- have jurisdiction over the covered project;
- are required to conduct or issue a review, analysis, opinion, or statement for the covered project; or
- are required to make a determination on issuing a permit, license, or other approval or decision for the covered project.¹³¹

A facilitating or lead agency should invite qualifying states to opt in to the FAST-41 process (*i.e.*, elect to subject state agencies to the requirements of FAST-41) at the same time it invites potential cooperating and participating agencies. The Executive Director will provide a template invitation letter to an agency upon request.

If a state chooses to opt in to FAST-41, the state must identify which of its agencies'

¹²⁹ A facilitating or lead agency that has separate procedures for facilitating early engagement between project sponsors and cooperating and participating agencies may use those procedures in lieu of holding the initial meeting.

¹³⁰ 42 U.S.C. § 4370m-2(d).

¹³¹ *Id.* § 4370m-2(c)(3)(A).

environmental review and authorizations the facilitating or lead agency will include on the FAST-41 permitting timetable and will be subject to the FAST-41 permitting timetable management requirements.¹³²

The state and the facilitating or lead agency must describe the scope and terms of the state's participation in the FAST-41 process and assign roles and responsibilities for managing the information about the state's participation in the permitting process that appears on the Permitting Dashboard, including in the permitting timetable, which the state and the lead agency should memorialize in an MOU.¹³³ The MOU also should establish points of contact between the facilitating or lead agency, the state, and each relevant state agency.

The Executive Director will assist the facilitating or lead agency on request in coordinating with a state, including in developing the MOU. The facilitating or lead agency must submit a fully executed copy of the MOU to the Executive Director, who will post it on the Permitting Dashboard.¹³⁴

4.15 Can a state, Tribal, or local government agency become a participating or cooperating agency?

Yes. Cooperating agencies under FAST-41 are “any Federal, State, Tribal, or local agency with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal that has been designated by the lead agency.”¹³⁵ For the purposes of FAST-41, the “proposal” refers to the proposed covered project or covered project, and the “lead agency” refers to the facilitating or lead agency. Participating agencies in FAST-41 are agencies participating in an environmental review or authorization for a covered project that are designated as such by the facilitating or lead agency.¹³⁶

As described in Section 4.11, within 21 days of the addition of a covered project to the Permitting Dashboard, the facilitating or lead agency must identify each non-Federal agency or governmental entity likely to have responsibilities related to the proposed project. The facilitating or lead agency may invite the state, Tribal, or local government agencies it identifies to be cooperating or participating agencies. This identification process should also include identification of potential state, Tribal and local government entities that may qualify as cooperating agencies, and invitations to potential non-Federal cooperating agencies should be extended on the same timeline, and using the same deadlines, set out in Section 4.11.

4.16 What does it mean for a state, Tribal, or local government agency to be a cooperating or participating agency in the FAST-41 process?

As described in Section 2.13, regardless of the designation status of non-Federal agencies as cooperating or participating agencies, the facilitating or lead agency must, to the maximum

¹³² See *id.* § 4370m-2(c)(3)(D).

¹³³ *Id.* § 4370m-2(c)(3)(B)–(C).

¹³⁴ *Id.* § 4370m-2(c)(3)(C)(ii), (b)(4)(E).

¹³⁵ *Id.* § 4370m(4) (adopting the NEPA definition of “cooperating agency” for FAST-41 purposes).

¹³⁶ *Id.* § 4370m(17).

extent practicable under applicable law, coordinate the Federal environmental review and authorization process with any state, Tribal, or local agency required to conduct its own environmental review or authorization process, to ensure the processes' timely and efficient completion.¹³⁷ The facilitating or lead agency should, to the maximum extent practicable, agree to a coordination plan with each such agency in a memorandum of understanding.¹³⁸ An MOU with a state, Tribal, or local agency may incorporate the CPP by reference and use the CPP and associated project schedule as a means of effectuating the coordination that is the subject of the MOU.

A state, Tribal, or local agency that serves as a cooperating agency in the NEPA environmental review process for a covered project does not become subject to FAST-41's requirements for cooperating agencies, except for a state agency that a state makes subject to the requirements of FAST-41 in the manner described in Sections 2.12 and 4.14. In other words, the reporting, posting, and permitting timetable compliance requirements of FAST-41 that apply to Federal cooperating and participating agencies do not apply to non-Federal cooperating and participating agencies.

If a state, Tribal, or local agency accepts a facilitating or lead agency's invitation to engage in the FAST-41 process for a covered project in a cooperating or participating role, the facilitating or lead agency must consult with the agency on early coordination and establishment of and subsequent modifications to the CPP, including the permitting timetable.

4.17 How may an agency change its role under FAST-41 for a covered project?

If new information about a covered project indicates that a different agency qualifies as the facilitating agency for the project (as described in Section 2.8) because it should be placed in a different covered project sector, the original facilitating agency may request that the Executive Director transfer responsibility for the covered project from the original facilitating agency to a successor facilitating agency. The Executive Director will determine the proper facilitating agency with reference to the [list of designated facilitating agencies](#)¹³⁹ for each FAST-41 covered project sector.

If a facilitating agency becomes aware that another agency qualifies as the lead agency for a covered project, it will transfer its responsibilities under the FAST-41 process to the lead agency as promptly as practicable.¹⁴⁰

If a lead agency becomes aware that another agency qualifies as successor lead agency for a covered project, it will transfer its responsibilities under the FAST-41 process to the lead agency as promptly as practicable.¹⁴¹ The CEQ Chair will resolve disputes regarding the designation of a facilitating or lead agency.¹⁴²

¹³⁷ *Id.* § 4370m-2(c)(3)(B).

¹³⁸ *Id.* § 4370m-2(c)(3)(C).

¹³⁹ www.permits.performance.gov/sites/permits.dot.gov/files/2019-10/project-types-and-facilitating-agencies.pdf.

¹⁴⁰ 42 U.S.C. § 4370m-2(a)(5).

¹⁴¹ *Id.* § 4370m-2(a)(5), 40 C.F.R. § 1501.

¹⁴² 42 U.S.C. § 4370m-2(a)(6)(b).

If an agency properly declines an invitation to become a cooperating or participating agency, it may later request that the Executive Director designate it as a cooperating or participating agency. It should submit this request to the lead agency as well as to the Executive Director. The requesting agency must show a change in circumstances that justifies the designation,¹⁴³ such as an expansion of the project's scope that subjects it to a new permitting requirement.

If a state, Tribal, or local agency accepts an invitation to become a cooperating or participating agency, it may withdraw as a cooperating or participating agency in its discretion at any time during the FAST-41 process; provided, however, that a state agency that a state has made subject to the FAST-41 process pursuant to Section 4.14 must follow any procedures that the MOU described in that section provides for withdrawing from the FAST-41 process.

D. Development of Coordinated Project Plans (CPPs) and Permitting Timetables

4.18 What is a CPP, and when must an agency prepare one?

A CPP is a concise plan for coordinating public and agency participation in and completion of any required Federal environmental review and authorization for a covered project.¹⁴⁴ It is the living document through which the lead or facilitating agency must, in consultation with each cooperating and participating agency, document all FAST-41-related work on the covered project, including the permitting timetable.

As described in Section 4.9, the facilitating or lead agency must create a CPP for a covered project within 60 days from the date on which the Executive Director must make a specific entry in the Permitting Dashboard.¹⁴⁵ The facilitating or lead agency may request support from the Executive Director in developing a CPP for a covered project.

Where appropriate, the facilitating or lead agency may incorporate the CPP into an MOU between agencies.¹⁴⁶ The facilitating agency must publish the CPP's permitting timetable on the Permitting Dashboard, along with the target dates for each milestone in the timetable, during the 60-day period described above, but does not have to publish the other components of the CPP.

After establishing a CPP, the facilitating or lead agency must update it, in coordination with the applicable agencies, at least every 90 days, until the conclusion of the FAST-41 process. Following each such update, the facilitating or lead agency must update the permitting timetable on the Permitting Dashboard, as necessary.¹⁴⁷

4.19 What information must the CPP include?

The CPP, and its updates, must include the following information:

¹⁴³ *Id.* § 4370m-2(a)(3)(B).

¹⁴⁴ *Id.* § 4370m-2(c)(1)(A).

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* § 4370m-2(c)(1)(C).

¹⁴⁷ *Id.* § 4370m-2(c)(1)(A)–(B).

- A list of all of the entities that are responsible for conducting an environmental review or granting an authorization for the project and each entity’s roles and responsibilities.
- A permitting timetable that identifies a comprehensive schedule of dates by which the Federal entities must complete their respective environmental reviews and authorization determinations and, to the maximum extent practicable, corresponding information for permits, reviews and approvals by state agencies (*see* Section 4.23).
- A discussion of potential strategies for avoiding, minimizing, and mitigating the covered project’s potential adverse effects, if known, to the extent that applicable law requires the relevant agencies to avoid, minimize, or mitigate such effects.
- Plans, including a schedule, for any public and Tribal outreach and coordination that the relevant agencies will undertake.¹⁴⁸

The CPP also should address any existing agreements and protocols that agencies can use to improve coordination during the federal environmental review and authorization process.

At the outset of the FAST-41 process, the facilitating or lead agency may lack sufficient information to prepare each component of the CPP in detail, depending on the degree and nature of information in the FIN. The facilitating or lead agency should complete the CPP to the best of its ability during the 60-day period and should provide more specific information in the quarterly updates, as described in Section 4.18.

The Executive Director will assess each facilitating or lead agency’s compliance with CPP requirements in the Quarterly Agency Performance Reports that the Permitting Council submits to Congress.¹⁴⁹ To support facilitating and lead agencies in preparing the CPP, the Executive Director has created a fillable form that is available to agency Permitting Dashboard Administrators.

4.20 How should the CPP, including the permitting timetable, address abbreviated reviews and authorizations?

The CPP must include all environmental reviews or authorizations required for a project, which includes abbreviated reviews and authorizations.¹⁵⁰ If a cooperating or participating Federal agency involved in a project has an abbreviated environmental review or authorization process, as described in Section 3.6, it should notify the facilitating or lead agency as early as possible. The agency may satisfy its obligations with respect to the CPP by providing the facilitating or lead agency with estimated completion dates for its abbreviated environmental review or authorization process (and for any intermediate steps, if applicable), and associated updates.

If an agency with an abbreviated environmental review or authorization process is at significant risk of missing its estimated deadline for completing the review or authorization process or an intermediate step, the agency should notify the Executive Director as soon as practicable.

If an agency determines that it will not or is not likely to complete the abbreviated environmental

¹⁴⁸ *Id.* § 4370m-2(c)(1)(B).

¹⁴⁹ *See id.* § 4370m-7(a)(2).

¹⁵⁰ *See id.* § 4370m-2(c)(1)(A).

review or authorization process on an accelerated schedule, such that the process is no longer “abbreviated” as described in Section 3.6, that agency must notify the facilitating or lead agency, and should thereafter participate fully in the FAST-41 process as a cooperating or participating agency, as appropriate.

4.21 What is a permitting timetable?

The permitting timetable is a list of all the intermediate and final completion dates for each participating agency’s environmental review or authorization process for a covered project. The permitting timetable is the central feature of the CPP and one of the primary mechanisms for implementing FAST-41. It is critically important for agencies to establish a complete permitting timetable as early in the process as possible and to manage the timetable in compliance with the requirements of FAST-41.

The facilitating or lead agency must develop the permitting timetable in coordination with applicable agencies as part of the CPP and post it to the Permitting Dashboard within 60 days from the date on which the Executive Director must make a specific entry in the Permitting Dashboard.

Agencies should strive to make the permitting timetables they prepare realistic and comprehensive, so that all of the parties interested in a covered project understand clearly how the environmental review and authorization processes will proceed, and which steps of these processes require the greatest time and administrative effort.

For example, states, Tribes, and local governments benefit from transparent permitting timetables, because the information they contain allows these governments to prioritize the timing and deployment of their limited resources more effectively. Transparent permitting timetables can likewise help Federal agencies better prioritize their own resources by improving their awareness of other agencies’ workflow status and potential delays.

Publishing a schedule for completing an EIS on the Permitting Dashboard, as part of the permitting timetable, also fulfills the lead agency’s obligation under the NEPA regulations to make a schedule for completing the EIS process publicly available.¹⁵¹

4.22 How should a facilitating or lead agency consult with other agencies, States, and the project sponsor when creating the permitting timetable?

When creating the permitting timetable, the facilitating or lead agency must consult with the cooperating and participating agencies, the project sponsor, and the state in which the project is located.¹⁵²

If practicable, the facilitating or lead agency should host an initial meeting prior to creating the permitting timetable and should invite the project sponsor, cooperating and participating agencies, and affected state entities to participate. If practicable, the facilitating or lead agency

¹⁵¹ 40 C.F.R. § 1501.10(h).

¹⁵² 42 U.S.C. § 4370m-2(c)(2)(A).

should circulate a preliminary draft of the permitting timetable prior to the meeting. Consultation, for purposes of preparing the permitting timetable, should go beyond mere notification. At the initial meeting, the facilitating or lead agency should lead a substantive discussion of the environmental review and authorization processes the covered project will require, their requirements, and how they relate to one-another.

The facilitating or lead agency must obtain the concurrence of any Federal cooperating agencies on the permitting timetable before formally establishing it and indicate that it has obtained their concurrence in the CPP.¹⁵³ The [Data Management Guide](#)¹⁵⁴ contains more detailed information about procedures for submitting permitting timetable information to the Executive Director for inclusion on the Permitting Dashboard.

If a Federal cooperating agency does not concur with a proposed permitting timetable, the facilitating or lead agency or the cooperating agency may refer the matter to the Executive Director for mediation.¹⁵⁵ This process is described in Section 4.29.

Finally, 42 U.S.C. § 4370m-2(c)(3)(B) directs Federal agencies to coordinate with state, local, or Tribal agencies responsible for conducting any separate review or authorization of the covered project “[t]o the maximum extent practicable under applicable law.” If a state, Tribal, or local agency does not provide sufficient information, then the Federal agency may determine it is not practicable to add those entities’ completion dates to the permitting timetable. If the state agrees to provide completion dates but does not opt-in to FAST-41, these completion dates may be added to the permitting timetable only to the maximum extent practicable, and it should be noted in the permitting timetable that the state permitting deadlines are not subject to FAST-41. For example, the permitting timetable could note “[State Agency] has not chosen to participate in the FAST-41 process. This authorization is listed for information purposes only and does not transfer any responsibility to the [State Agency] to conform to the permitting timetable.” Federal agencies should identify state completion date dependencies, such as Federal completion dates that are dependent upon state authorizations (*e.g.*, water quality certification), within the permitting timetable.

4.23 Which environmental reviews and authorizations must the facilitating or lead agency include in the permitting timetable?

The permitting timetable must include intermediate and final completion dates for action by each participating agency on any Federal environmental review or authorization required for the project.¹⁵⁶

The facilitating or lead agency should develop the list of potential Federal environmental reviews or authorizations that are likely to apply to the covered project, including any abbreviated environmental reviews or authorizations, for inclusion in the permitting timetable by consulting

¹⁵³ *Id.* § 4370m-2(c)(2)(A).

¹⁵⁴ www.permitting.gov/resources/data-management-guide.

¹⁵⁵ 42 U.S.C. § 4370m-2(c)(2)(C).

¹⁵⁶ *Id.* § 4370m-2(c)(2)(A).

the [Federal Environmental Review and Authorization Inventory](#),¹⁵⁷ as described in Section 4.21.¹⁵⁸ The Inventory is not exhaustive; accordingly, agencies also should make use of the agency’s experience with similar projects; existing data about the project; and other pertinent data and tools, such as GIS.

To the maximum extent practicable, the facilitating or lead agency should also include a schedule of dates by which all state permits, reviews and approvals must be made.¹⁵⁹ When establishing permitting timetables, agencies should use the FAST-41 performance schedule for the covered project’s sector, if available, as a point of reference, as described in Sections 4.24 and 4.25.

FAST-41 generally does not apply to programs of the DOT.¹⁶⁰ However, a permitting timetable must include all relevant Federal environmental reviews and authorizations. Therefore, if a covered project requires an environmental review or authorization by DOT, and DOT is not a cooperating or participating agency, it must still use its best efforts to provide the facilitating or lead agency with intermediate and final completion dates for its environmental review or authorization process to include in the permitting timeline, with timely updates as necessary. Providing this information does not make DOT subject to the requirements of FAST-41.

4.24 What considerations should a facilitating or lead agency take into account in developing the permitting timetable?

When developing the permitting timetable, the facilitating or lead agency must account for statutory, regulatory, or procedural timelines that other laws and regulations set for the project, as well as information about the project that may affect those timelines. The agency should prepare the permitting timetable such that agencies carry out their review and authorization processes concurrently rather than sequentially, to the fullest extent practicable.

In determining intermediate and final completion dates for each environmental review or authorization, the facilitating or lead agency should account for

- what information agencies will require from the project sponsor or third parties at each stage of the process;
- whether agencies can make the process more efficient by reviewing draft applications and other preliminary information, as appropriate;
- whether an environmental review or approval process will require interagency review of a document;
- the timing of Federal and non-Federal entity decisions that could seriously affect how the project proceeds; and
- when in the process to hold project planning and development meetings.

¹⁵⁷ www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory.

¹⁵⁸ Presidential Permits are not included in the inventory because they are not “authorizations” under 42 U.S.C. § 4370m(3).

¹⁵⁹ 42 U.S.C. § 4370m-2(c)(1)(B)(ii).

¹⁶⁰ See Section 3.3.

4.25 What are FAST-41 performance schedules?

FAST-41 performance schedules establish the timelines that guide the permitting timetable for sectors and sub-sectors of covered projects. Each FAST-41 performance schedule includes intermediate and final completion dates for the environmental reviews and authorizations that are most commonly required for covered projects in a particular sector.¹⁶¹

The Executive Director develops FAST-41 performance schedules, in consultation with the Permitting Council, to reflect best practices in permitting, including the alignment of Federal review processes, reducing permitting and project delivery times, and incorporating meaningful public participation.¹⁶² The Executive Director maintains current FAST-41 performance schedules on the Permitting Dashboard.¹⁶³

An agency preparing a permitting timetable for a covered project must use the FAST-41 performance schedule for the covered project's sector, if one exists, but may vary the timetable to reflect project-specific factors, as described in Section 4.27.¹⁶⁴ Alternatively, if the Executive Director has not developed a FAST-41 performance schedule for the covered project's sector, the agency should indicate this in the CPP and should prepare the permitting timetable to reflect the general principles of the FAST-41 performance schedules. The agency also may refer to other materials on the synchronization of review processes.

4.26 How should a facilitating or lead agency developing a permitting timetable take deadlines under NEPA into account?

NEPA sets a two-year deadline for completing an EIS and a one-year deadline for preparing an EA.¹⁶⁵ When developing a permitting timetable that includes the preparation of an EIS or an EA, the facilitating or lead agency must account for NEPA's statutory and regulatory requirements, as well as the relevant FAST-41 performance schedule.¹⁶⁶

A facilitating or lead agency may elect to set a shorter timetable for preparing an EIS or EA than NEPA requires. In other cases, a facilitating or lead agency may, in consultation with the project sponsor and any joint lead, cooperating or participating agencies, establish a new deadline that provides only so much additional time as is necessary for completion.¹⁶⁷ In that case, the facilitating or lead agency may determine it needs to establish a new deadline and must reflect the revised EIS timeline in the covered project's permitting timetable.

If the lead agency extends the deadline for an EIS after the facilitating or lead agency establishes the permitting timetable, the facilitating or lead agency (and any pertinent participating or cooperating agencies) should work with the Executive Director to modify the permitting

¹⁶¹ 42 U.S.C. § 4370m-1(c)(1)(C)(i).

¹⁶² *Id.* § 4370m-1(c)(1)(C).

¹⁶³ www.permits.performance.gov/fpisc-content/recommended-performance-schedules.

¹⁶⁴ 42 U.S.C. § 4370m-2(c)(2)(B).

¹⁶⁵ *Id.* § 4336a(g)(1).

¹⁶⁶ *Id.* § 4370m-2(c)(2)(E).

¹⁶⁷ *Id.* § 4336a(g); 40 C.F.R. § 1501.10.

timetable (as described in Section 4(E)) to reflect both the extended deadline and its implications for any other authorizations that depend on the conclusion of the NEPA process.

4.27 What project-specific factors should a facilitating or lead agency take into account when developing the permitting timetable for a covered project?

If a FAST-41 performance schedule exists for the covered project's sector, the facilitating or lead agency must use the FAST-41 performance schedule as the baseline for setting the permitting timetable, but may vary the permitting timetable based on project-specific factors. These factors may include

- the size and complexity of the covered project;
- constraints on the resources of the facilitating or lead agency and cooperating and participating agencies;
- the project's regional or national economic significance;
- the sensitivity of the natural or historic resources that the project may affect;
- the financing plan for the project; and
- the extent to which similar projects in geographic proximity to the project were recently subject to environmental reviews or similar procedures under State law.¹⁶⁸

Agencies may consider additional factors. For example, a project's permitting timetable may deviate from a FAST-41 performance schedule because the project requires additional environmental reviews or authorizations that the FAST-41 performance schedule does not reflect. The CPP should state the reasons why a covered project permitting timetable deviates from the FAST-41 performance schedule.

This example illustrates how an agency could modify the FAST-41 performance schedule in developing a timetable.

Example: The agency begins with the FAST-41 performance schedule as the starting point and modifies the length to account for project-specific details (*such as sensitive cultural resources; listed species; hazardous, toxic, or radioactive waste; or communities of concern*), as well as three additional authorizations that are required for this specific project but are not included in the FAST-41 performance schedule. This could result in a permitting timetable of the FAST-41 performance schedule plus 18 months.

4.28 How should a facilitating or lead agency develop the permitting timetable if it lacks complete information about the project?

In many cases, project sponsors may submit FINs and start the FAST-41 process before they file complete applications for all of the necessary permits or authorizations with the relevant agencies. In those cases, the facilitating or lead agency should develop the CPP, including the permitting timetable, based on its best estimates for intermediate and final completion dates, and may subsequently modify the permitting timetable to reflect additional information that agencies

¹⁶⁸ 42 U.S.C. § 4370m-2(c)(2)(B).

receive from the project sponsor, as necessary.¹⁶⁹

To the extent practicable, an agency should indicate on the Permitting Dashboard if it intends to update a permitting timetable when additional information becomes available (for example, when the project sponsor submits an application for an authorization). The agency should explain on the project page that the initial permitting timetable reflects the agency's best estimates, based on available information but is likely to vary widely, depending on how long it takes for the agencies to receive a complete application.

4.29 How are disputes over a permitting timetable resolved?

Any Federal agency involved in a dispute about a permitting timetable—including a dispute over the initial establishment of the permitting timetable or a dispute about conforming to or modifying the permitting timetable—may request the Executive Director's assistance in resolving the matter.¹⁷⁰ The Federal agency may raise a dispute that arises from disagreement between agencies, or may involve a project sponsor, as part of the project sponsor's consultation role in development and modification of a permitting timetable. The request should clearly and succinctly summarize the dispute and identify the parties involved.

The Executive Director will determine the appropriate process for resolving the dispute, *e.g.*, additional information-gathering or in-person or virtual meetings and will request any information relevant to resolving the dispute. To the extent practicable, the Executive Director should defer to the agency that has primary responsibility for the environmental review or authorization process in dispute, if the agency can provide a reasonable rationale for its position and has participated in the process of developing the permitting timetable in good faith.

If the Executive Director cannot reach a consensual resolution of the dispute within 30 days from the initial referral date, the Executive Director will refer the dispute to the OMB Director by written notice, which will include the initial referral date. The OMB Director will facilitate a resolution of the dispute in consultation with the CEQ Chair within 60 days from the initial referral date. The OMB Director's actions in the resolution of the dispute are final and conclusive and not subject to judicial review.¹⁷¹

E. Modifications to the Permitting Timetable

4.30 Can agencies modify a permitting timetable after it is posted on the Permitting Dashboard?

Yes, agencies may modify a published permitting timetable using the procedures described in this section. The facilitating or lead agency is primarily responsible for modifying the permitting timetable, as necessary, on behalf of the Federal agencies involved in the environmental review and authorization process.

¹⁶⁹ *See id.* § 4370m-2(c)(2)(D).

¹⁷⁰ *Id.* § 4370m-2(c)(2)(C).

¹⁷¹ *Id.*

Before modifying a permitting timetable, the lead or facilitating agency must

- consult with the Executive Director at least 15 days before initiating the other required consultations;¹⁷²
- consult with the participating agencies;¹⁷³
- consult with the project sponsor;¹⁷⁴
- consult with any cooperating agencies affected by the change and obtain their concurrence;¹⁷⁵ and
- prepare a written justification for the modification for the Executive Director to include on the Permitting Dashboard.¹⁷⁶

As described in Section 4.31, a facilitating or lead agency may not modify any intermediate or final completion date in the permitting timetable within 30 days of that completion date.¹⁷⁷ Furthermore, as described in Section 4.32, a facilitating or lead agency that seeks to extend a final completion date by more than 30 days beyond the final completion date set in the original permitting timetable must obtain the written approval of the Executive Director.¹⁷⁸

As the [Data Management Guide](#)¹⁷⁹ explains, the facilitating or lead agency also must update the permitting timetable to reflect changes in the intermediate or final completion dates for nonparticipating State permits, reviews, and approvals, but these changes do not require the approval of the Executive Director. Additionally, the Data Management Guide addresses in detail the procedural steps that agencies should follow to make permitting timetable modifications on the Permitting Dashboard and to consult with the Executive Director, if necessary.¹⁸⁰ The Executive Director is responsible for publishing all permitting timetable modifications and the accompanying written justifications on the Permitting Dashboard.¹⁸¹

4.31 What is the 30-day permitting timetable modification “lockout” period?

A facilitating or lead agency may not modify an intermediate or final completion date in the permitting timetable within 30 days of the published completion date.¹⁸² Accordingly, agencies should strive to make any necessary modifications to the permitting timetable as early as possible to avoid this 30-day “lockout” period and to ensure that the permitting timetable is as accurate as possible.

If an agency fails to modify a completion date 30 days in advance of the posted completion date for a Federal action, and the action does not occur by the posted completion date, then the

¹⁷² *Id.* § 4370m-2(c)(2)(D)(i)(I).

¹⁷³ *Id.* § 4370m-2(c)(2)(D)(i)(II).

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* § 4370m-2(c)(2)(A), (D)(i)(II).

¹⁷⁶ *Id.* § 4370m-2(c)(2)(D)(i)(III).

¹⁷⁷ *Id.* §4370m-2(c)(2)(D)(ii).

¹⁷⁸ *Id.* § 4370m-2(c)(2)(D)(i)(IV).

¹⁷⁹ www.permitting.gov/resources/data-management-guide.

¹⁸⁰ 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I).

¹⁸¹ *Id.* § 4370m-2(b)(4)(C)(D).

¹⁸² *Id.* § 4370m-2(c)(2)(D)(ii).

agency responsible for that action will be in nonconformance with the permitting timetable and subject to FAST-41's nonconformance requirements.¹⁸³

The "lockout" period does not apply to an action that a Federal agency is required by law to complete within 30 days following the completion of another action.¹⁸⁴ To facilitate the administration of the Permitting Dashboard, agencies should inform the Executive Director of actions of this kind over which they have responsibility; the Executive Director will update the Federal Environmental Review and Authorization Inventory to reflect the exception for those actions. The [Data Management Guide](#)¹⁸⁵ provides additional details with respect to administration of the 30-day lockout period for FAST-41 covered projects.

4.32 How should a facilitating or lead agency request an extension of more than 30 days beyond an original final completion date?

If any modification to a permitting timetable will result in extending the final completion date for an action more than 30 days beyond the action's original final completion date, the Executive Director must make a determination, on the record, whether to approve the modification. To allow time for review, an agency that seeks a determination of this kind should notify the Executive Director at least 50 days in advance of the published completion date and provide a written justification for the extension, based on the factors described in Section 4.27. The Executive Director will consult with the project sponsor and the relevant agencies and prepare a written determination granting or denying the request before the 30-day "lockout" period begins.

In considering the request for the extension, the Executive Director will consider the factors described in Section 4.27. Agencies should identify any relevant statutory and regulatory requirements when making a request for extension in order to assist the Executive Director in ensuring that a permitting timetable modification necessary for an agency to meet its statutory obligations is granted. The Executive Director posts each determination on the project's Permitting Dashboard page. These determinations are not judicially reviewable.¹⁸⁶

In determining whether a modification to a permitting timetable would extend the final completion date for an action more than 30 days beyond the action's original final completion date, a facilitating or lead agency should aggregate (*i.e.*, add together) the proposed modification and all prior modifications to that final completion date. Any extension to a final completion date that exceeds 30 days in the aggregate requires the Executive Director's approval, even if the Executive Director has already approved a previous modification to the same final completion date.

For example, if an agency previously extended a final completion date by 20 days, a further extension of 15 days would require the Executive Director's approval. If an agency previously extended a final completion date by 45 days with the Executive Director's approval, a further

¹⁸³ *Id.* § 4370m-2(c)(2)(F).

¹⁸⁴ *See id.* § 4370m-6(d), (e) (providing that the requirements of FAST-41 do not supersede, amend, or modify any Federal statute or affect the responsibility of any Federal officer to comply with or enforce any statute).

¹⁸⁵ www.permitting.gov/resources/data-management-guide.

¹⁸⁶ 42 U.S.C. § 4370m-2(c)(2)(D)(iv)(I).

extension of 15 days also would require the Executive Director's approval.

Original and modified completion dates are subject to the FAST-41 conformance requirements.¹⁸⁷ Meaning, if the agency responsible for the original or modified completion date(s) at issue, subsequently fails to complete the action by the posted date, the agency will not be in conformance with the permitting timetable and is subject to the FAST-41 nonconformance requirements.¹⁸⁸

4.33 Is there a limit on Executive Director extensions to a covered project's permitting timetable?

Yes. A facilitating or lead agency may not extend a final completion date in a permitting timetable if, as a result of the extension, the total length of the modified permitting timetable would exceed the total length of the original permitting timetable by more than one-half.

For example, if the total length of the original permitting timetable was 300 days, the lead agency may not extend a final completion date if it would increase the total length of the permitting timetable beyond 450 days.

The Executive Director tracks the overall time limit for each covered project and will notify the facilitating or lead agency if a proposed modification would approach or exceed the limitation. In cases of disagreement, the Executive Director makes the final determination of whether a proposed modification would exceed the overall time limit. The Executive Director's determination is not subject to judicial review.¹⁸⁹

Project delays or extensions for reasons that are outside the control of Federal, state, Tribal, or local governments do not count toward the overall time limit.¹⁹⁰ For example, if a lead agency must modify a final completion date because a project sponsor needs additional time to complete a required survey or engineering study associated with the project, the modification would be outside the control of the agency. Likewise, if a project sponsor changes the project design for its own reasons after submitting an initial application, as a result of which it must submit a revised application, the modification would be considered outside the control of the agency.

The OMB Director may permit the Executive Director to authorize exceptions to the rule against extensions beyond the time limit, after consultation with the project sponsor.¹⁹¹ The OMB Director's determination is not subject to judicial review.¹⁹² If the OMB Director permits the Executive Director to authorize an exception, two requirements apply:

- Within 5 days of permitting the Executive Director to authorize an exception, the OMB Director must transmit a report to Congress that explains why the modification is

¹⁸⁷ *Id.* § 4370m-2(c)(2)(F).

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* § 4370m-2(c)(2)(D)(iv)(I).

¹⁹⁰ *Id.* § 4370m-2(c)(2)(D)(iii)(I). Extensions excluded from counting against the overall time limit under this rule are, likewise, excluded when determining of the length of the overall time limit.

¹⁹¹ 42 U.S.C. § 4370m-2(c)(2)(D)(iii)(II).

¹⁹² *Id.* § 4370m-2(c)(2)(D)(iv)(II).

necessary. The report must explain why the original permitting timetable and any modifications previously authorized by the Executive Director were inadequate.

- Within one year of the OMB Director permitting the Executive Director to authorize an exception and annually thereafter, the lead or facilitating agency must report to Congress, the OMB Director, and the Executive Director on progress towards completing the permitting process for the project, for so long as the project remains on the Permitting Dashboard.

4.34 When and how can a facilitating or lead agency request that the Executive Director “pause” the FAST-41 process for a covered project or individual action?

There are narrow, limited circumstances for which a facilitating or lead agency may request that the Executive Director “pause” (*i.e.*, suspend) the FAST-41 process for a covered project or individual action in the permitting timetable. First, if a facilitating or lead agency has a reasonable basis to determine that circumstances outside the control of a Federal, state, Tribal, or local government have made the possibility of proceeding towards the final completion date or dates set forth in the permitting timetable impossible, it should raise this to the Executive Director with a request and explanation.

Second, if the facilitating or lead agency has a reasonable basis to doubt the continuing technical or financial ability of the project sponsor to construct the covered project, then it may request that the project sponsor provide an updated statement on its ability to complete the project.¹⁹³ If the project sponsor does not respond within 30 days, then the facilitating or lead agency should notify the Executive Director, who must change the status on the Permitting Dashboard. Agencies are relieved of the permitting timetable conformance requirements until such time as the project sponsor submits to the facilitating or lead agency an updated statement regarding the technical and financial ability of the project sponsor to construct the project.¹⁹⁴ The facilitating or lead agency should, as soon as practicable, request the Executive Director end the pause by either cancelling or putting the FAST-41 process back in progress.

4.35 What if an agency fails to meet a completion date in the permitting timetable?

If a Federal agency does not conform to a completion date for an agency action in the permitting timetable (*i.e.*, does not complete an action by the published final completion date or does not meet an intermediate step by the intermediate completion date) or determines that it is at significant risk of not conforming to such a completion date, the agency must take the following actions:

- First, the agency must establish an alternative completion date for the action or the intermediate step, in consultation with the facilitating or lead agency if the agency is not itself the facilitating or lead agency.¹⁹⁵
- Second, the agency must promptly provide the Executive Director with (i) an explanation of the specific reasons it has failed (or is at significant risk of failing) to conform to the

¹⁹³ *Id.* § 4370m-2(c)(2)(G)(i).

¹⁹⁴ *Id.* § 4370m-2(c)(2)(G)(ii).

¹⁹⁵ *Id.* § 4370m-2(c)(2)(F)(ii)(II).

completion date and (ii) the alternative completion date, which the Executive Director will post on the Permitting Dashboard.¹⁹⁶ The agency should provide the explanation and the alternative completion date as early as practicable and not later than 5 days after the completion date in question, if practicable.

- Third, until the agency has completed the environmental review or authorization process in question, the agency must provide the Executive Director with a monthly status report that describes any agency activity related to the project, which the Executive Director will post on the Permitting Dashboard.¹⁹⁷

The agency that has jurisdiction over an environmental review or authorization process in a permitting timetable is individually responsible for conforming to the completion dates in the timetable for that process, or for following the procedures for the process if the agency fails (or is at significant risk of failing) to conform to a completion date for that process.

F. Coordination of Required Reviews

4.36 Can agencies make use of each other's environmental review processes and related documents in the FAST-41 process?

Yes. FAST-41 directs Federal agencies conducting an environmental review of a covered project to adopt or incorporate by reference the analysis and documentation that a state or Tribal agency has prepared for a covered project, under appropriate circumstances.¹⁹⁸

Separately, NEPA requires that agencies perform timely and unified Federal reviews, and CEQ's NEPA implementing regulations direct agencies to improve the efficiency and effectiveness of environmental reviews by, when appropriate,

- incorporating by reference material, such as planning studies, analyses, or other relevant information, into environmental documents;¹⁹⁹
- cooperating with state, Tribal, and local agencies to reduce duplication between NEPA and state, Tribal, and local requirements, including through use of studies, analyses, and decisions developed by state, Tribal, or local agencies;²⁰⁰ and
- adopting other agencies' NEPA documents, including draft or final EISs, EAs, or portions thereof, or categorical exclusion determinations.²⁰¹

¹⁹⁶ *Id.* § 4370m-2(c)(2)(F)(ii)(I).

¹⁹⁷ *Id.* § 4370m-2(c)(2)(F)(ii)(III). FAST-41 and NEPA impose separate requirements for an agency to report on its failure to meet the deadlines and milestones those statutes respectively impose. The statutes differ regarding who must report, when and how they must do so, and what the reports must contain. Therefore, reporting under one statute does not satisfy the reporting requirements under the other, even where the relevant deadline or milestone is the same for both statutes.

¹⁹⁸ 42 U.S.C. § 4370m-4(b)(1)(A).

¹⁹⁹ 40 C.F.R. § 1501.12.

²⁰⁰ *Id.* § 1506.2(b).

²⁰¹ *Id.* § 1506.3.

4.37 Must agencies conduct their environmental review and authorization processes concurrently?

FAST-41 requires agencies, to the maximum extent practicable, to carry out concurrently rather than sequentially their obligations for the environmental reviews and authorizations required for a covered project.²⁰² Thus, agencies may not carry out reviews sequentially merely as a matter of convenience or to reduce the burden on agency resources.

However, the requirement to conduct reviews concurrently is not absolute. Agencies do not have to carry out their obligations concurrently if doing so would impair the ability of an agency to carry out its statutory obligations.²⁰³ Agencies should use the process of developing the CPP to align their environmental review and authorization schedules.

4.38 How should the lead agency identify the range of reasonable alternatives in an EIS for a covered project?

If NEPA requires the lead agency to prepare an EIS for a covered project, the lead agency must engage cooperating agencies and the public in determining the range of reasonable alternatives that the EIS will consider.²⁰⁴ The lead agency should determine the level and form of this engagement on a case-by-case basis, taking into account factors such as the overall scope and complexity of the project. The lead agency should make this determination during development of the CPP, in coordination with any cooperating and participating agencies.

The lead agency should publicize each opportunity for public engagement, which may include public workshops or meetings, opportunities to provide written comments, conference calls, postings on websites, distribution of printed materials, or any other technique or medium that the lead agency and cooperating and participating agencies agree will use to effectively engage the public during this phase of the process. The lead agency should identify opportunities for public engagement as part of the permitting timetable and should highlight such opportunities on the Permitting Dashboard to the extent practicable.

The lead agency must determine the range of reasonable alternatives following this engagement process²⁰⁵ but no later than the completion of the EIS scoping process.²⁰⁶ In making this determination the lead agency must include all alternatives required to be considered by law.²⁰⁷ Notwithstanding this initial determination, the agency remains subject to its obligations under NEPA to consider reasonable alternatives raised at a later stage in the process, *e.g.*, during public review of the draft EIS.

4.39 How should the lead agency select the methodologies and level of detail it will use in analyzing each alternative in an EIS for a covered project?

The lead agency must determine, in collaboration with each cooperating agency, the

²⁰² 42 U.S.C. § 4370m-4(a).

²⁰³ *Id.* § 4370m-4(a)(1).

²⁰⁴ *Id.* § 4370m-4(c)(1)(A).

²⁰⁵ *Id.* § 4370m-4(c)(2).

²⁰⁶ *Id.* § 4370m-4(c)(1)(B); 40 C.F.R. § 1502.4.

²⁰⁷ 42 U.S.C. § 4370m-4(c)(2)(B).

methodologies and the level of detail it will use in analyzing each alternative in the EIS for a covered project.²⁰⁸ FAST-41 cooperating agencies must also use these methodologies when conducting any required environmental review for that covered project, to the extent consistent with law.²⁰⁹

FAST-41 does not compel agencies to alter the methodologies and levels of detail from the requirement of other statutes and implementing regulations. Individual agencies with oversight or implementation authority over other required environmental reviews will determine the methodologies and levels of detail required.

In selecting methodologies and the appropriate level of detail, the lead agency should take into account the requirements of the NEPA regulations, as well as its own agency NEPA procedures and those of cooperating agencies, which may contain additional requirements regarding the selection of methodologies.

4.40 May the lead agency develop the analysis of the preferred alternative to a higher level of detail than other alternatives it addresses in an EIS for a covered project?

Once the lead agency identifies a preferred alternative, it may—with the concurrence of those cooperating agencies that have jurisdiction over a concurrent review or authorization under Federal law—develop the analysis of that alternative to a higher level of detail than other alternatives in the EIS to facilitate the development of mitigation measures and to inform concurrent reviews that have differing requirements.²¹⁰

To exercise this flexibility, the lead agency must determine that further development of the preferred alternative will not prevent the lead agency from objectively evaluating all of the alternatives or making an impartial decision, or inhibit the public's ability to comment on all alternatives.²¹¹

4.41 How should the lead agency invite public comment on a draft EIS for a covered project?

Subject to certain exceptions, the lead agency must allow no less than 45 days and no more than 60 days for public comment on the draft EIS for a covered project, commencing on the publication date of the Environmental Protection Agency's notice of availability in the *Federal Register*.²¹² However, the lead agency may extend this period if the lead agency, the project sponsor, and any cooperating agencies agree to a longer deadline, or if the lead agency, in consultation with each cooperating agency, extends the deadline for good cause.²¹³

Additionally, the lead agency must allow no more than 45 days for public comment on each other review or comment period in the NEPA process, such as scoping, beginning on the date

²⁰⁸ *Id.* § 4370m-4(c)(3)(A).

²⁰⁹ *Id.* § 4370m-4(c)(3)(B).

²¹⁰ *Id.* § 4370m-4(c)(4).

²¹¹ *Id.* § 4370m-4(c)(4)(A).

²¹² *Id.* § 4370m-4(d)(1).

²¹³ *Id.*

that the materials on which comment is requested become available.²¹⁴ However, the lead agency may extend this period if the lead agency, the project sponsor, and any cooperating agencies agree to a longer deadline, or if the lead agency extends the deadline for good cause.²¹⁵

G. Completion and Cancellation of the FAST-41 Process

4.42 When does a covered project complete the FAST-41 process?

A project completes the FAST-41 process when either

- all Federal and participating state environmental reviews and authorizations have been completed or issued and no additional Federal or participating state authorizations are needed to site, construct, reconstruct, or commence operations of a covered project; or
- Federal and participating state environmental review and authorization of the covered project has been terminated by the Federal or State government, as applicable.

The pendency of litigation regarding a Federal or participating state environmental review or authorization does not preclude a project from completing the FAST-41 process. However, if a Federal agency reopens a Federal environmental review or authorization process as a result of litigation, the Executive Director and the facilitating or lead agency will consult with the project sponsor to determine the status of the project for purposes of FAST-41.

4.43 When may the Executive Director cancel the FAST-41 process for a covered project?

The scenarios in which the Executive Director may cancel the FAST-41 process for a covered project or action include the following:

- an agency declines to grant the project sponsor an authorization essential to project siting, construction, or operation;
- the project sponsor withdraws an application essential to project siting, construction, or operation from Federal review;
- the facilitating or lead agency determines that the project no longer qualifies as a covered project;
- the project sponsor requests that the Executive Director remove the covered project from the Permitting Dashboard;
- the lead agency states, in writing, that it will not move forward with environmental review or authorization of the project; or
- the facilitating or lead agency has a reasonable basis to doubt the continuing technical or financial ability of the project sponsor to construct the covered project, the facilitating or lead agency has requested that the project sponsor provide an updated statement on its ability to complete the project, and the project sponsor has failed to respond within 30

²¹⁴ *Id.* § 4370m-4(d)(2).

²¹⁵ *Id.*

days. This is referred to as “abandonment.” Also see Section 4.34.²¹⁶

Facilitating or lead agencies should contact the Executive Director if these scenarios arise. In coordination with the facilitating or lead agency, the Executive Director will update the Permitting Dashboard entry for each project to reflect its cancellation of the FAST-41 process and provide an explanation, if appropriate.

If a project or action is cancelled, the agencies are relieved of the FAST-41 permitting timetable conformance requirements for that project or action.

²¹⁶ *Id.* § 4370m-2(c)(2)(G).

Section 5 Transparency Projects

5.1 What is a transparency project?

A transparency project is not a FAST-41 covered project, but rather a project for which the Executive Director directs the lead agency for the project to post the project to the Permitting Dashboard for transparency purposes.²¹⁷ This guidance refers to these projects as “transparency projects.” The exclusions described in Section 3.3 apply to transparency projects.

5.2 How does the Executive Director identify transparency projects?

The Executive Director determines which projects lead agencies should post to the Permitting Dashboard as transparency projects. In identifying transparency projects, the Executive Director may consult with OMB and CEQ to determine which project types may be suitable for posting to the Permitting Dashboard in the interest of transparency. The Executive Director also will consult with agencies about individual projects to determine their suitability as transparency projects.

The Executive Director will consult with relevant Federal agencies and the project sponsor prior to directing the lead agency to post a transparency project to the Permitting Dashboard. Additionally, the Executive Director will coordinate with the lead agency to begin the development of the permitting timetable prior to directing the agency to post the project to the Permitting Dashboard.

5.3 What must a lead agency do once the Executive Director has directed it to post a transparency project to the Permitting Dashboard?

A lead agency must create a specific entry on the Permitting Dashboard for a transparency project no later than 14 days after the date on which the Executive Director directs the agency to do so. The lead agency must maintain the entry on the Permitting Dashboard with the following information:

- a comprehensive permitting timetable that reflects all of the environmental reviews and authorizations the project will require;
- the status of the compliance of the lead agency and each cooperating and participating agency with the permitting timetable;²¹⁸
- any modifications to the permitting timetable, including a narrative explanation for each such modification to the permitting timetable; and
- information about project-related public meetings, public hearings, and public comment periods, posted in English and the predominant language of the community or communities that would be most affected by the project, as such information becomes

²¹⁷ *Id.* § 4370m-2(b)(2)(A)(iii) (“The Executive Director may direct a lead agency to create a specific entry on the Dashboard for a project that is not a covered project and is under review by the lead agency if the Executive Director determines that a Dashboard entry for that project is in the interest of transparency.”).

²¹⁸ *Id.* § 4370m-2(b)(2)(A)(iii)(II).

available.²¹⁹

At any time, the Executive Director may relieve a lead agency of these obligations with respect to a transparency project in the Executive Director’s discretion.

5.4 How do transparency projects differ from covered projects?

Transparency projects are not subject to all the FAST-41 requirements that apply to covered projects. When updating the permitting timetable for a transparency project, the lead agency for a transparency project is not subject to the limitations that apply when modifying the permitting timetable for a covered project, as described in Section 4(E).²²⁰ Additionally, lead agencies are not required to post to the Permitting Dashboard the same information that is required for covered projects.²²¹ Rather, they are only required to post the information described in Section 5.3 above.

5.5 Are transparency projects eligible to receive funding from the ERIF?

Yes. Once the Executive Director has designated a project as a transparency project, Federal agencies and state, Tribal, and local governments that are responsible for environmental reviews and authorizations for the project become eligible to receive funds from the ERIF to facilitate their timely and efficient review of the project.²²²

²¹⁹ *Id.*

²²⁰ *Compare id.* § 4370m-2(b)(2)(A)(iii)(II) (requirements for transparency projects), *with id.* § 4370m-2(c)(2)(D) (requirements for permitting timetable modifications for covered projects).

²²¹ The posting requirements for covered projects are listed in 42 U.S.C. § 4370m-2(b)(3).

²²² *See* 42 U.S.C. § 4370m-8(d)(3) (authorizing the Executive Director, with the approval of the Director of the Office of Management and Budget, to “transfer amounts in the [ERIF] to other Federal agencies and State, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects *and other projects under this title*” (emphasis added)).

Section 6 Judicial Review and Statute of Limitations

6.1 How does FAST-41 address judicial review for covered projects?

FAST-41 establishes a maximum time of two years for filing a claim to challenge any of the Federal authorizations for a covered project (unless the Federal law under which the claim arises specifies a shorter time).²²³ With respect to claims about a particular authorization for a covered project, the two-year limitations period begins to run on the date that an agency publishes notice of its final agency action granting the authorization in the *Federal Register*.²²⁴

The agency should indicate in the *Federal Register* notice that the project in question is a FAST-41 covered project and state the statute of limitations period for the authorization in question.

6.2 Does the two-year statute of limitations apply to all types of final decisions for covered projects?

Yes. The provision applies to any final decision for a covered project that the agency includes in a *Federal Register* notice of a final agency action (consistent with Section 6.1), including any final decision under NEPA, regardless of the level of NEPA review (*i.e.*, EIS, EA, or categorical exclusion).

6.3 May an agency inform the public of more than one final agency action in a single *Federal Register* notice?

Yes. For purposes of the statute of limitations described in this Section, the lead or facilitating agency (or a Federal agency that the lead or facilitating agency designates) may inform the public of more than one final agency action regarding a covered project in a single *Federal Register* notice.

6.4 Does a *Federal Register* notice for a final agency action for a particular authorization start the limitations period for other authorizations?

No. The two-year limitations period starts to run for claims about a particular authorization from “publication in the *Federal Register* of notice of final agency action on the authorization.”²²⁵ Thus, the limitations period does not begin to run for claims about an authorization that the notice does not address. To commence the limitations period, the agency responsible for that authorization must publish a separate notice after it has taken the final agency action.

The lead agency should coordinate among each cooperating and participating agency to streamline the process of publishing notices in the *Federal Register* to the extent possible. Each notice in the *Federal Register* should clearly state which final agency actions it addresses, to avoid the possibility of confusion.

²²³ *Id.* § 4370m-6(a)(1)(A).

²²⁴ *Id.*

²²⁵ *Id.*

Section 7 Collecting Information and Reporting on Environmental and Community Outcomes

To improve the performance of the environmental review and authorization processes for infrastructure projects, and consistent with OMB M-15-20,²²⁶ CEQ and OMB recommend that Federal agencies collect data to assess the quality and benefits of the environmental review and authorization process. In particular, agencies should assess the environmental review and authorization process by comparing each project as originally proposed with the alternative that the agency selected following the environmental review and authorization process.

Because one of NEPA's main goals is to foster excellent action by encouraging better decisions, CEQ and OMB especially encourage agencies to collect qualitative and quantitative data regarding environmental and community outcomes for each project subject to NEPA review, pursuant to agencies' authorities under NEPA, and in furtherance of Section 101 of NEPA. A project or action's environmental and community outcomes refer to the effects of the environmental review process for the project on environmental resources (ecology, public health, etc.) and indicators of community wellbeing (employment, public safety, etc.).

The intent of this effort, which applies to all Federal actions under NEPA,²²⁷ is not to require additional development of alternatives or mitigation or to require agencies to develop new information, but to capture the outcomes of the environmental review and authorization process more systematically. Accordingly, for projects on the Permitting Dashboard, agencies may use the "Outcomes" tab to report information on environmental and community outcomes, including effects on individual resources that lead to broader environmental and community outcomes.²²⁸ For projects not on the Permitting Dashboard, agencies may collect and report information on their own websites.

These recommendations are not limited to projects posted on the Permitting Dashboard and FAST-41 does not specifically require agencies to collect information on environmental and community outcomes,²²⁹ but capturing this information is consistent with FAST-41.²³⁰ For example, the Permitting Council's [Recommended Best Practices Report for Fiscal Year 2024](#)²³¹

²²⁶ Off. Of Mgmt. & Budget and Council on Env't Quality, Exec. Off. Of the President, OMB M-15-20, *Guidance Establishing Metrics for Permitting and Environmental Review of Infrastructure Projects* (Sept. 22, 2015), available at www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2015/m-15-20.pdf.

²²⁷ Actions covered by categorical exclusions under NEPA are generally unlikely to yield reportable outcomes compared to other levels of NEPA review. However, agencies should consider the extent to which its use of categorical exclusions could lead to reportable outcomes (see Sections 7.1 and 7.2), and structure its information collecting and reporting accordingly.

²²⁸ The Executive Director will update the Permitting Dashboard to facilitate agency posting of information about outcomes and will seek input from agencies on further improvements.

²²⁹ Instead, agencies should collect information about environmental and community outcomes pursuant to Federal agencies' general authorities under NEPA. In particular, lead, cooperating and participating agencies should collect information about effects within their respective authorities. CEQ and OMB will monitor agencies' fulfillment of the provisions of this section.

²³⁰ See, e.g., 42 U.S.C. § 4370m-1(c)(2)(B) (requiring the Permitting Council to issue recommendations on best practices for increasing transparency and addressing other aspects of infrastructure permitting). The Executive Director, however, will not evaluate agency implementation of this section in the Permitting Council's quarterly reports to Congress pursuant to 42 U.S.C. § 4370m-7(a)(2).

²³¹ www.permitting.gov/resources/fy24-recommended-best-practices-report.

identifies environmental and community outcome reporting as a best practice for Federal agencies.

Agencies should update this information on each project on an ongoing basis, including at major milestones (*e.g.*, upon release of draft and final environmental documents). In addition to providing summary information on the “Outcomes” tab, agencies should refer readers to the project’s environmental documents for additional context.

This section provides agencies with a framework for reporting environmental and community outcomes across eight general reporting categories, as applicable to each project.

7.1 What are “environmental and community outcomes,” and when should agencies assess them?

A project or action’s environmental outcomes generally include its effects on ecological resources (including natural resources), aesthetic resources, and cultural resources, as well as on public health. A project or action’s community outcomes generally include its effects on community indicators such as employment, public safety, community cohesion, and displacements of businesses, community facilities, and residences. Outcomes can be beneficial, adverse, neutral, or any combination thereof, and agencies may measure them quantitatively or qualitatively. Outcomes can include effects on environmental or community resources (including any trade-offs between such effects), changes in public processes, or both.

In evaluating environmental and community outcomes, agencies should consider qualitative and quantitative measures of how community-based processes (such as public participation and community engagement activities) and avoidance, minimization, and compensatory mitigation measures that resulted from the Federal permitting and review process contributed to improved outcomes in the final decision (*i.e.*, the alternative the agency selected in the NEPA process).²³²

The environmental and community outcomes reporting is an opportunity for agencies to document how the environmental review process avoided, minimized, and mitigated the effects of the Federal action on communities and the environment, and is not intended to capture the action’s overall effects that were not changed as part of the environmental review process.

For example, if an agency conducts an environmental review to determine whether to approve the construction of a fire station, it may find that the fire station will have beneficial community outcomes (*e.g.*, public safety, the accessibility of critical community services), while the construction of the facility will have adverse environmental effects (*e.g.*, effects on traffic, water and air quality, and noise pollution). For purposes of this effort, however, the agency should not

²³² Under the NEPA regulations, an agency must publish a monitoring and compliance plan for any mitigation measures the agency (i) relies on to analyze the reasonably foreseeable effects of the action and (ii) incorporates in a record of decision, a finding of no significant impact, or another kind of decision document. Similarly, when a project sponsor agrees to mitigation measures as part of the environmental review and permitting process, FAST-41 requires the facilitating or lead agency to post information on the status of those mitigation measures on the Permitting Dashboard, including information on whether and when the mitigation measures have been fully implemented. The lead agency can satisfy the requirement under NEPA to publish the monitoring and compliance plan for a covered project by posting it to the project page on the Permitting Dashboard.

directly assess these environmental and community outcomes. Rather, the agency should assess whether and how the agency used (or failed to use) the environmental review process to avoid, minimize, or mitigate the project’s adverse outcomes and enhance its beneficial ones, including how effectively the agency fostered public involvement. Thus, in the example above, the agency might note that as a result of the environmental review process, it determined to relocate the fire station to reduce the potential adverse effects of noise pollution.

Historically, the Executive branch has not centrally tracked avoidance, minimization, and mitigation measures, as it has for environmental review timelines. Consistent with the goals of NEPA and OMB M-15-20, agencies should collect information about and report on environmental and community outcomes that result from every type of Federal environmental review.

7.2 How can agencies best track these outcomes? What are the categories and indicators for reporting?

Determining the extent to which the environmental review and authorization processes improves overall environmental and community outcomes may vary from agency to agency and program to program. An agency should use the approach that is most applicable to the project in question and rely on information and methodologies in existing environmental review and authorization documents. To improve consistency, this section includes eight “reporting categories,” which are classifications for the environmental and community outcomes of a project, and “indicators,” or effects, that agencies can track to assess the outcomes in each category.

Agencies should report environmental and community outcomes in a manner that allows for both qualitative and quantitative analysis. When possible, agencies should include hyperlinks to the source documents and data that they relied on in reaching their assessments (*e.g.*, the number of wetland acres preserved or tons of carbon emissions avoided).

For projects on the Permitting Dashboard, the “Outcomes” tab will allow agencies to provide specific measures (*i.e.*, indicators) in each category by responding to this prompt:

Considering project development since the project’s application or initiation notice, how has the Federal environmental review or authorization process resulted in changes to any of the potential effects under the eight reporting categories (select all that apply)? Please provide a brief explanation for each reporting category, including whether any changes to effects resulted from

- avoidance of effects on resources;
- minimization of adverse effects; or
- incorporation of mitigation measures, including compensatory mitigation where applicable.

Agencies should report the environmental and community outcomes of the environmental review or authorization process in the following eight categories, which are based on the resource categories described in OMB M-15-20.

The indicators listed below, organized by reporting category, are examples of common outcomes or effects but are not exhaustive and may not be relevant to all projects. Agencies should use the indicators appropriate to the outcomes and effects that are most relevant to the project in question, and may report indicators qualitatively, quantitatively, or as a combination of both.

The example “indicators” listed below are not exhaustive. These indicators and examples are intentionally broad and open-ended to allow agencies to adapt their reporting based on their respective missions, projects, resources, and tools. The indicators and examples are based on CEQ and OMB’s experience with commonly encountered effects that agencies often consider for avoidance, minimization, and mitigation.

Reporting Category	Example Indicators
1. Air Quality and Climate Change	<ul style="list-style-type: none"> • Air quality improvements • Reductions in greenhouse gas emissions
2. Historic and Cultural Resources	<ul style="list-style-type: none"> • Avoidance of sacred sites • Historic property mitigation
3. Land	<ul style="list-style-type: none"> • Preservation of wilderness • Avoidance of prime agricultural land
4. Procedural Enhancements	<ul style="list-style-type: none"> • Enhancement of public engagement and involvement practices • Additional community or tribal or local meetings held • Broad engagement conducted, including with underserved communities and Minority Serving Institutions
5. Social and Economic (e.g., environmental justice)	<ul style="list-style-type: none"> • Avoidance of displacements • Delivery of clearly outlined benefits to communities with environmental justice concerns • Establishment of community benefit or labor agreements • Avoidance of adverse impacts on disadvantaged communities
6. Water Resources and Wetlands	<ul style="list-style-type: none"> • Avoidance of wetlands • Preservation of floodplains
7. Wildlife and Biological Resources	<ul style="list-style-type: none"> • Mitigated effects on endangered and threatened species • Restoration of biological resources • Reduction of migratory bird impacts
8. Other (e.g., public health)	<ul style="list-style-type: none"> • Reduction of noise • Mitigation of traffic • Avoidance of specific exposures • Precautions against contamination by hazardous materials

7.3 How should agencies report this information?

Agencies may select from a range of methodologies when reporting community and environmental outcomes. An agency should use the approach that is most applicable to the project in question and rely on information and methodologies in existing environmental review and authorization documents.

For instance, an agency may already identify how effects differ between a proposed action it assessed in an environmental review and the alternative it ultimately selected. In addition, if an agency has a broader planning guide that it uses to quantify benefits that relate to the NEPA process (e.g., DOT’s [Guide to Measuring Progress in Linking Transportation Planning and Environmental Analysis](#)²³³), it can use the information it collects pursuant to that guide to complete the outcomes section. Additionally, agencies that already measure a project’s ecosystem service benefits (e.g., NOAA’s [Ecosystem Service Valuation](#)²³⁴) should include that information.

The Federal Government is continually improving its methodologies for quantifying environmental effects and values,²³⁵ and this work should inform agency implementation of the reporting pursuant to this section. Agencies should explain what methodology they used to assess environmental and community outcomes (e.g., whether the agency assessed these outcomes as part of the NEPA analysis, or calculated them using an ecosystem services formula). The following example illustrates how agencies can make this assessment.

Example: An agency can prepare a consolidated list of avoidance, mitigation, or minimization measures it will implement to improve a project’s environmental and community outcomes. The following chart, which includes both qualitative and quantitative data, illustrates one potential approach.

Reporting Category (List applicable categories)	Indicator and Outcome (Final result, noting a change from initial to preferred alternative)	Additional Information
1. Air Quality and Climate Change	The project sponsor will use best management practices, such as minimal idling of engines and use of low volatility coatings.	<ul style="list-style-type: none"> • Hyperlink to source • Explanation of methodology
5. Social and Economic (e.g., environmental justice)	There will be translations of project-related documents and information into three languages, and the relevant agency will make interpretation services available for public meetings by request.	<ul style="list-style-type: none"> • Hyperlink to source • Explanation of methodology
7. Wildlife and Biological Resources	<p>Construction will be limited to existing roads, and vehicles will not exceed 25 miles per hour.</p> <p>If construction activities occur during the endangered whooping crane’s breeding season, a biologist will conduct the following activities no more than 3 days before the start of construction within the surveyed area: [example]</p>	<ul style="list-style-type: none"> • Hyperlink to source • Explanation of methodology

²³³ www.environment.fhwa.dot.gov/env_initiatives/pel/meas_progress.aspx.

²³⁴ seagrant.noaa.gov/wp-content/uploads/2023/06/10776_ESV-fact-sheet_201001.pdf.

²³⁵ Off. of Info. & Regul. Affs., Off. of Mgmt. & Budget, *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis* (Feb. 28, 2024), available at www.whitehouse.gov/wp-content/uploads/2024/02/ESGuidance.pdf.

7.4 How can agencies use contractor support to assess existing information about environmental and community outcomes?

Agencies should use the data or information they collect or generate during the Federal environmental review and authorization process (*e.g.*, NEPA documents, supporting technical reports) to assess environmental and community outcomes. Agencies do not need to engage in new analyses or develop studies to obtain the information described in this section, and should rely on links and cross references whenever the information is available and accessible in existing sources.

Agencies often use contractors to prepare NEPA documents. When an agency does so, the contractor is likely in a strong position to assess existing information regarding community and environmental outcomes in parallel with its development of the NEPA document.

To that end, agencies can consider including the following template language in contracting documents that seek support for NEPA document preparation, such as requests for proposals.

SERVICES REQUIRED:

The third-party contractor will be responsible for satisfactory completion of the following tasks:

...

(x) Summary of Environmental and Community Effects:

This section aims to fulfill the reporting goals outlined in OMB M-15-20 and Section 7 of OMB and CEQ's FAST-41 Implementation Guidance of January 2025, which recommend that agencies assess the environmental and community outcomes of their environmental review or authorization processes. To accomplish this, [AGENCY] requires the contractor to develop qualitative and quantitative descriptions of how community-based processes and avoidance, minimization, and mitigation measures contributed to better environmental and community outcomes during the NEPA process.

The contractor will use the information and reporting frameworks that this contract otherwise requires to assess information otherwise before the agency as part of the NEPA process regarding the environmental and community outcomes of the NEPA process, in accordance with the reporting framework in Section 7 of the FAST-41 Implementation Guidance of January 2025.

Agencies can also ask the contractor to prepare a written explanation of the methodologies that it used to collect the information.

The contractor should provide both the information and the explanation of methodologies to the agency in a form suitable for publication on a government website. The contractor will coordinate with the agency to present the data in an appropriate format.

7.5 How should agencies add this information to the Permitting Dashboard?

For details on how to add information on environmental and community outcomes to the Permitting Dashboard entries for FAST-41 covered projects, agencies should refer to Section 4.6 (“Outcomes Tab”) of the Permitting Dashboard User Guidance, available to Permitting Dashboard administrators.

7.6 When should agencies publish this information?

Agencies should report or update information about environmental and community outcomes as the environmental review or authorization process moves forward (*e.g.*, when the agency publishes a draft document for public comment), although most of the outcomes of an environmental review or authorization process will not be known until the process is complete.

Agencies should begin preparing information about environmental and community outcomes as they undertake the relevant permitting and environmental review processes; agencies do not need to wait until the environmental review and permitting process is complete. The following examples illustrate when agencies should publish this information:

Example 1: As part of the NEPA review process, an agency and the project sponsor decided to convene and meet regularly with a group of community leaders to help inform the development of their public engagement strategy. The agency, the project sponsor, and the community leaders collaboratively develop an engagement strategy that includes providing plain language descriptions of the project’s likely effects, holding meetings at times and locations that were convenient to the community, and building relationships with key community members.

Under this section, the agency should summarize this public engagement strategy and its outcomes. If the project has an entry on the Permitting Dashboard, the lead agency should add the summary to the Outcomes tab for the project’s Permitting Dashboard entry, in the “Procedural Enhancement” reporting category. The agency should add the information as soon as the decisions described above become public, rather than waiting until the agency completes the NEPA review process for the project.

Example 2: As part of the Clean Water Act Section 404 permitting process, an agency directs a project sponsor to modify a project to reduce its effects on jurisdictional wetlands. If the project has an entry on the Permitting Dashboard, the lead agency should add this outcome as soon as the agency executes the Section 404 permit. The agency should also add the number of acres of wetlands that avoided adverse impacts as a result of this change (if applicable) and the nature of the change (*e.g.*, the project will impact lower quality wetlands instead of pristine wetlands).

7.7 If multiple agencies are involved in the environmental review and authorization process, which one is responsible for publishing the information?

The Federal lead agency is responsible for publishing the information on environmental and community outcomes. However, the lead agency should collaborate with other agencies (*e.g.*, cooperating or participating agencies), as appropriate, to gather and assess the information. The

lead agency may publish information on behalf of another agency or request that another agency publish information on its behalf.

7.8 What happens if the environmental review and authorization process does not result in any changes to the proposal, its alternatives, or mitigation?

If an agency concludes that the Federal environmental review and authorization process did not result in any changes to the project’s environmental and community outcomes—for instance, because the applicants had already designed its proposed project to reflect the environmental review and authorization process’s requirements—the agency should report that information consistent with this section. Reports of this kind can assist agencies in improving the environmental review and approval process.

7.9 Must an agency validate the information it publishes on environmental and community outcomes by monitoring project performance?

This effort does not require agencies to validate information or conduct monitoring on environmental and community outcomes after the authorization or environmental review for the project is complete. Nevertheless, an agency may conduct monitoring of this kind as a best practice so that the actions it takes have the environmental and community outcomes that they agency anticipated. Each agency must make its own determination, for each project, of what to measure and monitor, and appropriate methods for doing so, in light of the agency’s jurisdiction over ongoing project activities and the nature of the project itself. Consistent with this section, agencies should focus this type of reporting on whether and how the environmental review and authorization process itself affected the project’s environmental and community outcomes (*e.g.*, by requiring mitigation), rather than the outcomes of the actual project or the mitigation measures as implemented. Agencies should continue to carry out other monitoring or follow-up activities as required by law, regulation, or other guidance.²³⁶

²³⁶ See, *e.g.*, Council on Env’t Quality, Exec. Off. of the President, *Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact*, 76 Fed. Reg. 3843 (Jan. 21, 2011).