

Federal Permitting Improvement Steering Council

CHARTER

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1. Official Designation

The Federal Permitting Improvement Steering Council (hereafter, the Council).

2. Authority

The Council is established pursuant to Section 41002(a) of Title 41 of the Fixing America's Surface Transportation Act (FAST-41), Pub. L. No. 114-94, § 41002(a), 129 Stat. 1312, 1743 (codified at 42 U.S.C. § 4370m-1(a)).

3. Purpose

The Council is charged with leading government-wide efforts to improve the Federal environmental review and authorization process for certain covered infrastructure projects in order to provide more transparent, efficient, and predictable reviews, while protecting the Nation's environmental, cultural, and historical resources. The Council will work with the Office of Management and Budget (OMB), the Council on Environmental Quality (CEQ), other Executive Office of the President (EOP) components, and Federal agency partners to implement and oversee adherence to the statutory requirements in FAST-41, which establishes a set of authorities, processes, structures, and mechanisms to advance Federal permitting improvement activities. The Council will also support other Administration efforts to improve infrastructure permitting, to the extent allowed by law.

4. Council Leadership and Membership

Pursuant to 42 U.S.C. § 4370m-1(b) the Council is chaired by a Presidentially-appointed Executive Director and also consists of Council members designated by Agency heads (Appendix 1 of this Charter lists these Agencies), as well as the Chairman of CEQ and the Director of OMB.

Leadership Responsibilities/Principles

The Executive Director of the Council will set Council priorities, align Council work products with related Federal agency initiatives, and manage Council operations and structure in coordination with CEQ, OMB, and Council member Agencies. To enable successful fulfillment of the statutory responsibilities outlined in FAST-41, the Executive Director shall:

- Convene the Council on a regular basis and preside over Council meetings as Chair of the Council;
- Ensure publication of permitting timetables for covered projects on the publicly accessible Permitting Dashboard website, as required by 42 U.S.C. § 4370m-2(b)(4);
- Seek to build consensus and mediate interagency and project sponsor disputes in a timely manner;
- Elevate issues to the appropriate levels within EOP;
- Serve as the official liaison with EOP components and other agencies when it is necessary to represent the Council as a whole;
- Conduct outreach to external stakeholders and represent the Administration at external forums related to infrastructure permitting;

- Seek feedback and routine input from non-Federal stakeholders regarding Council activities;
- Represent the Council to private industry;
- Represent the Council in coordination with the lead, cooperating and participating agencies to project sponsors;
- Report on agency implementation of FAST-41 by submitting an annual report to Congress detailing the progress accomplished under FAST-41 during the previous fiscal year, as specified 42 U.S.C. § 4370m-7(a), and as may be required for *ad hoc* testimony;
- Respond to formal and informal requests for information from EOP components;
- Support the Council in issuing annual recommendations on best practices as enumerated in 42 U.S.C. § 4370m-1(c)(2)(B);
- Support Council member Agencies in implementing best practices;
- Develop recommended performance schedules based on data from the preceding 2 calendar years and update every 2 years, in consultation with the Council as enumerated in 42 U.S.C. §4370m-1(c)(1)(C); and
- Publish procedures to coordinate Council responsibilities, such as data governance associated with the Permitting Dashboard or other similar platforms.

Leadership Transitions

During periods of transition from one Administration to another, or whenever there is an absence of a presidentially appointed Executive Director, the Deputy Director of the Council shall serve as the Acting Executive Director. In the absence of a Deputy Director, the Director of OMB shall select a career federal employee who shall serve as the Senior Official Performing the Duties of the Executive Director until an Executive Director is appointed.

Council Membership

As specified in 42 U.S.C. § 4370m-1(b)(2)(A), the head of each Agency listed in Appendix 1 is required to designate an official of the Agency to serve as a member of Council. Council members shall hold a position in the Agency of Deputy Secretary (or the equivalent) or higher.

Pursuant to 42 U.S.C. § 4370m-1(b)(3), the Director of OMB and the Chairman of CEQ are also members of the Council.

Pursuant to 42 U.S.C. § 4370m-1(b)(2)(B)(xiv), the Executive Director may invite the heads of other Federal agencies to participate as members of the Council.

Council Member Responsibilities/Principles

To enable successful fulfillment of the statutory responsibilities outlined in FAST-41, Council members shall:

- Issue annual recommendations on best practices as enumerated in 42 U.S.C. § 4370m-1(c)(2)(B);
- Meet not less frequently than annually with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process as specified in 42 U.S.C. § 4370m-1(c)(2)(C);
- Attend the regularly scheduled meetings called by the Executive Director;

- Review and consider initiatives and proposals presented at Council meetings and actively participate in the discussions;
- Cooperate with other members of the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law;
- Provide recommendations to the Executive Director;
- Vote on proposed Council actions when requested;
- Elevate to the Council's attention any issue that may affect the Council member Agency's ability to meet Council objectives;
- To the extent possible, participate fully in Council initiatives, projects, or other activities that advance or support statutory responsibilities;
- Communicate the Council's positions within the Council member's Agency and throughout other forums;
- Ensure that the Council member's Agency adequately performs the roles of Lead Agency, Facilitating Agency, Cooperating Agency, and Participating Agency as defined by 42 U.S.C. 4370m and any applicable Administration guidance related to infrastructure permitting;
- To the extent possible, ensure that the Council member Agency's designated agency Chief Environmental Review and Permitting Officer (agency CERPO) has the authority and resources to carry out his/her responsibilities.

OMB and CEQ may issue appropriate guidance to Agencies on FAST-41 implementation.

5. Structure & Support

Agency Chief Environmental Review and Permitting Officers

As specified in 42 U.S.C. § 4370m-1(b)(2)(A)(iii)(I), Council members shall designate one or more appropriate members of the Agency in which the individual serves to be an agency CERPO. As set forth in 42 U.S.C. § 4370m-1(b)(2)(A)(iii)(II), an Agency CERPO shall, in carrying out the duties of that position, report directly to a Deputy Secretary (or the equivalent) or higher. An Agency CERPO should be a Senior Executive or equivalent. The CERPO shall:

- Advise the respective agency Council member on matters related to environmental reviews and authorizations as required by 42 U.S.C. § 4370m-1(c)(3)(A);
- 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 42 U.S.C. § 4370m-1(c)(3)(B);
- Make recommendations to the respective Agency Council member for ways to improve their Agency's environmental review and decision making process as required by 42 U.S.C. § 4370m-1(c)(3)(C); and
- Review and develop training programs for Agency staff that support and conduct environmental reviews or authorizations as required by 42 U.S.C. § 4370m-1(c)(3)(D).

Working Groups

The Executive Director may establish, in consultation with Council members, standing working groups or similar bodies (e.g., committees, task forces) as necessary to consider items that are of concern to the Council and to implement Council policies, initiatives, or activities. Such bodies shall consist of Council

members or other Agency personnel, as designated by the Council member, with the requisite expertise to address the issues effectively.

As needed, the Executive Director may establish *ad hoc* task groups. In such instances, the Executive Director may designate a Council member to head such a group. These groups may have co-chairs or vice chairs, as determined by the Executive Director. Other Council members or other Agency personnel may serve on both committees and *ad hoc* task groups.

Administrative Support

Pursuant to 42 U.S.C. § 4370m-1(d), the Director of OMB has designated the General Services Administration (GSA) to provide administrative support for the Executive Director. GSA shall, as reasonably necessary, provide support and staff to enable the Executive Director to fulfill his/her duties. The details of this support shall be formalized in a separate agreement.

6. Meetings

Frequency

The full Council shall meet no less than quarterly, or more frequently at the discretion of the Executive Director.

Attendance

Council meetings require a quorum of a number greater than 50 percent of the Executive Director and Council members (or their designees) in attendance, either in person or via teleconference.

Agenda

The Executive Director shall set the agenda for meetings in advance in consultation with agency CERPOs and Council members. The Executive Director may establish a formal due date for submission of agenda topics. Agenda items shall focus on matters that require Council decisions or discussion. To the extent possible, a Council meeting agenda shall be provided to all Council members and all other attendees, along with pertinent read-ahead materials, at least seven (7) days prior to the meeting.

Voting

Unless otherwise limited through established procedure, the Executive Director and each Council member (or their designee) shall have one vote. Ratification of all voting requires a quorum and a majority vote of the quorum as constituted (*i.e.*, a majority of the quorum has to vote either yes or no to the action being presented). In the event that a quorum exists but more than one-third (1/3) of Council members abstain from voting, the Executive Director may, at the Executive Director's sole discretion, make certain specific decisions through procedures to be established.

The Executive Director may allow Council members to attend meetings and vote via teleconference. The Executive Director may also determine some issues appropriate for vote via e-mail.

Consultation and Obtaining Consensus

The Council will strive to realize its vision, accomplish its mission, and meet its objectives through collaboration and inter-agency cooperation for the benefit of the entire Federal government. Whenever possible, the Council will seek to achieve consensus prior to making any decision or promulgating any recommendations. If clear consensus is not possible, the Executive Director will make a good faith effort to obtain an outcome that is satisfactory to the majority of Council members. On issues pertaining to a specific project, the position of the lead or facilitating agency for that specific project will be given additional weight in the Executive Director's deliberation. The Council members may adopt Standard Operating Procedures proposed by the Executive Director to govern consultation requirements for various decision-making scenarios.

Other Attendees

Any Federal employee beyond those that are employed by a Council member Agency may be invited to attend Council meetings.

Meeting with Non-Federal Stakeholders

The Council will meet not less frequently than annually with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process as required by 42 U.S.C. §4370m-1(c)(2)(C).

Recordkeeping

The Executive Director shall develop, maintain, and make available as applicable to Council members the following documents for use and reference:

- A current copy of the Council charter;
- A current roster of the Council members, agency CERPOs, and working groups that support the Council; and
- A copy of the summary minutes of each meeting.

Transcripts or minutes of Council meetings will be provided to the Council members for review and comment before such transcripts or minutes are deemed complete.

7. Amendments

Any decision to amend, suspend, revoke, or waive any provision of this Charter requires a majority vote of all Council members—*i.e.*, a majority of the Council members must vote “yes” or “no” to approval of the action being presented.

8. Effective Date

This charter was adopted by a majority vote of the Council on December 6, 2017 and is effective as of December 7, 2017.

Appendix 1: Member Executive Departments and Agencies

Department of Agriculture
Department of the Army
Department of Commerce
Department of the Interior
Department of Energy
Department of Transportation
Department of Defense
Environmental Protection Agency
Federal Energy Regulatory Commission
Nuclear Regulatory Commission
Department of Homeland Security
Department of Housing and Urban Development
Advisory Council on Historic Preservation
General Services Administration