



Charter

Federal Permitting Improvement Steering Council

October 21, 2024



1. Establishment

A. Authority

The Federal Permitting Improvement Steering Council (Permitting Council) is a federal agency established in 2015 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)), and made a permanent federal agency in 2021 under Title VIII of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58.

B. Official Designation

The term "Permitting Council" refers to the Federal Permitting Improvement Steering Council defined in 42 U.S.C. § 4370m-1(a), as well as the agency staff that support the Executive Director in implementing the Executive Director's roles and responsibilities under FAST-41 pursuant to 42 U.S.C. §§ 4370m-1(c)(1)(E) and 4370m-8(d)(2). As detailed in this charter, the body of Permitting Council members and the agency and its employees each have distinct as well as cooperative responsibilities.

C. Council Membership

The Council is composed of 16 members:

- The Presidentially-appointed Executive Director of the Permitting Council, who also serves as Council Chair
- The Chair of the Council on Environmental Quality (CEQ)
- The Director of the Office of Management and Budget (OMB)
- The Deputy Secretary (or equivalent) of the Department of Agriculture
- The Assistant Secretary (or equivalent) of the Army (Civil Works)
- The Deputy Secretary (or equivalent) of the Department of Commerce
- The Deputy Secretary (or equivalent) of the Department of the Interior
- The Deputy Secretary (or equivalent) of the Department of Energy
- The Deputy Secretary (or equivalent) of the Department of Transportation
- The Deputy Secretary (or equivalent) of the Department of Defense

- The Deputy Administrator (or equivalent) of the Environmental Protection Agency
- The Deputy Secretary equivalent of the Federal Energy Regulatory Commission
- The Deputy Secretary equivalent of the Nuclear Regulatory Commission
- The Deputy Secretary (or equivalent) of the Department of Homeland Security
- The Deputy Secretary (or equivalent) of the Department of Housing and Urban Development
- The Chairman of the Advisory Council on Historic Preservation

Pursuant to 42 U.S.C. § 4370m-1(b)(2)(A)(i)(II), the Secretary or head of an agency represented on the Council may redesignate a member to represent that agency on the Council. The Secretary or head of the agency must notify the Executive Director of any such change in Council member designation within 30 days. The requirement that the Council member be a Deputy Secretary equivalent position or higher remains a qualification requirement for any designation or redesignation. The Executive Director will maintain the list of current council members on the Permitting Council's website; redesignation of a member to represent an agency will not require an amendment of this Charter.

The Council may be expanded by invitation of the Executive Director to include any other federal agency following consultation with the Council members. Council members that join the Council following an invitation of the Executive Director would be subject to the responsibilities prescribed for Council members under FAST-41 and described in section 5 of this charter, including the requirement to designate a Chief Environmental Review and Permitting Officer (CERPO).

Council members serve on the Council as representatives of their agency but, other than the Executive Director, Council members are not employees of the Permitting Council agency. FAST-41 assigns specific roles and responsibilities for the various Council members, which are described in sections 4 and 5.



2. Purpose

The Executive Director, on behalf of the Permitting Council, works with Federal agency partners, including the Office of Management and Budget (OMB), the Council on Environmental Quality (CEQ), other Executive Office of the President (EOP) components, and other agencies represented on the Council, to implement and oversee adherence to the statutory requirements in FAST-41. FAST-41 establishes a set of authorities, processes, structures, and mechanisms for the Permitting Council and for agencies represented on the Council to advance improvements in Federal permitting, including through work on FAST-41 covered projects and by leveraging the role of the Permitting Council as a federal center for permitting excellence.

A. FAST-41 Projects

The Permitting Council and affected federal agencies are charged with implementing FAST-41, including by improving the transparency and predictability of the federal environmental review and authorization process for FAST-41 “covered projects.” This is accomplished through active management of a comprehensive permitting timetable for each covered project, which is posted and maintained on the publicly accessible Permitting Dashboard. Pursuant to 42 U.S.C. § 4370m-2(b)(2)(A)(iii), the Executive Director may also direct a lead agency to post on the Permitting Dashboard certain permitting information for non-FAST-41 covered projects. The Executive Director and Permitting Council agency staff help facilitate the posting and maintenance of information on the Permitting Dashboard. The Permitting Council is also charged with encouraging agencies to make permitting process improvements through adoption of best practices to improve the federal permitting process for covered projects; the Permitting Council issues such best practices on an annual basis.

B. Center for Permitting Excellence

42 U.S.C. § 4370m-8(d)(2) authorizes the Executive Director to use the Environmental Review Improvement Fund (ERIF) to support the role of the Permitting Council as a federal center for permitting excellence. In this role, the Permitting Council supports federal efforts to improve infrastructure permitting including and beyond FAST-41 covered projects to the extent authorized by law. In this capacity, the Permitting Council continually works to identify opportunities to improve federal infrastructure permitting processes, and support activities that promote or provide for the efficient, timely, predictable completion of environmental reviews and authorizations for federally-authorized infrastructure projects. The Permitting Council serves as a forum for sharing information and lessons learned to support permitting excellence and facilitates improvements to interagency permitting coordination. Support for permitting excellence

may include activities such as capacity building, hiring support (including interagency detailees), research, advanced training, project management, data collection, IT tool development, programmatic solutions and serving as and supporting other fora for sharing best practices and lessons learned.



3. Governance

A. Council Meetings

Frequency

The Council will meet no less than quarterly, and may meet more frequently at the discretion of the Executive Director.

Pursuant to 42 U.S.C. § 4370m-1(c)(2)(C), the Council will meet at least annually with groups or individuals representing state, tribal, and local governments that are engaged in the infrastructure permitting process.

Agenda

The Executive Director will set the agenda for Council 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 will focus on matters that require Council decisions or merit discussion or deliberation of the Council. To the extent practicable, all Council meeting agendas will be provided to the Council members and CERPOs, along with pertinent read-ahead materials, at least seven days prior to the meeting.

Other Attendees

The Executive Director may invite any federal employee to attend a Council meeting in person. Any Federal employee, beyond those that are employed by an agency that is represented on the Council, may attend a Council meeting virtually. Additionally, the Executive Director may invite any non-federal entity to present information or participate in a Council meeting, as appropriate.

Recordkeeping

Following each meeting, the Executive Director will provide draft minutes of that meeting to the Council members with a two-week period to review and comment. After reviewing and incorporating comments, the Executive Director will provide final minutes and materials to the other Council members.

The Executive Director will develop, maintain, and make available to the other Council members and CERPOs the following documents for use and reference:

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

B. Council Votes

Vote Notification

The Executive Director may schedule a Council vote on any proposed action, and will provide Council members with at least ten days' notice in advance of a vote. Concurrent with notification of a scheduled vote, the Executive Director will provide relevant information about the proposal and vote.

Voting Procedures

Council votes may be held as part of a Council meeting, whether in-person or remotely, or over email. Each Council member (or their designee) will have one vote. A Council member may vote for or against a proposal or may abstain. A quorum of Council members is required to conduct the business of voting. Except as otherwise provided herein, a quorum is constituted by the participation in the vote—including votes of support, opposition, and abstention—of more than half of all members, and the measure will pass if a majority of the quorum as constituted supports the measure.

For votes held at an in-person Council meeting where a virtual participation option is available, Council members may attend and vote via the teleconference or virtual platform, and those members will be considered to have participated for purposes of a quorum. A Council member who is unable to attend virtually or in-person may designate an individual from their agency as their designee to cast a proxy vote, and will submit such designation to the Executive Director via email in advance of the meeting, and the agency represented by a Council member's designee will be considered to have participated for purposes of a quorum. For votes held as part of a Council meeting, the Executive Director may, on a case-by-case basis, allow members to submit their vote via email prior to or on the day of the meeting. For votes conducted by email, the Executive Director will establish a time period during which votes must be submitted, and a quorum of more than half of all members participating in the email vote must be constituted by the end of that time period.

Proposals subject to vote

The Executive Director will determine whether to bring a proposed action to the Council for a vote and will set the timeline and format for that vote. In general, the Council will vote on the following:

- Issues and questions pertaining to matters on which FAST-41 has conferred authority or responsibility to the Council to act;
- An issue or question for which a vote has been requested by a Council member, and for which the Executive Director, having consulted with the rest of the Council, has determined should be subject to a vote;

- Any proposal or action that is subject to rulemaking procedures, including any vote to add a FAST-41 infrastructure sector, or to modify, or remove a previously added FAST-41 infrastructure sector;
- Any proposal to amend, suspend, revoke, or waive any provision of this Charter. Passage of such a vote requires a majority vote of all Council members—i.e., a majority of the Council members must vote “yes” to the proposal to amend, suspend, revoke, or waive a provision of this Charter; and
- Any other issue or question for which the Executive Director considers a vote to be needed.

Publication of vote

The outcome of a Council vote on any proposal that is subject to rulemaking procedures will be included in the preamble for that rulemaking.



4. Executive Director Responsibilities

A. Principles

The Executive Director will strive to realize the purpose and intent of FAST-41 through faithful execution of the Executive Director's roles and responsibilities under FAST-41, and through collaboration and consensus-building with all Council members. 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 FAST-41 covered project that implicate the Executive Director's roles or responsibilities, the Executive Director will give additional weight in deliberation to the position of the lead or facilitating agency for that project.

B. Executive Director Responsibilities

The Executive Director will faithfully implement the roles and responsibilities statutorily prescribed in the FAST-41 statute and related guidance and policy documents. The Executive Director is the Chair of the multi-member Council. The Executive Director also serves as the agency head for the Permitting Council staff.

The Permitting Council is a permanent federal agency that is responsible for operating as such under federal law; as the agency head, the Executive Director ensures that the Permitting Council agency complies with federal requirements applicable to federal agencies, helps facilitate the Permitting Council's mission as an agency, and establishes and implements the agency's administrative procedures in accordance with applicable law and Executive Branch policies.

As Chair of the Council, the Executive Director presides over Council meetings and operations, including setting the agenda and calling for votes, and helps deliver on Permitting Council policies and deliverables required by FAST-41, including through interagency coordination, to support FAST-41 covered projects and to advance permitting excellence.

The Executive Director's responsibilities include:

- ▶ Fulfilling the responsibilities of the Permitting Council as a permanent federal agency, and the responsibilities of an agency head identified in applicable statutes, policies, and executive orders, including:

- Establishing policies and priorities for Permitting Council agency staff and aligning Permitting Council agency work products, operations, and structure with related federal agency and administration initiatives and policies;
 - Managing and maintaining the Permitting Council agency's records, including responding to requests for records made pursuant to the Freedom of Information Act;
 - Developing, updating, and implementing – in consultation with Council members as needed – required Permitting Council compliance materials and plans, such as the annual budget; agency performance plans; tribal consultation policies, and other agency operational plans, policies and procedures; and
 - Developing and implementing agency strategic plan and performance metrics;
- Representing the Permitting Council within the federal government and to external stakeholders, in coordination with agencies represented on the Council, including:
- Representing the Permitting Council on interagency committees or task forces;
 - Responding to Congressional inquiries and requests, including in testimony to Congressional committees;
 - Representing the Council, in coordination with the lead, cooperating and participating agencies, to project sponsors;
 - Conducting outreach to external stakeholders and representing the Permitting Council at external forums related to infrastructure permitting, in meetings with private industry, and with other stakeholders; and
 - Seeking feedback and routine input from non-Federal stakeholders regarding Permitting Council activities;
- Coordinating and collaborating with the Executive Office of the President (EOP), including:
- Serving as the official Permitting Council liaison with EOP components when it is necessary to represent the Permitting Council as an agency to EOP;
 - Working with the EOP on Permitting Council activities related to the administration's infrastructure priorities;
 - Responding to formal and informal requests for information from EOP components; and
 - Elevating issues, as appropriate, to the relevant levels within EOP;
- Managing the use of the ERIF, including:
- Carrying out the roles and responsibilities of the Permitting Council agency;
 - Hiring and providing compensation of the Executive Director's employees;

- In coordination with the OMB Director, evaluating and approving potential transfers to federal, state, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other FAST-41 projects;
 - Conducting oversight of expenditures from the ERIF; and
 - Supporting the role of the Permitting Council as a federal center for permitting excellence;
- Identifying opportunities to promote or provide for the efficient, timely, and predictable completion of environmental reviews and authorizations for federally-authorized infrastructure projects;
- Fulfilling the requirements of FAST-41, including:
 - Convening the Council on a regular basis and presiding over Council meetings;
 - Ensuring timely publication of permitting timetables for covered projects on the Permitting Dashboard;
 - Seeking to build consensus among federal agencies and project sponsors by addressing concerns and mediating disputes in a timely manner;
 - Establishing standing working groups or similar bodies as needed, in consultation with Council members, which may consist of Council members or other Agency personnel, as designated by the Council member, with the requisite expertise to address the issues effectively, and which shall consider matters of concern to the Council and to implement Council policies, initiatives, or activities.
 - Supporting the establishment and issuance of the Permitting Council’s annual recommendations on the best practices for improving the Federal permitting process for covered projects per 42 U.S.C. § 4370m-1(c)(2)(B); and
 - Submitting an annual report to Congress detailing the progress accomplished under FAST-41 during the previous fiscal year, and quarterly agency performance reports to Congress evaluating agency compliance with provisions of FAST-41;
- Developing and issuing memoranda as necessary clarifying how the Executive Director will carry out the Executive Director’s FAST-41 responsibilities, including:
 - Publishing procedures to coordinate Council responsibilities, such as data governance and procedures associated with managing permitting timetables and other information on the Permitting Dashboard or other platforms; and
 - Developing, in consultation with the Council, memoranda and/or Standard Operating Procedures for discrete topics as needed to enhance implementation of FAST-41 and facilitate conducting Permitting Council business.

C. Leadership Transitions

Whenever there is an absence of a presidentially appointed Executive Director, the Deputy Executive Director of the Permitting Council will serve as the Acting Executive Director. In the absence of a Deputy Executive Director, the duties of the Executive Director will be carried out by the individual identified in the Permitting Council agency succession plan until an Executive Director is appointed by the President.



5. Council Member and CERPO Responsibilities

A. Principles

Council members and CERPOs will strive to faithfully implement the requirements of FAST-41; will collaborate and coordinate; will seek to improve outcomes, including timely and efficient reviews, transparency, and interagency coordination; and will identify, elevate, and seek to resolve issues. Council members and CERPOs will seek ways for their agencies to implement the FAST-41 permitting best practices and to extend the benefits of FAST-41 to potential covered projects to the maximum extent permitted by law, and will continually seek to improve the environmental review and authorization processes for infrastructure projects at their agencies.

B. Council Member Responsibilities

To enable successful fulfillment of the statutory responsibilities contained in FAST-41, each Council member will:

- ▶ Attend scheduled Council meetings;
- ▶ Review and consider initiatives and proposals presented at Council meetings and actively participate in the discussions;
- ▶ Cooperate with other Council members 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 or FAST-41 requirements;
- ▶ To the extent possible, participate fully in Council initiatives, projects, or other activities that advance or support fulfillment of FAST-41 or Permitting Council statutory responsibilities;
- ▶ To the extent possible, support the development and implementation of the Permitting Council's agency strategic plan and performance metrics;

- Communicate the Council’s positions and expectations within the Council member’s agency and throughout other forums as appropriate;
- At the request of the Executive Director, serve as chair or member of a working group designated by the Executive Director, to the extent that such role is not in conflict with other responsibilities of the Council member;
- Ensure that their agency has designated one or more CERPOs as appropriate to fulfill the agency’s responsibilities under FAST-41;
- Ensure that the Council member’s agency and agency CERPO(s) are adequately implementing their roles as prescribed in 42 U.S.C. § 4370m-1(c)(3), and have the authority and resources needed to do so;
- Fully participate in the formulation and issuance of the Permitting Council’s annual recommendations on best practices per 42 U.S.C. § 4370m-1(c)(2)(B);
- Ensure that the Council member’s agency, as appropriate, 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 guidance; and
- Identify staff within the Council member’s agency that have the requisite expertise to support working groups designated by the Permitting Council to effectively represent the interests of the agency.

C. Agency Chief Environmental Review and Permitting Officer Responsibilities

As specified in 42 U.S.C. § 4370m-1(b)(2)(A)(iii)(I), with the exception of the Executive Director, OMB Director, and CEQ Chair, each agency head with a member on the Council is required to designate one or more appropriate members of their agency to be an agency CERPO. The OMB Director and CEQ Chair may choose to designate a CERPO for their agencies. An agency CERPO must have direct access to and be responsive to their respective Council member, including access to report directly to their respective Council member in the course of carrying out the duties of the CERPO role, described below. An Agency CERPO should be at an appropriate level within the agency to coordinate and manage the agency’s permitting and environmental review responsibilities. A CERPO’s responsibilities under FAST-41 are to:

- Advise the respective agency Council member on matters related to the agency’s 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).



6. CEQ Chair and OMB Director Responsibilities

In addition to implementing general responsibilities as Council members, the OMB Director and CEQ Chair are given additional specific responsibilities under FAST-41. For example:

- ▶ The OMB Director and CEQ Chair work closely with the Executive Director to identify, elevate, and resolve important policy issues;
- ▶ At the recommendation of the Executive Director, the OMB Director and CEQ Chair issue guidance to federal agencies for implementing federal agencies' FAST-41 responsibilities and effectuating the Permitting Council's recommendations and best practices;
- ▶ The OMB Director, in consultation with the CEQ Chair, has the authority to facilitate resolutions of unresolved disputes under FAST-41; and
- ▶ The OMB Director reviews and approves transfers from the ERIF to federal, state, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other projects under FAST-41.



7. Effective Date

This charter was adopted by a majority vote of the Council on October 18, 2024 and is effective as of October 21, 2024. This charter supersedes the charter dated December 7, 2017.