

FAST-41 Covered Project Sectors

A COORDINATED FRAMEWORK FOR IMPROVING THE FEDERAL ENVIRONMENTAL REVIEW AND AUTHORIZATION PROCESS

What is FAST-41?

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act) was signed into law. Title 41 of this Act (42 U.S.C. § 4370m et seq.), referred to as "FAST-41," created the Permitting Council and gave it the authority to guide large infrastructure projects that fit into designated sectors through the Federal environmental review and authorization process. Participation in FAST-41 is voluntary for project sponsors. It is also important to note that FAST-41 does not supersede, amend, or modify any Federal statute, such as the National Environmental Policy Act of 1969 (NEPA), nor does it create a presumption that a covered project will be approved or favorably reviewed by any agency. FAST-41 provides project sponsors and the public-at-large with increased predictability and transparency by establishing a clear timeline for key permitting milestones through enhanced interagency coordination.

What Projects Are Covered Under FAST-41?

Projects may be eligible to be covered under FAST-41 if they involve construction of infrastructure, require authorization or environmental review by a Federal agency, are subject to NEPA, are likely to require a total investment of more than \$200 million, and do not qualify for an abbreviated environmental review and authorization process. Projects may also be covered if they are subject to NEPA and, due to their size and complexity; the Permitting Council determines that the FAST-41 coordination process and oversight would be beneficial. **FAST-41 applies to the following sectors:**

- *Conventional energy production*
- *Renewable energy production*
- *Electricity transmission*
- *Surface transportation*
- *Aviation*
- *Ports and waterways*
- *Water resource projects*
- *Broadband*
- *Pipelines*
- *Manufacturing*
- *Additional sectors voted on by the Council*

For the full definition of a covered project, please see Section 3 of the FAST-41 Implementation Guidance at: <https://www.permits.performance.gov/tools/fast-41-implementation-guidance>

Can Additional Sectors Be Covered Under FAST-41?

Yes, consistent with authorities authorized by Congress in the FAST Act, additional sectors may be added by a majority vote of the council to be eligible for coverage under FAST-41. For more information see:

<https://www.permits.performance.gov/tools/sop-add-sector>

About the Federal Permitting Improvement Steering Council

FAST-41 established the Federal Permitting Improvement Steering Council (Permitting Council) to oversee the cross-agency Federal environmental review and authorization process. The Permitting Council consists of members from the Council on Environmental Quality (CEQ), Office of Management and Budget (OMB), the Advisory Council on Historic Preservation, and the following Federal agencies:

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

FOR MORE INFORMATION

Visit the Permitting Council at:

<https://www.permits.performance.gov>

For questions related to FAST-41 or the Permitting Council, email:

FAST.FortyOne@fpisc.gov



PERMITTING COUNCIL

Transparency • Efficiency • Accountability

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Non-Energy Mining and Land Revitalization Sector

Frequently Asked Questions

Q: *What types of mining projects are covered under FAST-41?*

A: Congress already included some energy related mining activities under FAST-41 in 2015. The activities covered under the renewable and conventional energy sectors include the extraction of coal, oil shale, oil, gas, and uranium. The Permitting Council voting to add the non-energy mining sector, means that projects that include the construction of infrastructure for extraction of non-energy locatable minerals, non-energy leasable minerals, saleable minerals and critical minerals are now eligible to be covered under FAST-41.

Q: *Does this mean that all non-energy mining and land revitalization projects will now be covered under FAST-41?*

A: No, the FAST-41 process is entirely voluntary, so it is up project sponsors to apply for coverage under FAST-41. In addition, not all projects will meet the size, complexity, and other requirements necessary to be covered under FAST-41.

Q: *What land revitalization projects are eligible for coverage under FAST-41 now?*

A: Land revitalization projects that are now eligible for coverage under FAST-41 include projects involving development, expansion, or reuse of a previously developed or contaminated property owned, leased, abandoned, or managed by, state, local, or Tribal governments, non-governmental organizations, or the private sector. Projects within an Opportunity Zone, those receiving financial assistance from a Qualified Opportunity Fund, or those subject to Federal, State, local, or Tribal cleanup are also eligible for coverage under the land revitalization sector.

Q: *Does the Council's acceptance of a project under a covered sector commence actions under Administrative Procedures Act (APA) or the National Environment Policy Act's (NEPA) public environmental review and authorization process?*

A: No, the triggering Federal action for the purposes of Administrative Procedures Act (APA) occurs when a Notice of Intent is published in the Federal Register by a lead agency, at the beginning of a project. The addition of a new sector simply creates a non-project specific eligibility which still requires numerous Federal actions, prior to addition of any covered project to the FAST-41 process. The Council exists as a performance management tool that creates schedules to coordinate agencies, but it is still the statutory responsibility of those Agencies to initiate and conduct all required environmental reviews and authorizations.

Q: *Does the addition of the mining or land revitalization sectors supersede, amend, or modify any other existing laws?*

A: No, the addition of these sectors or any others simply means that projects in those sectors can apply to be covered under FAST-41. This does not supersede, amend, or modify any Federal statute, nor does it create a presumption that a covered project will be approved or favorably reviewed by any agency.

Q: *Where can I find more information on the addition of these sectors and the transcript of the voting session?*

A: More information on the addition of these two sectors and the transcript of the voting session may be found on the Permitting Dashboard at the following link:
<https://www.permits.performance.gov/about/news/new-sectors-fast-41>

Mining and Land Revitalization Vote Results

For more information please visit:
<https://www.permits.performance.gov/about/news/new-sectors-fast-41>