On December 14, 2017, the Acting Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) established a standard operating procedure entitled “Evaluate Whether to Approve the Addition of a New Sector of Infrastructure under FAST-41” (2017 SOP) that sets forth a process by which the Permitting Council, by majority vote, would approve the addition of a new FAST-41 infrastructure sector not expressly enumerated in 42 U.S.C. § 4370m(6)(A). The 2017 SOP did not contemplate or account for Permitting Council adherence to the required notice-and-comment rulemaking procedures in section 553 of the Administrative Procedure Act (APA), 5 U.S.C. § 553. Accordingly, the 2017 SOP hereby is rescinded and replaced by the following process, which will ensure that all Permitting Council votes whether to add a new FAST-41 sector are appropriately informed by public input.

**Procedure**

1. In accordance with the procedures in the December 7, 2017 Permitting Council Charter (Permitting Council Charter), the Permitting Council Executive Director will put to a Permitting Council vote a proposal to pursue the addition of a FAST-41 sector.

2. If the Permitting Council votes in favor of pursuing the addition of a FAST-41 sector, the Executive Director will initiate a rulemaking process in compliance with APA requirements to add the FAST-41 sector.

3. After the close of the comment period on any proposed rule to add a FAST-41 sector, the Executive Director will provide all substantive comments received to the Permitting Council Members for review, and, in accordance with the procedures in the Permitting Council Charter, schedule and hold a Permitting Council vote whether to add the FAST-41 sector.

4. In accordance with the procedures with the Permitting Council Charter, the Permitting Council will vote whether to add the FAST-41 sector.

5. If the Permitting Council votes in favor of adding a FAST-41 sector, the Executive Director will issue a final rule in compliance with APA requirements, and codify the new FAST-41 sector at 40 C.F.R. part 1900.

Date: 12/10/2020

Alexander Herrgott
Executive Director
Federal Permitting Improvement Steering Council