



FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

To: Permitting Council Member Agencies

From: Eric Beightel, Executive Director

Date: September 29, 2023

Re: Management of FAST-41 Permitting Timetables During a Lapse in Appropriations

This memorandum explains how the Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) intends to manage FAST-41 permitting timetables on the Federal Permitting Dashboard (Dashboard) during a lapse in Federal government appropriations.

In the event of a partial shutdown of the Federal government due to a lapse in appropriations, the Executive Director intends to do the following:

1. Facilitate posting of a statement on the Dashboard acknowledging that published permitting timetables may not be updated during a shutdown.
2. Provide additional time after the Federal government resumes normal operations for agencies to mark milestones complete or provide alternative completion dates, as appropriate.
 - a. The Data Management Guide (DMG) indicates that facilitating or lead agencies should mark a milestone as complete within one business day of the posted completion date. The Executive Director will not implement that portion of the DMG for completion dates that occur during a partial government shutdown. Instead, agencies will have 5 business days, beginning from the date Congress appropriates funds enabling the resumption of normal agency activities, to either mark a milestone complete—if the substantive activity was, in fact,

completed by the posted deadline—or provide an alternative completion date.

3. For a completion date that is missed and for which an agency is providing an alternative completion date, the Executive Director will assist, through the Permitting Council’s Infrastructure Project Management (IPM) Team, with crafting and publishing on the Dashboard the statutorily-required explanation for why the completion date was missed. This explanation will reference the lapse in Federal government appropriations and agencies’ limited ability to continue working on environmental reviews and authorizations.
4. In the Quarterly Agency Performance Report for the first fiscal quarter following the resumption of normal agency activities, the Executive Director will address any completion dates that are missed during the lapse in appropriations separately from other instances of missed completion dates. The Executive Director will describe dates missed during the partial shutdown as impacts of the lapse of appropriations.
5. After the Federal government resumes normal operations, the Executive Director will, on a case-by-case basis, consider requests for modification of completion dates by greater than 30 days that are submitted less than 50 days in advance of the completion date for which a change is requested.
 - a. The DMG provides that facilitating or lead agencies should begin the completion date modification process at least 50 days before the completion date sought to be changed. The Executive Director understands it may not be feasible to submit modification requests 50 days in advance due to a lapse in appropriations. As long as the request is submitted more than 30 days before the completion date (due to the statutory prohibition on modifying completion dates within 30 days of the completion date), the Executive Director will consider the request and act on it as expeditiously as is practicable.
6. The statute provides that Federal agencies are to post certain information to the DB within 5 “business days” of a Federal agency receiving the information. The Executive Director will not consider the period of time during a partial shutdown due to a lapse in appropriations to be “business days.” The Executive Director expects that agencies will timely fulfill the posting obligation once funds are appropriated and normal agency operations resume.

The statement on the Dashboard addressing the shutdown will be removed once funds are appropriated and normal agency activities resume. The Executive Director expects that agencies will update permitting timetables for FAST-41 covered projects as soon as practicable once that occurs. Regardless of a lapse in appropriations, the Executive Director continues to encourage and expect facilitating, lead, and cooperating agencies to engage in proactive project management and timely updating of FAST-41 permitting timetables, to the extent consistent with law.

Please do not hesitate to reach out to this office or the IPM Team member assigned to your FAST-41 covered project with any questions concerning this memorandum, or for assistance managing or implementing your FAST-41 covered project's permitting timetable.

Date: 9/29/23



Eric Beightel
Executive Director
Federal Permitting Improvement
Steering Council