

Memorandum of Understanding
between
The Federal Permitting Improvement Steering Council
and
The State of Alaska
to Facilitate Implementation of FAST-41 for Covered Projects and Transparency Projects

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to foster coordination and collaboration between the State of Alaska (State) and the Federal Permitting Improvement Steering Council (Permitting Council) (the "Parties") with regard to the permitting assistance provided to certain infrastructure projects pursuant to Title 41 of the Fixing America's Surface Transportation Act (FAST-41) 42 U.S.C. §§ 4370m *et seq.* This document establishes the roles of the Parties and defines the principles of the working relationship. This MOU does not commit either Party to any particular action or expenditure of funds and instead reflects the Parties' intention to work collaboratively to identify projects that are eligible to be a FAST-41 covered project or transparency project and provide corresponding FAST-41 benefits, or other permitting streamlining. This MOU is to be implemented in a manner that respects the State's sovereignty, jurisdiction, and regulatory primacy.

II. AUTHORITY

The Permitting Council enters into this agreement pursuant to 42 U.S.C. § 4370m *et seq.* The Permitting Council Executive Director will act on behalf of the Permitting Council in implementing this MOU.

The State enters into this agreement under the following authorities including, but not limited to Alaska Constitution Art. XII, § 2; AS 44.99.105(b)(2)(policy of the state to work with government agencies to eliminate unnecessary impediments to economic development); AS 44.99.105(a)(2)(policy to collaborate on Arctic policy with all levels of government); AS 44.99.115(4)(policy to coordinate to streamline regulatory processes and collaborate with federal agencies to meet state's energy goals); and in furtherance of Alaska Constitution Art. VIII, AS 16; AS 29; AS 38; AS 44.33.020(29) and (32); AS 44.35.020(a)(2); AS 44.42.020(a)(6); AS 44.37.040; AS 44.65.020(a)(1-4) and Administrative Orders 344, 345, and 360. The Director of the Office of Project Management and Permitting (OPMP) will act on behalf of the State in implementing this MOU.

III. STATEMENTS OF THE PARTIES

A. The Permitting Council

Established in 2015 by FAST-41, the Permitting Council is a federal agency charged with improving the transparency, accountability, and predictability of the federal environmental review and authorization process for FAST-41 covered projects (as defined by 42 U.S.C. § 4370m(6)) and transparency projects (as authorized by 42 U.S.C. § 4370m-2(b)(2)(A)(iii)) (collectively, hereinafter referred to as “FAST-41 projects”). The Permitting Council is comprised of the Permitting Council Executive Director, who serves as the Council Chair; 13 federal agency council members (including deputy secretary-level designees of the Secretaries of Agriculture, Army, Commerce, Interior, Energy, Transportation, Defense, Homeland Security, and Housing and Urban Development, the Administrator of the Environmental Protection Agency, and the Chairs of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation); and the Chair of the Council on Environmental Quality and the Director of the Office of Management and Budget.

The Permitting Council coordinates federal environmental reviews¹ and authorizations² for projects that seek and qualify for FAST-41 coverage. FAST-41 covered projects are entitled to comprehensive permitting timetables and transparent, collaborative management of those timetables on the Federal Permitting Dashboard. FAST-41 covered projects may be in the renewable or conventional energy production, electricity transmission, energy storage, surface transportation, aviation, ports and waterways, water resource, broadband, pipelines, manufacturing, mining, carbon capture, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, and cybersecurity sectors. FAST-41 transparency projects are projects, in the above-mentioned sectors, that are directed by the Executive Director of the Permitting Council to be posted on the Dashboard in the interest of transparency. Transparency projects are not subject to all the requirements of covered projects but must have the permitting timetable and information about any public meetings posted and maintained on the Permitting Dashboard.

B. The State of Alaska

The State has a unique role and perspective as a sovereign state, the only Arctic state, neighboring landowner to federal lands, wildlife manager, taxing authority, permitting agency, and regulator. The State has a long history as a cooperating agency in

¹ 42 U.S.C. § 4370m(11) (defining “environmental review”).

² *Id.* § 4370m(3) (defining “authorization”).

environmental and regulatory reviews. The State has expertise on geology, engineering, sociocultural issues, human health, wildlife management, subsistence, economic resources, off-road travel, water use, and ice road construction. The uniqueness of the State and the importance of infrastructure development to the needs of the State and its residents have been recognized in executive orders, federal statutes, and case authorities.³ As the largest state with the longest coastline and vast mineral deposits, the State has unrivaled resources and potential to offer our great nation and allies.

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.⁴ Accordingly, it is the goal of the State to promote growth and investment in Alaska by reducing administrative and economic burdens associated with regulatory compliance while engaging with stakeholders. In view of the State's streamlining objectives, the State's implementation of this MOU shall be through the Director of OPMP with copies of correspondence forwarded to the Deputy Chief of Staff for the Office of the Governor.

The mission of the OPMP is to coordinate State multiple agency regulatory reviews and authorizations while collaboratively engaging federal agencies on land use planning and policy initiatives to maintain and enhance the State's economy and quality of life, and to maximize the value of Alaska's vast natural resources. OPMP supports private industry, regulators, and the Alaska public by leading and implementing multiple agency permit coordination to ensure consistent, defensible, transparent, and timely permit decisions for a range of responsible natural resource and infrastructure development projects. The OPMP furthers interests of Alaska residents by coordinating State responses to proposed Federal actions and pursuing Federal funding opportunities.

IV. PRINCIPLES OF THE RELATIONSHIP

This MOU establishes a relationship between the Parties to provide federal permitting support to projects the State identifies or is involved in that also may qualify as FAST-41 projects in the State of Alaska. This relationship should provide mutually beneficial outcomes by supporting federal environmental reviews and authorizations, as those terms are defined in FAST-41, for projects in Alaska while also expanding the FAST-41 portfolio of projects administered by the Permitting Council. Sponsors of projects identified by the State that seek and obtain FAST-41 coverage pursuant to the procedures prescribed in FAST-41⁵ will receive the focused technical assistance, transparency,

³ See, Executive Order 14153; 16 U.S.C. §3101; 42 U.S.C. §§6501-6508; Pub. Law No. 119-21; *Sturgeon v. Frost*, 587 U.S. 28, 31 (2019).

⁴ Alaska Const. Art. VIII, §1.

⁵ *Id.* § 4370m-2(a)(1), (b)(2)(B) & (C).

accountability, and predictability afforded to all FAST-41 covered projects or transparency projects. This MOU does not modify or affect the FAST-41 covered project criteria or any other legal requirement for project coverage and review. Accordingly, projects identified pursuant to this MOU are not guaranteed status as a covered project or transparency project by virtue of this MOU, nor are any projects assured of any permit approval by virtue of becoming a covered FAST-41 project or transparency project.⁶

On a project-by-project basis, and at the request of the State, the Permitting Council will help the State and any appropriate facilitating or lead agency to leverage the state “opt-in” provision at 42 U.S.C § 4370m-2(c)(3) and post state environmental reviews and authorizations to the Permitting Dashboard found at www.permitting.gov.

The State’s participation in this MOU is not an agreement as to federal jurisdiction over any particular project. This MOU should not be construed as State approval or disapproval of any project or its FAST-41 coverage. The State’s participation in this MOU is intended to facilitate cooperation and coordination. The State’s participation is in supplemental and does not replace other requirements for cooperation, coordination, and consultation with the State.

V. ROLES AND RESPONSIBILITIES

A. Under this MOU, for projects in the State of Alaska, the Permitting Council Executive Director intends to:

1. Help the State determine the FAST-41 eligibility of projects in the State of Alaska and provide ongoing support as the State identifies new projects that may be eligible for FAST-41 program benefits.
2. Engage with project sponsors of projects in the State’s portfolio to provide FAST-41 briefings as requested and appropriate.
3. Engage in regular meetings with the State to assess potential future projects and update or modify strategy for engaging with project sponsors of potential FAST-41 projects. These meetings will occur at least once every quarter.
4. Coordinate with the State to develop a template for a Notice of the Initiation of a FAST-41 Notice (a.k.a., FAST-41 Initiation Notice, or FIN) that will support efficient application for FAST-41 coverage by project sponsors of projects in the State’s portfolio.
5. When requested, coordinate with the State to identify and attempt to support gaps in a lead agency’s or facilitating agency’s Alaska and Arctic experience.

⁶ See 42 U.S.C. § 4370m-6(d)(2) (FAST-41 does not create a presumption that a covered project will be approved or favorably reviewed by any federal agency).

6. Consult with the State about any relevant information that could impact the Permitting Council's evaluation of a FIN for project coverage and share that information with FAST-41 lead or facilitating agencies to inform the evaluation of a FIN.
7. Upon receipt of a FAST-41 FIN, identify and connect the State and the project sponsor with the appropriate FAST-41 facilitating agency and, if applicable, lead agency.
8. Provide dedicated Permitting Council staff contacts for each covered project in the State's portfolio and support regular coordination calls to occur at least once a month with the project sponsor and the participating agencies for the project.
9. Convene, as appropriate, federal agencies with equities in the State's projects covered under FAST-41 to support timely issue identification, resolution, and efficient and effective environmental review and permitting of covered projects.
10. Notify and communicate with the State prior to modifying any permitting timetable that affects a State agency's responsibilities.
11. Identify opportunities to develop practice tools to aid in the implementation of FAST-41, such as templates or fact sheets, and work with the State to develop such practice tools, including inviting the State to Permitting University programming, where appropriate.
12. Work with federal agencies and the State to identify best practices and recommendations relevant to the timely and efficient reviews of FAST-41 projects, including but not limited to technology improvements, concurrent reviews, and secure data and document sharing.
13. Notify and communicate with the State on an alternative completion date if a lead or facilitating agency submits to the Executive Director notice of a failure to conform with a completion date or a significant risk of failing to conform to the completion date.
14. Engage in discussions, on a project-by-project basis, with Alaska State agencies with regulatory responsibilities or authorities for covered projects to determine whether the State should pursue the state "opt-in" provision at 42 U.S.C § 4370m-2(c)(3) and post state agency environmental reviews and authorizations to the permitting timetable.
15. Coordinate with the Director of OPMP to hold targeted coordination and consultation meetings between relevant State agencies with regulatory responsibilities or authorities and federal counterparts to discuss the proposed scope, scale, and methods of regulatory efforts including community outreach, environmental analyses (including fish, wildlife, and subsistence), and cultural analyses.

16. Coordinate with the Director of OPMP to hold targeted coordination and consultation meetings between relevant State agencies with regulatory responsibilities or authorities and federal counterparts to avoid duplication of efforts and timeline extensions.

B. Under this MOU, the State intends to:

1. Coordinate with the Permitting Council Executive Director to assess and determine potential FAST-41 project eligibility of projects in the State's portfolio.
2. Provide FAST-41 information to sponsors of projects in the State's portfolio and, to the extent practicable, encourage eligible projects to pursue FAST-41 coverage.
3. Engage in regular meetings with the Permitting Council Executive Director to assess future project potential. The outcomes of such meetings can be used to inform the State's or the Permitting Council's respective strategies for engaging with project sponsors of potential FAST-41 projects. These meetings will occur at least once every quarter.
4. Coordinate with the Permitting Council Executive Director to develop a FAST-41 FIN template that will support efficient application for coverage by project sponsors of projects in the State's portfolio.
5. Identify the need for practice tools to aid in the implementation of FAST-41, such as templates or fact sheets, and work with the Permitting Council Executive Director to develop such practice tools as appropriate.
6. Provide support to Permitting Council staff in communication and outreach efforts, when appropriate.
7. Provide an opportunity for the Permitting Council to present at the conferences hosted by the State, to advance knowledge of FAST-41 and this MOU.

VI. POINTS OF CONTACT

The following individuals will serve as the respective points of contact (POC) for each Party for implementing this MOU. A Party may change its POC by written notice to the other Party.

For the Permitting Council:

James Anderson Tran
Chief Policy Counsel and Senior Advisor to the Executive Director
anderson.tran@permitting.gov
Federal Permitting Improvement Steering Council
1800 G Street, NW, Suite 9100
Washington, DC 20006

For the State:

Ashlee Adoko
Executive Director
Office of Project Management and Permitting
Ashlee.adoko@alaska.gov
550 W. Seventh Ave., Suite 1430
Anchorage, AK 99501

With a courtesy copy of correspondence directed to Rachel Bylsma, Deputy Chief of Staff,
Office of Governor Mike Dunleavy, rachel.bylsma@alaska.gov, 550 W. Seventh Ave, Suite
1700, Anchorage, AK, 99501.

VII. CONFIDENTIALITY

The Parties recognize that to implement this MOU, the Parties, their counsel, employees, and consultants may exchange documents and information that are subject to attorney-client privilege, attorney work product, other forms of privilege, and other confidential information. The Parties intend to keep confidential information shared under this MOU confidential to the extent allowed by their respective laws and regulations. This MOU does not mandate the sharing of confidential or privileged information.

Whenever sharing information deemed confidential or otherwise susceptible of protection from disclosure, the Party shall clearly mark any information to which it asserts a privilege as "Privileged and Confidential Information Do Not Release, Subject to Permitting MOU."

Information that is generally available to the public other than as a result of a disclosure under this MOU or is available to a party from a source other than this MOU is not subject to the requirements of this MOU for confidential information.

The Party receiving information so marked will endeavor in good faith not to release, or allow to be released, such information to a non-party, to the extent permitted by law and without notifying the respective Party who marked the information. The Parties agree that failure to so mark information developed or shared under this MOU does not preclude the Parties from asserting the exemptions under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, or the Alaska Public Records Act (APRA), AS 40.25.100- 40.25.295 or from asserting privileges and exceptions in seeking to protect the information from discovery. A Party that receives a disclosure request under FOIA or APRA or discovery in any administrative or judicial proceeding will notify the other Parties within 5 business days. Subject to the parties' respective retention policies and regulations if applicable, 30 days prior to the termination of this MOU, each party agrees to return or destroy confidential information shared under this MOU.

VIII. FUNDING

The Parties acknowledge that coordination through this MOU is subject to the availability of Federal or State funds and each Party's budget priorities. Nothing in this MOU will require either Party to assume any obligation or expend any sum or funds in excess of authorization and appropriations available or in any other way act in violation of the Anti-Deficiency Act (31 U.S.C. 1341). The participation of the State through the Director of OPMP in this MOU and review of any project under this MOU is not an assertion by the State that the project is a FAST-41 covered project or a project covered under OPMP.

IX. EFFECTIVE DATE; TERM

The effective date of this MOU is the date of the signature last affixed to these pages. The Parties intend this MOU to remain in effect for a minimum period of five years after execution. If, during that time period, either party desires to terminate the MOU, either Party may do so at any time by providing 60 days written notice to the other Party.

IX. SAVINGS PROVISION; LEGAL EFFECT

Nothing in this MOU shall be construed to convey new authorities to either Party and all actions taken in furtherance of this agreement shall be consistent with each Party's authorities and applicable laws and regulations. This MOU does not create or alter any legal rights, requirements, or causes of action. This MOU merely establishes a mechanism of cooperation, and coordination to achieve shared goals.


X. SEVERABILITY

Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in effect, and the Parties may renegotiate the terms affected by the severance.

XI. MODIFICATION

Either Party may request changes to this MOU. Any changes, modifications, or amendments to this MOU that must be mutually agreed upon by the Parties, and will be incorporated by written instrument, executed, and signed by the Parties.

XII. SIGNATURES



Mike Dunleavy
Governor
State of Alaska

8-27-25

Date



Emily Domenech
Executive Director
Federal Permitting Improvement
Steering Council

8-27-25

Date