

Calendar No. 698

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-292

PERMITTING COUNCIL IMPROVEMENT
ACT OF 2024

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4679

TO AMEND TITLE XLI OF THE FAST ACT TO IMPROVE THE
FEDERAL PERMITTING PROCESS, AND FOR OTHER PURPOSES



DECEMBER 16, 2024.—Ordered to be printed

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PERMITTING COUNCIL IMPROVEMENT ACT OF 2024

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Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4679]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4679) to amend title XLI of the FAST Act to improve the Federal permitting process, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	1
III. Legislative History	3
IV. Section-by-Section Analysis of the Bill, as Reported	4
V. Evaluation of Regulatory Impact	6
VI. Changes in Existing Law Made by the Bill, as Reported	6

I. PURPOSE AND SUMMARY

The *Permitting Council Improvement Act of 2024* modifies the Federal Permitting Improvement Steering Council’s (Permitting Council) authorities to hold agencies accountable for timely and coordinated reviews of permits that are required for the construction of certain major infrastructure and energy projects. The bill also increases congressional oversight of the Permitting Council.

II. BACKGROUND AND NEED FOR THE LEGISLATION

In 2015, the Homeland Security and Governmental Affairs Committee authorized reforms to improve interagency and intergovernmental coordination, transparency, and predictability in the permitting process in Title 41 of Fixing America’s Surface Transpor-

tation Act (FAST–41). In this context, the “permitting process” refers to the various governmental approvals that state, local, tribal, and private parties must secure before they can begin construction on a major infrastructure project.¹ The number and complexity of these approvals vary depending on the expected impacts on factors like the environment, wildlife, and public and private land, which can implicate various federal agencies and levels of government.² For example, the reviews for environmental permits coordinated under the National Environmental Policy Act (NEPA) are often broadly conflated with the term “permitting” but are only one of many approvals that may be required for a project.³ The Permitting Council and the FAST–41 were made permanent as part of the Infrastructure Investment and Jobs Act, and its authorizing legislation was codified in 42 U.S.C. 4370m.⁴

The Permitting Council is comprised of its Executive Director, the Chair of the Council on Environmental Quality (CEQ), the Director of the Office of Management and Budget (OMB), and representatives from 13 federal agencies. The Permitting Council Executive Director is currently appointed by the President, and is authorized to hire staff to administer the authorities, procedures, and funding made available in FAST–41. The Permitting Council Executive Director is charged with overseeing performance timelines for agencies to issue permits for certain major infrastructure projects and with implementing the coordination, oversight, and transparency measures established in FAST–41.⁵ Given the growing scope of responsibilities of the Permitting Council and its permanent authorization, this bill requires that the Senate confirm the President’s appointment of the Executive Director.

The FAST–41 process begins when a project sponsor voluntarily submits a request for coordination to the Permitting Council Executive Director.⁶ To be covered by the Permitting Council, the project must meet certain eligibility criteria. Most projects are covered through statutory eligibility criteria under 42 U.S.C. 4370m(6)(A)(i), which include whether the projects fall within certain covered sectors, have an investment of \$200 million or more, and are subject to NEPA.⁷ 42 U.S.C. 4370m(6)(A)(iv) also allows for projects to be covered on a discretionary basis, considering whether a project would benefit from increased coordination. However, no project has been covered by this discretionary authority, and the 2017 guidance indicates that OMB, CEQ, and the Executive Director have yet to establish a process to cover projects via the discre-

¹ Fixing America’s Surface Transportation Act (FAST Act) of 2015, Pub. L. No. 114–94. The Homeland Security and Governmental Affairs Committee bill, S. 280 (114th Congress), was reported favorably by the Committee in May 2015 and subsequently included in the FAST Act.

² Congressional Research Service, *National Environmental Policy Act: An Overview* (Dec. 28, 2023) (IF12560).

³ *Id.*

⁴ Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117–58, Sec. 70801.

⁵ Fixing America’s Surface Transportation Act (FAST Act) of 2015, Pub. L. No. 114–94, Sec. 41002.

⁶ Fixing America’s Surface Transportation Act (FAST Act) of 2015, Pub. L. No. 114–94, Sec. 41003(a).

⁷ 42 U.S.C. 4370m(6)(A). Additionally, this section provides that projects sponsored by an Indian Tribe, Alaska Native Corporation, a Native Hawaiian organization (as defined in section 7517 of title 20), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs, or a carbon dioxide pipeline project do not need to meet the \$200 million threshold.

tionary criteria.⁸ The bill clarifies the process for covering projects via the discretionary criteria, by specifying that the Executive Director may cover a project after consulting with the members of the Permitting Council.

Once a project is covered by the FAST-41 process, the Permitting Council Executive Director also publishes information about the permitting process on a public dashboard and is authorized to resolve disputes relating to permitting timetables. The dispute resolution process, however, has never been utilized. The bill amends this section of the law to allow project sponsors to initiate the process when there are disputes with agencies over the timing and content of permitting timetables. It additionally allows the Executive Director to issue a new permitting timetable when a dispute arises and allows agencies seven days to respond if a timetable is not feasible.⁹

Finally, the Permitting Council can raise fees and transfer funds from its Environmental Review Improvement Fund (ERIF) to federal agencies, states, and tribal and local governments to improve permitting processes. Congress appropriated \$350 million to the ERIF in the Inflation Reduction Act (IRA).¹⁰ However, a fee structure has never been created. This bill amends the fee structure authorization to better align it with the needs of the agency and project sponsors and caps its total cost at 1% of total project investment. Thus far, the Permitting Council has allocated over \$165 million of the IRA funds, including targeted investments in federal agencies to improve permitting capacity, and has also earmarked \$25 million to be available for a Tribal Assistance Program.¹¹ The bill further clarifies the Permitting Council's authority to transfer funds out of the ERIF, which must be done in coordination with OMB and with OMB's explicit approval for transfers over \$2 million. The bill also includes increased reporting requirements to provide Congress with greater insight into the ERIF's activities and transfers.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D-MI) introduced S. 4679, the *Permitting Council Improvement Act of 2024*, on July 11, 2024. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator James Lankford (R-OK) joined as a cosponsor on September 25, 2024.

The Committee considered S. 4679 at a business meeting on September 25, 2024. At the business meeting, Chairman Peters offered a substitute amendment to the bill, as well as a modification to that amendment. The Peters amendment, as modified, removed a savings clause modification that would have allowed the Permitting Council to cover additional projects not currently covered under FAST-41, removed a tribal projects expansion to clarify that a project is a tribal project if any part of the project is on tribal land,

⁸ Office of Management and Budget, *Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects* (Jan. 13, 2017) (https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2017/m-17-14.pdf).

⁹ Federal Permitting Improvement Steering Council, *Annual Report to Congress Fiscal Year 2023* (Apr. 2024) (<https://www.permits.performance.gov/fpisc-content/permitting-council-fy-2023-annual-report-congress>).

¹⁰ Inflation Reduction Act of 2022, Pub. L. No. 117-169, Sec. 70007.

¹¹ *Supra*, note 6.

and provided explicit authority to OMB to disapprove of funding transfers for covered projects.

The Committee adopted the modification to the Peters substitute amendment and the Peters substitute amendment, as modified, by unanimous consent, with Senators Peters, Carper, Hassan, Sinema, Rosen, Blumenthal, Butler, Paul, Lankford, and Hawley present. The bill, as amended by the Peters substitute amendment as modified, was ordered reported favorably by roll call vote of 8 yeas to 2 nays, with Senators Peters, Carper, Hassan, Sinema, Rosen, Blumenthal, Butler, and Lankford voting in the affirmative, and Senators Paul and Hawley voting in the negative. Senators Ossoff and Scott voted yea by proxy, and Senators Johnson, Romney, and Marshall voted nay by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Permitting Council Improvement Act of 2024.”

Section 2. Federal permitting improvement

Subsection (a) amends the definition of a “covered project” by striking “in the opinion of the Council” and inserting “in the opinion of the Executive Director, in consultation with the Council.”

Subsection (b) makes the Permitting Council Executive Director a Senate-confirmed position. It also repeals the “Recommended Performance Schedules” in 42 U.S.C. 4370m–1(c)(1)(C). The bill replaces this with new reporting requirements in 42 U.S.C. 4370m–7(a)(1)(i).

Subsection (c)(1) introduces a technical fix that requires that project sponsors provide a statement of the total investment required to plan, design, and construct the proposed project.

Subsection (c)(2)(A) also revises 42 U.S.C. 4370m–2(c)(2) to allow project sponsors to initiate the dispute resolution process between agencies over the content and timing of timetables. It would also allow the Executive Director to propose a new permitting timetable when a dispute does arise, and it provides 10 business days for an agency to respond if the timetable is not feasible.

Subsection (c)(2)(B) revises 42 U.S.C. 4370m–2(c)(2)(D) to clarify that if an agency has missed an intermediate or final completion date with an action on a permitting timetable, the agency must submit a new alternative date to the Executive Director within 15 days. These alternative completion dates are subject to the same requirements as other completion dates.

Subsection (c)(2)(C) of the Act revises 42 U.S.C. 4370m–2(c)(2)(F) to modify the reporting requirements so that alternative completion dates are posted on the permitting dashboard and in a monthly status report, similar to other completion date reporting requirements required under current statute.

Subsection (d)(1) renews the reporting requirements and requires new information in the Annual Report to Congress in 42 U.S.C. 4370m–7(a)(1) on trends by sector in permitting timetables, which would replace the recommended performance schedules. This report also describes the contributing factors that affect timelines. 42 U.S.C. 4370m–7(a)(1)(ii) also requires the Executive Director to re-

port on the work of the Permitting Council as the Federal Center for Permitting Excellence. 42 U.S.C. 4370m-7(a)(1)(iii) requires the Executive Director to report on transfers made out of the ERIF.

Subsection (d)(2)(A) adds new section 41008(2)(A) of the FAST Act, which requires the Executive Director, in consultation with Director of OMB and the Director of the Office of Personnel Management, to produce a report on the federal government's permitting workforce. This report may be included in the Annual Report.

Subsection (d)(2)(B) adds new section 41008(2)(B) of the FAST Act to require the Executive Director, in consultation with the Administrator of the General Services Administration and the Secretary of Transportation, to study and make recommendations about improving the usability of the Permitting Dashboard. This report may be included in the Annual Report. Subsection (d)(2)(B) also adds new section 41008(2)(B) of the FAST Act to require the Executive Director, in consultation with the Administrator of the General Services Administration and the Secretary of Transportation, to study and make recommendations about improving the usability of the Permitting Dashboard. This report may be included in the Annual Report.

Subsection (d)(3) repeals section 41011 of the FAST Act (42 U.S.C. 4370m-10), which required a one-time Comptroller General report to be completed not later than December 2018.

Subsections (e)(1) and (e)(2) strike subsections (b) and (c) in 42 U.S.C. 4370m-8 and replace them with updated language authorizing the Permitting Council to establish a fee structure that shall not exceed 1% of the total investment required for each covered project. This fee must also be based on relevant factors, like total project investment and anticipated complexity, must exclude parties for which the fee would impose undue financial burden, and must support timely completion of environmental reviews and authorizations for covered projects.

Subsections (e)(3) and (e)(4) strike subsection (c)(3) in 42 U.S.C. 4370m-8 and replace with updated language that authorizes the Permitting Council to transfer funds in the ERIF, in coordination with the Director of OMB, to other federal agencies, state and local governments, territorial governments, Indian Tribes, Alaska Native Corporations, and Native Hawaiian organizations to facilitate timely and efficient environmental reviews and authorizations. Any transfer of more than \$2 million shall be approved by OMB. Additionally, the bill authorizes appropriations of \$9,002,000 for fiscal years 2025 through 2031 for deposit into the ERIF (adjusted for inflation after fiscal year 2025). Finally, the bill makes a technical amendment to clarify that funds are available to make investments to improve federal environmental reviews and authorizations and to support infrastructure permitting processes. Subsection (e)(5) makes a technical amendment to redesignate subsection numbering accordingly.

Subsection (f) makes a technical amendment to strike section 41013 from the FAST Act (Public Law 114-94; 129 Stat. 1319), which was a seven year sunset clause that had been repealed in the Infrastructure Investment and Jobs Act (Public Law 117-58; 135 Stat. 429).

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FIXING AMERICA'S SURFACE TRANSPORTATION ACT

* * * * *

TITLE 42—FEDERAL PERMITTING IMPROVEMENT

* * * * *

SEC. 41001. DEFINITIONS.

- (1) * * *
- (2) * * *
- (3) * * *
- (4) * * *
- (5) * * *

(6) COVERED PROJECT.—

(A) IN GENERAL.—

- (i) * * *
- (ii) * * *
- (iii) * * *

(iv) is subject to NEPA and the size and complexity of which, [in the opinion of the Council] *in the opinion of the Executive Director, in consultation with the Council*, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—

* * * * *

SEC. 41002. FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL.

- (a) * * *

(b) COMPOSITION.—

- (1) CHAIR.—The Executive Director shall—

(A) be appointed by the President, *by and with the advice and consent of the Senate*; and
 (B) serve as Chair of the Council.

(2) * * *

(3) * * *

(c) DUTIES.—

(1) EXECUTIVE DIRECTOR.—

(A) * * *

(B) * * *

[(C) PERFORMANCE SCHEDULES.—

[(i) IN GENERAL.—Not later than 1 year after December 4, 2015, the Executive Director, in consultation with the Council, shall develop recommended performance schedules, including intermediate and final completion dates, for environmental reviews and authorizations most commonly required for each category of covered projects described in subparagraph (A)(i).

[(ii) REQUIREMENTS.—

[(I) IN GENERAL.—The performance schedules shall reflect employment of the most sound and efficient applicable processes, including the alignment of Federal reviews of projects, reduction of permitting and project delivery time, and consideration of the best practices for public participation.

[(II) GOAL.—

[(aa) IN GENERAL.—To the maximum extent practicable, and consistent with applicable Federal law, the Executive Director, in consultation with the Council, shall aim to develop recommended performance schedules under clause (i) of not more than 2 years.

[(bb) EXCEPTION.—If a recommended performance schedule developed under clause (i) exceeds 2 years, the relevant agencies, in consultation with the Executive Director and the Council, shall explain in that recommended performance schedule the factors that cause the environmental reviews and authorizations in that category of covered projects to take longer than 2 years.

[(III) LIMIT.—

[(aa) IN GENERAL.—The final completion dates in any performance schedule for the completion of an environmental review or authorization under clause (i) shall not exceed the average time to complete an environmental review or authorization for a project within that category.

[(bb) CALCULATION OF AVERAGE TIME.—The average time referred to in item (aa) shall be calculated based on relevant historical data, as determined by the Executive Director, and shall run from the period beginning on the date on which the Executive Director must

make a specific entry for the project on the Dashboard under section 4370m-2(b)(2) of this title (except that, for projects initiated before that duty takes effect, the period beginning on the date of filing of a completed application), and ending on the date of the issuance of a record of decision or other final agency action on the review or authorization.

[(cc) COMPLETION DATE.—Each performance schedule shall specify that any decision by an agency on an environmental review or authorization must be issued not later than 180 days after the date on which all information needed to complete the review or authorization (including any hearing that an agency holds on the matter) is in the possession of the agency.

[(iii) REVIEW AND REVISION.—Not later than 2 years after the date on which the performance schedules are established under this subparagraph, and not less frequently than once every 2 years thereafter, the Executive Director, in consultation with the Council, shall review and revise the performance schedules.]

[(D)] (C) * * *

[(E)] (D) * * *

(2) COUNCIL.—

(A) RECOMMENDATIONS.—

(i) IN GENERAL.—The Council shall make recommendations to the Executive Director with respect to the designations under paragraph (1)(B) [and the performance schedules under paragraph (1)(C)].

(ii) * * *

(B) BEST PRACTICES.—Not less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for [covered projects] *covered projects and other projects in sectors described in subparagraph (A) of section 41001(6), excluding projects described in subparagraph (B) of that section, which may include—*

* * * * *

SEC. 41003. PERMITTING PROCESS IMPROVEMENT.

(a) PROJECT INITIATION AND DESIGNATION OF PARTICIPATING AGENCIES.—

(1) NOTICE.—

(A) * * *

(B) * * *

(C) CONTENTS.—Each notice described in subparagraph

(A) shall include—

(i) * * *

(ii) *a statement of the total investment required to plan, design, and construct the proposed project;*

[(ii)] (iii) * * *

[(iii)] (iv) * * *

[(iv)] (v) * * *

spond to the new or modified permitting timetable proposed under subclause (I)(aa) and if the agency determines that the agency is unable to adopt that new or modified timetable, that agency shall submit to the Executive Director, in writing, an explanation describing the reasons why the new or modified timetable is not feasible.

(III) REPORTS.—Not less frequently than once per quarter, the Executive Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a report on the number of permitting timetables that were modified under this clause during the period covered by the report.

[(ii)] (iii) * * *

[(iii)] (iv) FINAL RESOLUTION.—Any action taken by the Director of the Office of Management and Budget in the resolution of a dispute under [clause (ii)] clause (iii) shall—

(I) be final and conclusive; and

(II) not be subject to judicial review.

(D) MODIFICATION AFTER APPROVAL.—

(i) IN GENERAL.—The facilitating or lead agency, as applicable, may modify a permitting timetable established under subparagraph (A) only if—

(I) * * *

(II) the facilitating or lead agency, as applicable, and the affected cooperating agencies, after consultation with the participating agencies, the Executive Director, and the project sponsor, agree to a different completion date or *alternative completion date*;

(III) * * *

(IV) in the case of a modification that would necessitate an extension of a [final] completion date or *alternative completion date that is the final action* under a permitting timetable established under subparagraph (A) to a date more than 30 days after the [final] completion date originally established under subparagraph (A) or *alternative completion date established under clause (v)*, the facilitating or lead agency submits a request to modify the permitting timetable to the Executive Director, who shall consult with the project sponsor and make a determination on the record, based on consideration of the relevant factors described under subparagraph (B), whether to grant the facilitating or lead agency, as applicable, authority to make such modification.

(ii) COMPLETION DATE.—A completion date or *alternative completion date established under clause (v)*, as applicable in the permitting timetable may not be modified within 30 days of the completion date or *alternative completion date*, as applicable.

(iii) * * *

(iv) * * *

(V) *ALTERNATIVE COMPLETION DATE.*—

(I) *IN GENERAL.*—*If a Federal agency has missed or will miss an intermediate or final completion date originally established under subparagraph (A) for agency action on a covered project and fails to comply with the process for modification of a permitting timetable under clause (i), not later than 15 days after that intermediate or final completion date, the agency, in consultation with the facilitating or lead agency, as applicable, any relevant cooperating and participating agencies, and the project sponsor, shall submit to the Executive Director an alternative completion date for publication on the Dashboard.*

(II) *TREATMENT.*—*An alternative completion date submitted under subclause (I) shall be subject to the same requirements for modification as other intermediate and final completion dates in the permitting timetable originally established under subparagraph (A).*

(E) * * *

(F) **【Conforming to】** *Compliance with permitting timetables.*—

(i) *IN GENERAL.*—*Each Federal agency shall **【conform to】** comply with the intermediate and final completion dates set forth in the permitting timetable established under subparagraph (A), or with any intermediate or final completion date modified under subparagraph (D).*

【(ii) FAILURE TO CONFORM.—*If a Federal agency fails to conform with an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before such a completion date, the agency shall—*

【(I) promptly submit to the Executive Director for publication on the Dashboard an explanation of the specific reasons for failing or reasonably believing the agency will fail to conform to the completion date and a proposal for an alternative completion date;

【(II) in consultation with the facilitating or lead agency, as applicable, establish an alternative completion date; and

【(III) each month thereafter until the agency has taken final action on the delayed authorization or review, submit to the Executive Director for posting on the Dashboard a status report describing any agency activity related to the project.】

(ii) *FAILURE TO COMPLY.*—

(I) *IN GENERAL.*—*If a Federal agency fails to comply with an intermediate or final completion*

date for the agency action on a covered project, not later than 10 business days after the date on which the intermediate or final completion date has been or will be missed, the agency shall submit to the Executive Director for publication on the Dashboard an explanation of—

(aa) the specific reasons for failing to comply with the completion date; and

(bb) actions the agency will carry out to avoid additional delays, including actions to comply with the alternative completion date established under subparagraph (D)(v).

(II) STATUS REPORT.—If a Federal agency fails to comply with requirements to establish a permitting timetable or the requirement to establish an alternative completion date under subparagraph (D)(v), each month until the month in which the Federal agency has established the permitting timetable or alternative completion date under that subparagraph, the Federal agency shall submit to the Executive Director for posting on the Dashboard a status report describing agency activity related to the project and actions to support the establishment of a permitting timetable or alternative completion date under that subparagraph.

(G) POSTING AND REPORTING AGENCY NONCOMPLIANCE WITH PERMITTING TIMETABLE MODIFICATION AND NONCOMPLIANCE PROCEDURES.—

(i) IN GENERAL.—Agency noncompliance with the permitting timetable modification procedures under subparagraph (D) or the compliance requirements under subparagraph (F) constitutes noncompliance with this title.

(ii) INDICATION OF NONCOMPLIANCE.—The Executive Director shall post on the Dashboard, consistent with the requirements of subsection (b)(4)(B), all instances of agency noncompliance with permitting timetables described under subparagraphs (D) and (F).

(iii) QUARTERLY REPORT.—

(I) IN GENERAL.—The Executive Director shall include in the quarterly agency performance report submitted to Congress pursuant to section 41008(a)(2) all new and ongoing instances of agency noncompliance with subparagraphs (D) and (F).

(II) INCLUSION OF PROJECT SPONSOR COMMENTS.—The Executive Director shall offer the cooperating agencies and project sponsor of a covered project that is in noncompliance with subparagraph (D) or (F) the opportunity to provide for inclusion in the quarterly agency performance report submitted to Congress pursuant to section 41008(a)(2) the views of the cooperating agencies and project sponsor with respect to—

(aa) the cause of delay and agency noncompliance; and

(bb) ways to avoid those delays and non-compliance in the future.

[(G)] (H) * * *

* * * * *

SEC. 41008. [REPORTS.] REPORTS TO CONGRESS.

[(a) REPORTS TO CONGRESS] (a) Executive Director Annual Report.—

[(1) Executive Director annual report]

[(A) IN GENERAL.—Not later than] (1) IN GENERAL.—Not later than April 15 of each year for 10 years beginning on [November 15, 2021] the date of enactment of the Permitting Council Improvement Act of 2024, the Executive Director shall submit to Congress a report detailing the progress accomplished under this subchapter during the previous [fiscal year] fiscal year, which shall include—

(i) a summary of permitting timetable trends for sectors described in section 41001(6)(A), including—

(I) a description of contributing factors that affect project timelines; and

(II) recommendations on what the duration of project timelines should be;

(ii)(I) descriptions of activities carried out by the Council in furtherance of its role as a Federal center for permitting excellence; and

(II) an analysis of how those activities have affected Federal permitting processes and authorizations;

(iii) a description of each transfer made under section 41009(c)(3)(A), including the amount of funds transferred and to whom the funds were transferred; and

(iv) any other information the Executive Director determines relevant to report on implementation of this title.

[(B)] (2) OPPORTUNITY TO INCLUDE COMMENTS.—Each councilmember, with input from the respective agency CERPO, shall have the opportunity to include comments concerning the performance of the agency in the report described in [subparagraph (A)] paragraph (1).

[(2)] (b) * * *

[(3)] (c) * * *

[(b) COMPTROLLER GENERAL REPORT.—Not later than 3 years after December 4, 2015, the Comptroller General of the United States shall submit to Congress a report that describes—

[(1) agency progress in making improvements consistent with the best practices issued under section 4370m–1(c)(2)(B) of this title; and

[(2) agency compliance with the performance schedules established under section 4370m–1(c)(1)(C) of this title.]

* * * * *

SEC. 41009. FUNDING FOR GOVERNANCE, OVERSIGHT, AND PROCESSING OF ENVIRONMENTAL REVIEWS AND PERMITS.

(a) **IN GENERAL.**—For the purpose of carrying out this subchapter, the Executive Director, in consultation with the heads of the agencies listed in section 4370m–1(b)(2)(B) of this title and with the guidance of the Director of the Office of Management and Budget, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for sponsors of covered [projects to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects] *projects*.

[(b) **REASONABLE COSTS.**—As used in this section, the term “reasonable costs” shall include costs to implement the requirements and authorities required under sections 4370m–1 through 4370m–7 of this title, including the costs to agencies and the costs of operating the Council.]

[(c) **FEE STRUCTURE.**—The fee structure established under subsection (a) shall—

[(1) be developed in consultation with affected project proponents, industries, and other stakeholders;

[(2) exclude parties for which the fee would impose an undue financial burden or is otherwise determined to be inappropriate; and

[(3) be established in a manner that ensures that the aggregate amount of fees collected for a fiscal year is estimated not to exceed 20 percent of the total estimated costs for the fiscal year for the resources allocated for the conduct of the environmental reviews and authorizations covered by this subchapter, as determined by the Director of the Office of Management and Budget.]

(b) *FEE STRUCTURE.*—*The fee structure established under subsection (a) shall—*

(1) *enable the Executive Director to assess appropriate fees for each covered project based on relevant factors, including—*

(A) *the total investment required for the covered project stated by the project sponsor in the notice of the initiation of a proposed covered project pursuant to section 41003(a)(1);*

(B) *the anticipated complexity of the environmental review and authorization process for the covered project; and*

(C) *the resources available to each participating agency to conduct environmental reviews and issue authorizations for the covered project;*

(2) *be developed in consultation with affected project proponents, industries, and other stakeholders;*

(3) *not exceed 1 percent of the total investment required for the covered project stated by the project sponsor in the notice of the initiation of a proposed covered project pursuant to section 41003(a)(1);*

(4) *exclude parties for which the fee would impose an undue financial burden or is otherwise determined to be inappropriate; and*

(5) *support the timely completion of environmental reviews and authorizations for covered projects, including through the authority of the Executive Director to rescind amounts trans-*

ferred from the Fund to a lead agency, cooperating agency, or participating agency that is not meeting timelines for the completion of environmental reviews and authorizations for a covered project.

[(d)] (c) ENVIRONMENTAL REVIEW IMPROVEMENT FUND.—

(1) * * *

(2) AVAILABILITY.—Amounts in the Fund shall be available to the Executive Director, without fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council, appointing and fixing the compensation of such employees as the Executive Director considers necessary to carry out the roles and responsibilities of the Executive Director, and support of the role of the Council as a Federal center for permitting excellence, which may include supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers *making investments to improve Federal environmental reviews and authorizations and supporting infrastructure permitting processes*, and fora for sharing information and lessons learned.

[(3) TRANSFER.—For the purpose of carrying out this subchapter, the Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other Federal agencies and State, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other projects under this subchapter, including direct reimbursement agreements with agency CERPOs, reimbursable agreements, and approval and consultation processes and staff for covered projects.]

(3) TRANSFER.—

(A) IN GENERAL.—*For the purpose of carrying out this title, and subject to subparagraph (B), the Executive Director, in coordination with the Director of the Office of Management and Budget, may transfer amounts in the Fund to other Federal agencies, State and local governments, territorial governments, Indian Tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), Alaska Native Corporations, and Native Hawaiian organizations (as defined in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)) (including the Department of Hawaiian Home Lands and the Office of Hawaiian Affairs) to facilitate timely and efficient environmental reviews and authorizations, including for activities to facilitate meaningful governmental and public engagement, for covered projects and other projects in sectors described in section 41001(6)(A), and for activities described in paragraph (2), which may include direct reimbursement agreements with agency CERPOs, reimbursable agreements, and approval and consultation processes and staff for covered projects and other projects in sectors described in section 41001(6)(A).*

(B) APPROVAL OF CERTAIN TRANSFERS.—*Any transfer made under subparagraph (A) in an amount of more than*

\$2,000,000 shall be approved by the Office of Management and Budget.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—In addition to amounts deposited in the Fund under paragraph (1), and subject to subparagraph (B), there is authorized to be appropriated for deposit in the Fund \$9,002,000 for each of fiscal years 2025 through 2031.

(B) ADJUSTMENTS FOR INFLATION.—The amount authorized to be appropriated for each of fiscal years 2026 through 2031 under subparagraph (A) shall be adjusted for inflation.

[(e)] (d) EFFECT ON PERMITTING.—The regulations adopted pursuant to subsection (a) shall ensure that the use of funds accepted under **[subsection (d)] subsection (c)** will not impact impartial decision-making with respect to environmental reviews or authorizations, either substantively or procedurally.

[(f)] (e)

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