



ACCELERATING PROJECT DELIVERY

Purpose

The FAST Act builds on the authorities and requirements in SAFETEA-LU, MAP-21 and efforts under FHWA's Every Day Counts in an effort to accelerate the environmental review process for surface transportation projects by institutionalizing best practices and expediting complex infrastructure projects without undermining critical environmental laws or opportunities for public engagement.

Statutory citations: FAST Act §§ 1301-1318, 1415, 1432, 1439, 11502; 23 U.S.C. 138, 139, 168, 169, 330; 49 U.S.C. 304,

Provisions

New flexibilities

The FAST Act provides new flexibilities, including—

- Exempting certain mid-century bridges [FAST Act § 1303; 23 U.S.C. 138(e)] and railroad and transit lines [FAST Act § 11502; 23 U.S.C. 138(f)] under Section 4(f);
- Authorizing the taking of nesting swallows for at-risk bridges until the Department of the Interior takes regulatory action to establish an alternative procedure [FAST Act § 1439];
- Deeming certain emergency reconstruction projects as eligible for emergency exemptions or expedited procedures under specific environmental laws [FAST Act § 1432]; and
- Establishing an alternative review path for historic sites under Section 4(f) in exchange for multiple, additional concurrence points with other Federal and State entities. [FAST Act § 1301; 23 U.S.C. 138(c)(2)-(3)]

Refinements to earlier project delivery provisions

The FAST Act also refines existing project delivery provisions by—

- Narrowing the concurrence requirement for using planning products in NEPA; [FAST Act § 1305; 23 U.S.C. 168(d)];
- Establishing a pilot program for NEPA-assumption States to substitute for NEPA State environmental laws and regulations that are at least as stringent as NEPA, with the approval of the Secretary and concurrence of the Council on Environmental Quality; [FAST Act § 1309; 23 U.S.C. 330];
- Broadening the application of categorical exclusions (CEs) for multi-modal projects [FAST Act § 1310; 49 U.S.C. 304(c)];
- Requiring adjustments for inflation to the dollar thresholds used to qualify a project for the CE for projects with limited Federal assistance [FAST Act § 1314; MAP-21 § 1317]; and
- Expanding the liaison capability to other DOT Operating Administrations and public entities receiving Federal funds to support activities to expedite and improve the permitting and review processes. [FAST Act 1304(i); 23 U.S.C. 139(j)]

New procedural requirements

The FAST Act adds new procedural requirements aimed at ensuring early collaboration and efficient environmental reviews, including—

- Use of a single NEPA document that provides “(T)o the maximum extent practicable, the lead agency shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.” [FAST Act § 1304; 23 USC 139]
- Requiring a schedule to be part of a project coordination plan [FAST Act § 1304(g); 23 U.S.C. 139(g)(1)(B)(i)]; and
- Requiring the creation of a “checklist” to help project sponsors identify potential natural, cultural, and historic resources in the area of a proposed project. [FAST Act § 1304(e); 23 U.S.C. 139(e)(5)]

Codification of earlier activities

The FAST Act directs certain activities that DOT has already undertaken on its own, including—

- Development of a programmatic agreement template [FAST Act § 1315; MAP-21 § 1318];
- Establishment of an online public access website, similar to the existing permitting dashboard, to publish the status of NEPA and permitting for all projects requiring an environmental impact statement or an environmental assessment [FAST Act § 1304(j); 23 U.S.C. 139(o)];
- Further exploration of the modernization of NEPA, similar to eNEPA and other activities [FAST Act § 1317]; and
- Efforts focused on advancing integrated vegetation management practices within transportation rights-of-way and the development of pollinator habitat and forage. [FAST Act § 1415; 23 U.S.C. 319(c) and 329(a)(1)]