



FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

Annual Report to Congress

for

Fiscal Year 2021

Acknowledgements

The Federal Permitting Improvement Steering Council (Permitting Council) Executive Director prepared this report pursuant to 42 U.S.C. § 4370m-7(a)(1)(A), with review by the Permitting Council members pursuant to 42 U.S.C. § 4370m-7(a)(1)(B).

The Permitting Council is comprised of 16 members, including the Executive Director (Permitting Council Chair), the Deputy Secretary (or equivalent) from 13 Federal agencies, the Chair of the Council on Environmental Quality, and the Director of the Office of Management and Budget.



Department of Agriculture



Department of the Army



Department of Commerce



Department of Energy



Department of Transportation



Department of Defense



Federal Energy Regulatory Commission



Department of Homeland Security



Nuclear Regulatory Commission



Department of Housing and Urban Development



Advisory Council on Historic Preservation



Office of Management and Budget



Council on Environmental Quality



Environmental Protection Agency



Department of the Interior

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Acronyms and Abbreviations

ACHP	Advisory Council on Historic Preservation
ARC	Annual Report to Congress
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CPP	Coordinated Project Plan
DHS	Department of Homeland Security
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FAST-41	Title 41 of the Fixing America's Surface Transportation Act
FERC	Federal Energy Regulatory Commission
FY	Fiscal Year
G2G	Government-to-Government
GAO	Government Accountability Office
GSA	General Services Administration
GW	Gigawatts
HUD	Department of Housing and Urban Development
IIJA	Infrastructure Investment and Jobs Act
LNG	Liquefied Natural Gas
NEPA	National Environmental Policy Act
NRC	Nuclear Regulatory Commission
OED	Permitting Council Office of the Executive Director
OMB	Office of Management and Budget
Permitting Council	Federal Permitting Improvement Steering Council
SEIS	Supplemental Environmental Impact Statement
TDAT	Tribal Directory Assistance Tool
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture



Note from the Executive Director

Since the establishment of the Permitting Council in 2015, Permitting Council members have strived to consistently practice the interagency collaboration, outreach, and transparency needed to provide timely, high-quality Federal infrastructure decisions. The Infrastructure Investment and Jobs Act made the Permitting Council a permanent Federal agency and established important reforms for Federal infrastructure review and authorization. The passage of this landmark bipartisan legislation validates the Permitting Council's work to modernize and improve the Federal infrastructure review process.

More than ever, with this once-in-a-generation investment in our nation's infrastructure, our efforts to provide transparency and predictability in the Federal environmental review and authorization process are vital. Our work directly impacts the United States' transition to a clean energy economy, while providing good-paying domestic jobs and more equitable environmental and social outcomes.

This Annual Report highlights the Permitting Council's active project portfolio, which represents a total economic investment value of almost \$98 billion, almost 50,000 temporary jobs, and more than 2,600 permanent jobs. It also showcases agency progress toward improving transparency in alignment with FAST-41's goals.

While Federal agencies are ultimately responsible for review and permitting decisions, my office plays a key role in providing the technical assistance, resources, and facilitation necessary to ensure an effective environmental review and authorization process. My staff works closely with Permitting Council member agencies to advance project management approaches and coordinate among agencies and with project sponsors to foster a high level of collaboration and quickly identify and address issues to keep the permitting processes on track.

For example, my office partners closely with the Department of Interior's Bureau of Offshore Energy Management (BOEM) to help process permit applications for offshore wind farms. As offshore wind is a new, burgeoning industry for the United States, we are providing a number of value-added services to our Federal partners – e.g., providing resources and technical assistance at BOEM to build out more detailed schedules, standardized processes, and associated tools to facilitate the Environmental Impact Statement process for offshore wind projects. My office will continue to prioritize activities that could help build the growing offshore wind industry. For example, in January 2022, we hosted an offshore wind industry education session for Federal staff involved in reviewing and permitting offshore wind projects to learn more about the industry. We plan to hold similar information sessions for the industry in the future to learn about Federal permitting.

In addition to working with agencies to facilitate good governance, better process management, and high-quality review processes, my office made significant progress on several major initiatives. Revisions are underway to the FAST-41 Implementation Guidance and my office, in coordination with the Permitting Council, published an updated Data Management Guide in March 2022, both of which will improve operational clarity and efficiency for agencies in implementing the requirements of FAST-41. These improvements also will make the FAST-41 covered project entries on the Permitting Dashboard more detailed, accurate, and transparent to help agencies, the public, and members of Congress better understand the Federal infrastructure permitting process. Related updates to the Permitting Dashboard will implement



these updates and streamline various FAST-41 implementation processes to reduce administrative burden on the agencies.

Beyond operational improvements, we're focused on facilitating improvements in Tribal engagement in the environmental review and authorization process for FAST-41 projects. My office held four Tribal consultation sessions in 2021, providing a forum for Tribes to voice their infrastructure-related priorities, challenges, and concerns. In coordination with the Udall Foundation's National Center for Environmental Conflict Resolution, my office also provided a 16-hour training for Permitting Council member agencies to increase agencies' capacity and understanding of effective collaboration and Tribal consultation. Providing resources to promote meaningful Government-to-Government Tribal consultation will remain a priority in the coming years.

As we progress through FY 2022, I look forward to working with the Permitting Council to continue to empower and invest in the infrastructure permitting community, establishing and fostering new relationships across Federal, state, local, and Tribal governments as well as the private sector. Together, we will work to make critical advancements in the nation's infrastructure system and make the United States an attractive market for infrastructure investments.

Sincerely,

A handwritten signature in blue ink, appearing to read "CHP", is positioned below the word "Sincerely,".

Christine Harada
Executive Director
Federal Permitting Improvement Steering Council

About the Permitting Council

Established pursuant to Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. §§ 4370m *et seq.*, the Permitting Council is an independent Federal agency comprised of the Permitting Council Executive Director (Council Chair), the 13 Federal agency council members (Deputy Secretary or equivalent designees of the Secretaries of Agriculture, Army, Commerce, Housing and Urban Development, the Interior, Energy, Transportation, Defense, and Homeland Security, Administrators of the Environmental Protection Agency, and Chairmen of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation), and additional Council members, the Chair of the Council on Environmental Quality (CEQ) and the Director of the Office of Management and Budget (OMB).

The Permitting Council facilitates deliberate, coordinated, and transparent Federal environmental reviews and authorizations¹ for FAST-41 "covered" infrastructure projects across the following industry sectors: renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, carbon capture, and mining. The Permitting Council may, by majority vote, determine new FAST-41 sectors. Additional FAST-41 sectors determined by the Permitting Council can be found at 40 C.F.R. § 1900.2.

FAST-41 provides unique transparency into the Federal permitting process through management of a comprehensive Federal permitting timetable for each FAST-41 covered infrastructure project on the public-facing [Permitting Dashboard](#), which accounts for, organizes, and coordinates all necessary Federal environmental reviews and authorizations for a project. Managing a permitting timetable according to FAST-41 requirements requires close communication among the participating Federal agencies, between the Federal agencies and project sponsors, and, in circumstances where a state chooses to participate in the Federal

Permitting Council Member Agencies:

- Advisory Council on Historic Preservation (ACHP)
- Army Corps of Engineers (USACE)
- Department of Agriculture (USDA)
- Department of Commerce (DOC)
- Department of Defense (DOD)
- Department of Energy (DOE)
- Department of Homeland Security (DHS)
- Department of the Interior (DOI)
- Department of Transportation (DOT)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)
- Department of Housing and Urban Development (HUD)
- Nuclear Regulatory Commission (NRC)

Additional Members:

- Executive Director
- Director, Office of Management and Budget (OMB)
- Chair, Council on Environmental Quality (CEQ)

¹ FAST-41 applies to environmental reviews and authorizations. Per 42 U.S.C. § 4370m(11), the term "environmental review" means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA. Per 42 U.S.C. § 4370m(3), the term "authorization" means any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with 42 U.S.C. § 4370m-2(c)(3)(A), a State agency. FAST-41 coverage does not create a presumption that a project will be approved or favorably reviewed by any Federal agency. 42 U.S.C. § 4370m-6(d)(2); see also 42 U.S.C. § 4370m-6(d)(1).

environmental review and authorization process, among the Federal agencies and participating state agencies. FAST-41 encourages improved business practices in the environmental review and authorization process for covered infrastructure projects.

FAST-41 coverage provides a more transparent, coordinated, and predictable Federal environmental review and authorization process that encourages investment in infrastructure by providing agencies, Congress, project sponsors, and the public with:

- Transparency into the Federal environmental review and authorization process, including all major steps and requirements needed to site, construct, and commence operation of a covered project.
- Early identification, elevation, and resolution of potential risks and conflicts that may arise during the Federal environmental review, authorization, and decision-making process.
- Clear and regularly updated schedules for completion of each stage of Federal environmental review and authorization, which are coordinated and synchronized among agencies and participating states.

FAST-41 does not dictate project-related outcomes or affect the level of environmental review a project receives.² The statute instead requires only transparency and deliberate coordination of Federal effort in making environmental review and permitting decisions. FAST-41 coverage expressly does not alter or supersede any applicable statutory or regulatory requirement, environmental law, regulation, required review process, or public involvement procedure. FAST-41 coverage does not predetermine the outcome of any Federal decision-making process with respect to any covered project, or mandate completion of FAST-41 project reviews before any other project reviews.

² See 42 U.S.C. §§ 4370m-6(d)(i) & (d)(2).

Report Summary

Pursuant to 42 U.S.C. § 4370m-7(a)(1), this Annual Report to Congress (ARC) details the progress of the Federal Permitting Improvement Steering Council (Permitting Council) in implementing Title 41 of the Fixing America's Surface Transportation Act (FAST-41) during Fiscal Year (FY) 2021. This ARC includes an introduction to FAST-41 and the Permitting Council; a description of the FAST-41 covered project portfolio, including jobs and investment dollars represented by the portfolio; and an evaluation of progress made in implementing FAST-41 during FY 2021. The Appendix includes supporting data for conclusions made in the ARC. The ARC, which has been reviewed by the Permitting Council members pursuant to 42 U.S.C. § 4370m-7(a)(1)(B), is submitted to Congress by the Permitting Council Executive Director and published on the Department of Transportation's (DOT) Federal Permitting Dashboard.

Prior to the enactment of the Infrastructure Investment and Jobs Act (IIJA) on November 15, 2021, FAST-41 required that the ARC additionally include the Executive Director's evaluation of each Permitting Council member agency's progress in making improvements consistent with the best practices established by the Permitting Council pursuant to 42 U.S.C. § 4370m-1(c)(2)(B), and each agency's compliance with the recommended performance schedules established by the Executive Director pursuant to 42 U.S.C. § 4370m-1(c)(1)(C). IIJA removed these requirements from FAST-41, and the ARC no longer will address these issues.

The amended statute now requires each Permitting Council member agency to submit directly to Congress self-assessments of best practices implementation, which each agency will submit individually under separate cover.³

IIJA also requires the Executive Director to submit to Congress on a quarterly basis a report evaluating agency compliance with the provisions of FAST-41, including a description of the implementation and adherence of each agency to the Coordinated Project Plan (CPP) and permitting timetable requirements in 42 U.S.C. § 4370m-7(a)(2). The Executive Director will submit the required quarterly Agency Performance Reports under separate cover beginning in Q2 FY 2022.

Previous reports to Congress for FY 2016-2022 can be found [here](#).

³ 42 U.S.C. § 4370m-7(a)(3)

Description of Project Portfolio

FAST-41 is a voluntary program for qualifying infrastructure projects; project sponsors must apply for and obtain FAST-41 coverage for their projects.⁴ The FAST-41 program provides oversight, strengthens cooperation and communication among agencies, enhances transparency, and emphasizes efficient processing of environmental reviews and authorizations. FAST-41 does not modify any underlying Federal statute, regulation, or mandatory environmental reviews.

The FAST-41 project portfolio consists of “covered projects,” as defined at 42 U.S.C. § 4370m(6). This report focuses on a subset of covered projects, those undergoing active Federal review during FY 2021. Projects undergoing active review are projects that were, at any time in FY 2021, not cancelled, complete, or paused.⁵ Figure 1 includes all FAST-41 projects, except those that were paused, cancelled, or complete for the entirety of FY 2021. There were 29 active FAST-41 covered projects in FY 2021, organized below by sector:⁶

- Offshore Wind
- Electricity Transmission
- Solar
- Pipelines
- Other Renewable Energy
- Ports and Waterways
- Water Resources

Atlantic Shores South (fka Atlantic Shores Project 1)	Bay State Wind Project	Coastal Virginia Offshore Wind Commercial Project	Empire Wind Energy Project	Kitty Hawk Offshore Wind Project	Mayflower Wind Energy Project
Ocean Wind Project	Revolution Wind Farm Project	Skipjack Wind Farm	South Fork Wind Farm and South Fork Export Cable	Sunrise Wind Farm	New England Wind (fka Vineyard Wind South)
Aiya Solar Project (Moapa)	Battle Born Solar Project	Bonanza Solar Project	Yellow Pine Solar	Kulning Wind Energy Project	Lake Elsinore Advanced Pumped Storage Project
Boardman to Hemingway Transmission Line	Cardinal-Hickory Creek 345 kV Transmission Line Project	SunZia Southwest Transmission Project	Ten West Link	Alaska LNG Project	Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline
PennEast Pipeline	Plains Pipeline, L.P. Lines 901 and 903 Replacement Project	Port of Corpus Christi Authority Channel Deepening Project	Mid-Barataria Sediment Diversion	Mid-Breton Sediment Diversion	

Figure 1: List of covered projects undergoing active Federal review in FY2021. This includes all FAST-41 projects, except those that were paused, cancelled, or complete for the entirety of FY 2021.

⁴ See 42 U.S.C. §§ 4370m-2(a)(1), (b)(2)(A)(ii).
⁵ The set of projects undergoing active Federal review was derived from analysis of the Dashboard’s non-public revision history dataset.
⁶ The Renewable Energy Production sector is depicted as three sub-sectors: offshore wind, solar, and other renewable energy.

Figure 2 summarizes the status, as of October 1, 2021 (the end of FY 2021), of FAST-41 covered projects undergoing active Federal review.⁷

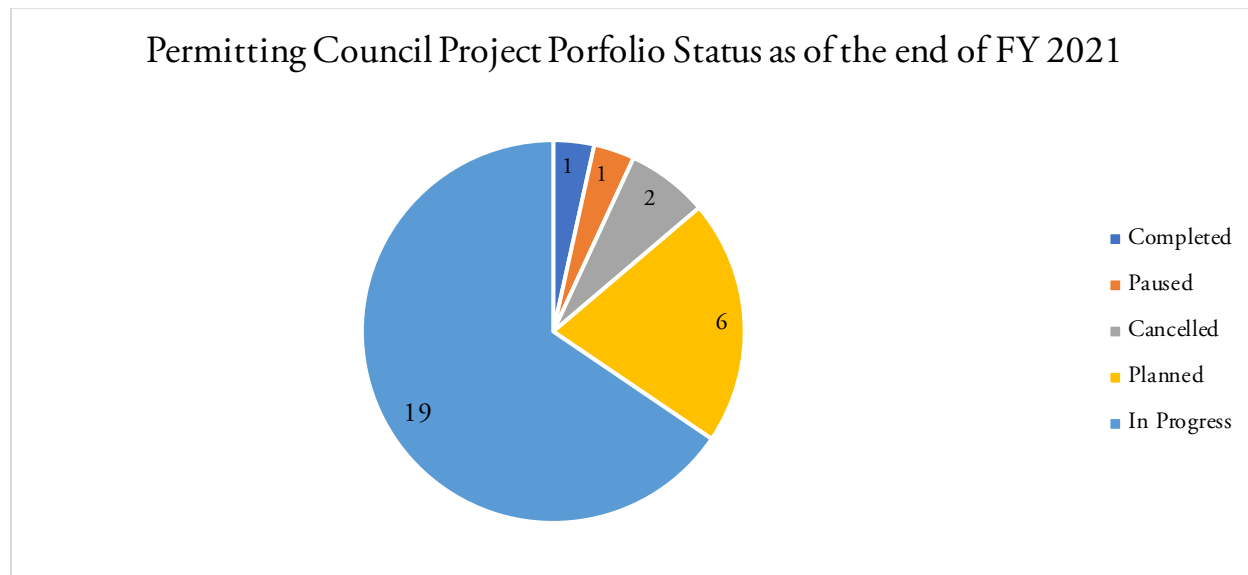


Figure 2: Graph showing the status of each project in the Permitting Council portfolio as of the end of FY 2021.

Several projects that were undergoing active Federal review during FY 2021 were, as of the end of FY 2021, completed, paused, or cancelled:

- Yellow Pine Solar **completed** the environmental review and authorization process.
- Jordan Cove Liquefied Natural Gas (LNG) Terminal and Pacific Connector Gas Pipeline was **paused**. The Jordan Cove project sponsors notified the Federal Energy Regulatory Commission (FERC) that they are pausing the development of the project.⁸
- Aiya Solar Project (Moapa) and Battle Born Solar Project were **cancelled**. The project sponsor for Aiya Solar Project elected not to pursue the project and the project sponsor for Battle Born Solar Project withdrew its application for a Bureau of Land Management (BLM) right-of-way for the project.

As of the end of FY 2021, there were six projects in **planned** status: Atlantic Shores South (formerly Atlantic Shores Project 1), Bay State Wind Project, Bonanza Solar Project, Kulning Wind Energy Project, Mayflower Wind Energy Project, and Skipjack Wind Farm. For the purposes of this report, planned project status applies to any project posted to the Permitting Dashboard before the Notice of Intent or Notice of Schedule (for some FERC projects) is completed.⁹

⁷ Project status was derived from analysis of the Dashboard's non-public revision history dataset.

⁸ On December 16, 2021, FERC vacated its authorizations related to the Jordan Cove Energy Project, subject to the leave of the DC Circuit Court. See https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20211216-3046.

⁹ OED revised the definition of "planned projects" in the revised Data Management Guide, published in March 2022, to include any FAST-41 project posted on the Permitting Dashboard for which the Executive Director has not yet posted the permitting timetable. The definition in text reflects the prior Data Management Guide, which was in effect during FY 2021.

As of the end of FY 2021, the 27 FAST-41 covered projects undergoing active Federal review (excluding cancelled projects) represented a total economic investment value of about \$98 billion, with an average project investment value of \$3.6 billion; almost 50,000 temporary jobs; and more than 2,600 permanent jobs.

Yellow Pine Solar, which completed the Federal environmental review and authorization process in FY 2021, represents \$860 million in economic investment, and will create up to 500 megawatts of renewable energy.

Pipelines accounted for 50 percent of the economic investment represented in the active project portfolio (excluding cancelled projects). Offshore Wind, Solar, and Other Renewable Energy Production together represent 44 percent of total economic investment. Figure 4 depicts the share of investment dollars by sector in FY 2021.

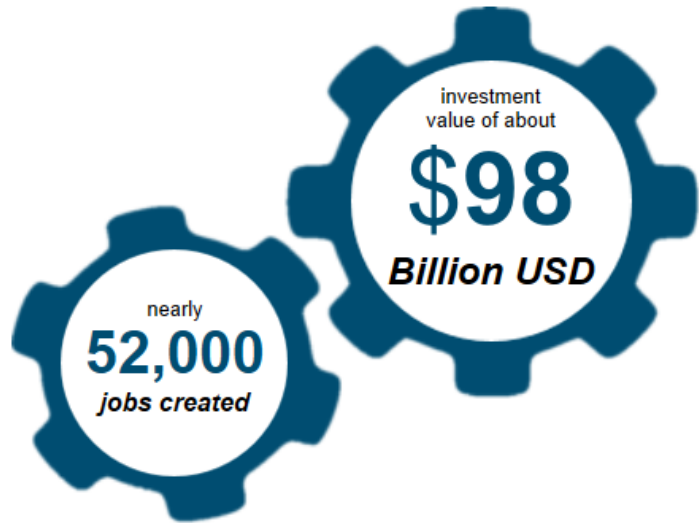


Figure 3. Economic investment and jobs associated with projects undergoing active Federal review in FY 2021 (excluding cancelled projects).

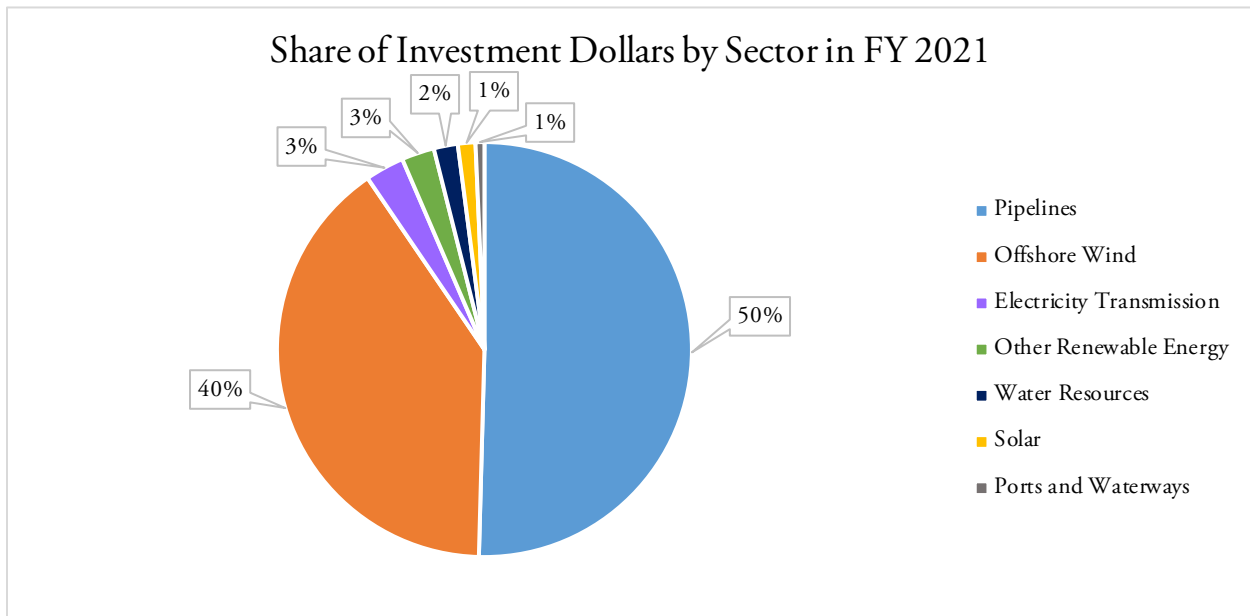


Figure 4: Graph depicting share of investments dollar by sector in FY2021. This includes 27 FAST-41 covered projects undergoing active Federal review during FY 2021, and excludes projects cancelled as of the end of FY 2021.

Twelve offshore wind projects make up over 40 percent of the Permitting Council’s project portfolio. These projects are projected to produce over 16 gigawatts of energy, which would power more than 5.9 million

homes for one year and offset the greenhouse gas emissions of more than 6 million passenger vehicles driven for one year.¹⁰

Below is a map showing FAST-41 covered projects undergoing active Federal review in FY 2021.

¹⁰ Power capacity reported by project sponsors and lead agencies via project websites and milestone reports. Household power and car-equivalent emissions offset calculated from [EPA's Greenhouse Gas Equivalencies Calculator](#).

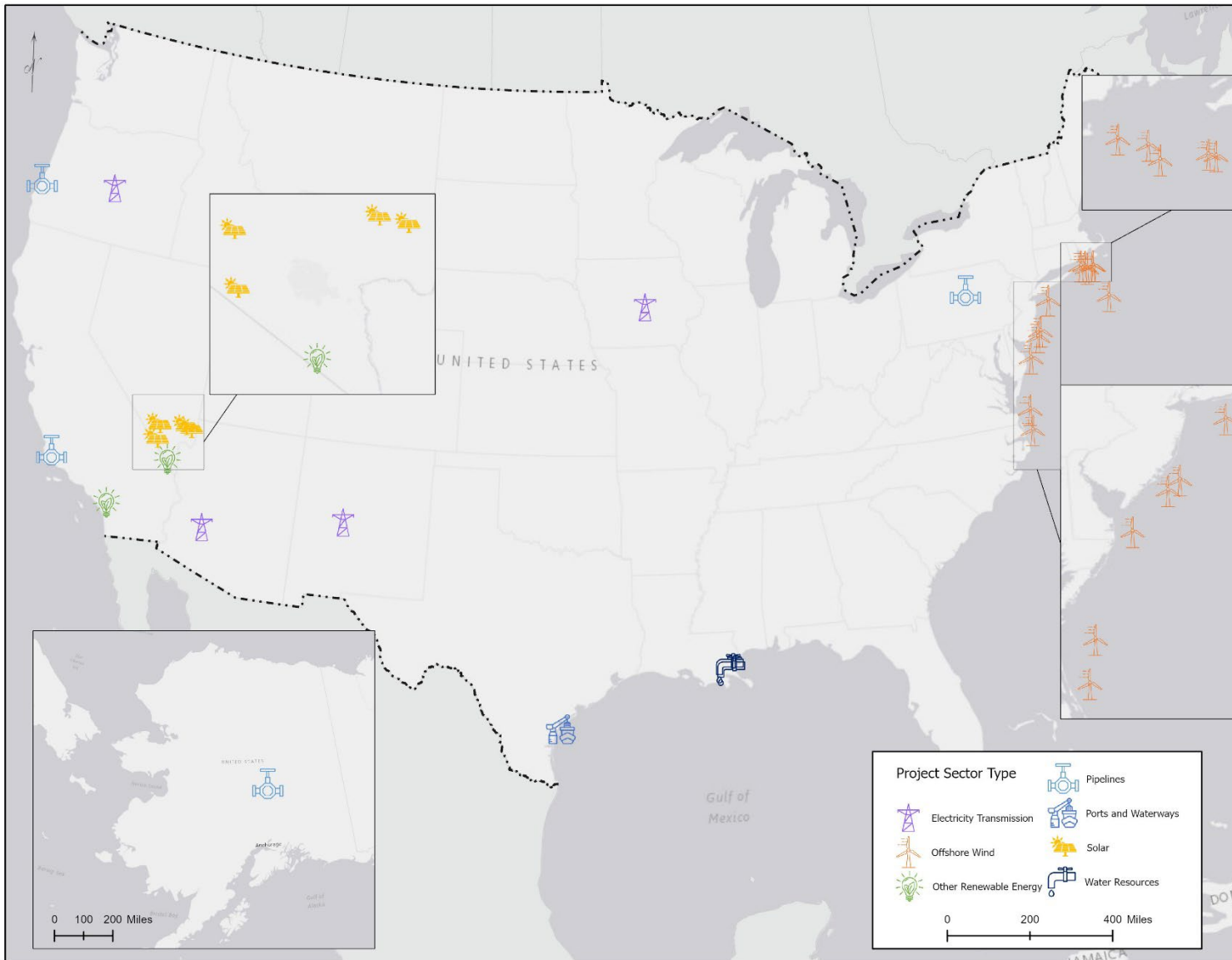


Figure 5: Map of covered projects undergoing active Federal review in FY2021.

Progress Made Implementing FAST-41 During FY 2021

Finalizing the Establishment of an Independent Executive Branch Agency Dedicated to Federal Infrastructure Permitting

FY 2021 was a time of transition for the Permitting Council. After receiving independent Congressional funding for the first time in January 2020, the Permitting Council began to establish itself as an independent Executive Branch agency, reducing its reliance on personnel and support of the General Services Administration (GSA), contractors, and part-time detailees from Permitting Council member agencies to accomplish its mission.¹¹

In FY 2021, the Permitting Council Office of the Executive Director established a permanent management team and began the process of hiring or converting to permanent positions at the Permitting Council full-time Federal staff. These staff members develop internal administrative and compliance procedures, develop and implement Permitting Council policies, and conduct Permitting Council business, including assisting Permitting Council member agencies and project sponsors in developing and implementing FAST-41 covered project permitting timetables on the Permitting Dashboard. By the close of FY 2021, the Permitting Council built sufficient capacity to conduct, in cooperation with DOT's Volpe National Transportation Systems Center, all Permitting Council business and comply with the requirements governing the activities of independent Federal Executive Branch agencies.

The Permitting Council and Administration Transition

The change in Administration in January 2021 significantly affected the Permitting Council. On January 21, 2021, the Permitting Council lost its Executive Director and management, and almost all of the other Permitting Council members, leaving a handful of full-time employees, detailees, and contractors to manage the agency and execute on its mission. In July 2021, the President appointed a new Permitting Council Executive Director.

“We recognized early on in project planning that the Mid-Barataria Sediment Diversion, a large-scale, first-of-its-kind coastal restoration effort, would require an intense level of coordination among the many state and federal agencies involved to stay on track. By working with the Federal Permitting Council and applying for FAST-41 status for the project, we at CPRA have been able to make impressive progress on a landmark project for our state. Coastal restoration in Louisiana is a matter of great urgency and, through the FAST-41 process, we've been able to keep this sense of urgency at the forefront. The FAST-41 process has facilitated efficient and conscious coordination amongst all agencies, keeping everyone's eyes on the same target and moving in the same direction. It's increased understanding on roles and responsibilities among all parties involved while creating transparency and accountability for project stakeholders. Participation in FAST-41 has helped CPRA navigate challenges and complexities of the permitting process to keep everyone moving forward.” - **Bren Haase, Executive Director, Louisiana Coastal Protection and Restoration Authority**

¹¹ 42 U.S.C. 4370m-1(c)(2)(d) required OMB to designate a Federal agency and to provide administrative support and staff to the Executive Director to enable the Executive Director to fulfill the Executive Director's FAST-41 responsibilities. In 2016, OMB designated GSA to fulfil this role. In 2020, Congress began to provide annual appropriations to the Executive Director to implement FAST-41, and on November 15, 2021, IJA repealed 42 U.S.C. 4370m-1(c)(2)(d).

The Permitting Council was fully re-established on September 2, 2021, when the final Permitting Council member of the new Administration was confirmed and reported for duty. That same day, the Executive Director convened the first Permitting Council meeting of the new Administration and began socializing the Permitting Council's agenda and infrastructure permitting priorities with the new members.

Advent of Offshore Wind

Despite these transitions, the Permitting Council made significant strides to prioritize and execute environmental review and authorizations for the offshore wind project sector in FY 2021. Shortly after taking office, the President immediately prioritized offshore wind energy, committing to the deployment of 30 gigawatts of offshore wind infrastructure by 2030.¹² The Administration estimates that meeting this goal would support as many as 77,000 jobs, power approximately 10 million American homes, spur \$12 billion in capital investment annually, and cut 78 million metric tons of CO₂ emissions.

To support this goal, Permitting Council member agency BOEM committed to advancing new offshore wind lease sales and completing review of at least 16 offshore wind project applications by 2025. If authorized, these 16 applications for the construction and operation of multibillion dollar, commercial-scale offshore wind energy projects would represent more than 19 gigawatts of new clean energy for our nation. At the beginning of FY 2021, 7 of the 16 pending offshore wind projects were FAST-41 covered projects. The Permitting Council added an additional 5 offshore wind projects to the FAST-41 portfolio during FY 2021, for a total of 12 of 16 offshore wind projects. By the end of FY 2021, offshore wind projects comprised over 40 percent of the FAST-41 covered project portfolio. The Permitting Council anticipates adding several more offshore wind projects to the FAST-41 portfolio in FY 2022.

When FY 2021 began, only one of the pending offshore wind projects was “in progress” on the Permitting Dashboard, which means that the Federal government was only working on processing the application for one project. By the end of FY 2021, all but three of the offshore wind projects were placed in progress, and Permitting Council member agencies including BOEM, NOAA, USACE, and EPA were working in earnest on the associated environmental reviews and authorizations for each project.

During FY 2021, the Office of the Executive Director, OMB, and CEQ played a coordinating role to prioritize, harmonize, and deconflict the environmental reviews and authorizations for this suite of projects. This involved engaging regularly to resolve issues in the nascent offshore wind permitting process, establishing interagency lines of communication, and developing protocols and procedures that encourage expeditious, coordinated, and predictable processing of project-related applications.

The Executive Director additionally began providing resources and technical assistance directly to BOEM and the cooperating agencies to help them develop more complete permitting timetables, standardized processes and workflows for interagency review of project-related materials, and associated tools to facilitate coordinated environmental review and authorization processes. With the concurrence of OMB, the Executive Director also utilized the FAST-41 transfer authority to transfer funds from the Environmental Review Improvement

¹² White House Fact Sheet: Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs (March 29, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/>.

Fund to NOAA to facilitate timely and efficient environmental reviews and authorizations for covered offshore wind projects.¹³

Permitting Council Tribal Initiative

Throughout FY 2021, the Permitting Council implemented three linked efforts that are intended to improve coordination between the Federal government and federally recognized Tribes on FAST-41, including:

1. Implementing a plan with HUD to expand the Tribal Directory Assistance Tool (TDAT);
2. Improving Government-to-Government (G2G) consultation processes in partnership with the Permitting Council agencies responsible for consulting with Tribes on FAST-41 covered projects;
3. Providing FAST-41 eLearning course for Tribes.

These efforts are designed to address problems identified in recent studies that examined issues related to G2G consultation on infrastructure projects, including the 2019 Government Accountability Office (GAO) report, *Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects*, GAO-19-22 (Mar. 20, 2019).¹⁴ The Permitting Council Tribal initiative also supports the priorities outlined in the President's January 26, 2021 Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships,¹⁵ including the reaffirmation of Tribal sovereignty through G2G consultation. The Executive Director initiated the Permitting Council's first G2G consultation with respect to the direction and contents of the Tribal initiative in September 2021.

TDAT Enhancements

TDAT serves as a database of Tribal contacts for HUD and its 4,000 grantees. Planned enhancements to TDAT will allow Permitting Council member agencies to use TDAT as a single, public database for identifying interested Tribes in order to notify them about matters related to FAST-41 covered infrastructure projects that may impact Tribal land or cultural property. Enhancements will ensure regular updates to the database to maintain its accuracy, as well as geographic information system functionality to allow for map-based queries. The enhancements will improve the quality of Federal agency outreach to Tribes.

Improved Engagement with Tribes on Infrastructure Permitting

The Permitting Council Executive Director is working with the Udall Foundation's John S. McCain III National Center for Environmental Conflict Resolution to provide services to support Permitting Council member agencies' Tribal engagement, including by providing training, consultation, assessment, capacity building, and facilitation efforts. The objective of this project is to help build collaboration, conflict resolution, and Tribal engagement capacity within the Permitting Council to enhance the manner in which the U.S. government interacts with Tribal governments on infrastructure projects that impact Tribal property or historical and cultural values. Capacity building trainings for agency staff took place in September 2021.

¹³ See 42 U.S.C. § 4370m-8(d)(3).

¹⁴ See <https://www.gao.gov/products/gao-19-22>.

¹⁵ See <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

FAST-41 eLearning Course for Tribes

To complement the Permitting Council agency training program, in FY 2021 the Office of the Executive Director initiated the development of an eLearning course for Tribes that introduces FAST-41 and its benefits, the Permitting Council, and relevant tools and resources on the Permitting Dashboard. The course will be available in FY 2022.

Adding a New FAST-41 Sector

In FY 2021, Permitting Council staff facilitated the first-ever use of the Permitting Council's authority to add a new FAST-41 sector.¹⁶ On January 4, 2021, the Permitting Council added mining as a FAST-41 sector by majority vote after engaging in notice and comment rulemaking.¹⁷ Qualified critical mineral mining infrastructure projects that may help support the President's plan to secure a "Made in America" supply chain for critical minerals can now be covered under FAST-41.¹⁸

¹⁶ 42 U.S.C. 4370m(6)(A).

¹⁷ See Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act, 86 FR 1281 (Jan. 8, 2021).

¹⁸ See White House Fact Sheet: Securing a Made in America Supply Chain for Critical Minerals (February 22, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/22/fact-sheet-securing-a-made-in-america-supply-chain-for-critical-minerals/>

Transparency and Descriptive Dashboard Measures

FAST-41 prioritizes transparent and timely decision making and does not truncate any necessary Federal review or public outreach processes. Accordingly, FAST-41 provides flexibility and allows agencies to liberally update anticipated completion dates on the project permitting timetable as long as updates are made according to the consultation and disclosure requirements established in the FAST-41 statute.¹⁹ Agencies accordingly must post to the public Permitting Dashboard complete permitting timetables that include all necessary environmental reviews and authorizations needed for a project, estimate realistic timeframes for the completion of the environmental reviews and authorizations, and provide clear explanations for why permitting timetable contents and timeframes may change over time.

Data Completeness and Transparency

Dependency information describes how particular Federal environmental review or authorization-related decisions are contingent on the completion of other Federal environmental reviews or authorizations or on non-Federal actions. Identifying dependencies on the Permitting Dashboard is an important element of developing transparent and coordinated permitting timetables.

Of 29 projects undergoing active Federal review in FY 2021, 17 projects (59 percent) identified a total of 157 dependencies. Table 2 in the Appendix of this report depicts the number of dependences identified per project undergoing active review during FY 2021.

It is likely that many dependencies are not currently captured on the Permitting Dashboard (e.g., one project identifies only one dependency) because the Permitting Dashboard does not require dependencies to be added—it is optional—and the Permitting Dashboard does not have an exhaustive list of dependencies (i.e., there are dependencies that are not currently captured, such as state and project sponsor actions). In FY 2021 the Permitting Council started work on Dashboard improvements that will ensure more complete identification and documentation of milestone dependencies. Incremental improvements made during FY 2021 include implementation of Permitting Dashboard enhancements to display dependencies publicly within project pages and training for agency Permitting Dashboard Administrators on dependencies and how to document them. Agencies also began updating the suite of publicly disclosed permitting milestones to include project sponsor actions, such as submitting applications for agency review, to ensure that permitting dependencies are more fully accounted for. These permitting timetable improvements will be implemented on the Permitting Dashboard in FY 2022.

“Complete” Projects Placed Back “In Progress”

In FY 2021, three projects that had been previously identified as “complete” on the Permitting Dashboard were updated to reflect their actual status of “in progress.” These status changes were made for a variety of reasons, all of which reflect the Permitting Council agencies' commitment to transparently reflect on the

¹⁹ See 42 U.S.C. § 4370m-2(c)(2)(D).

Permitting Dashboard the realities associated with reviewing and authorizing the complex projects in the FAST-41 covered project portfolio.

- ***Alaska LNG Project***: Federal environmental review and authorization for the Alaska LNG Project was completed on September 16, 2020. However, on April 15, 2021, DOE, a cooperating agency on this project, granted a request for rehearing of a final order DOE issued to Alaska LNG Project, LLC for the export of liquefied natural gas to non-free trade agreement countries pursuant to the Natural Gas Act (Order No. 3643-A). In the Rehearing Order (Order No. 3643-B), DOE stated that it was granting rehearing for the purpose of conducting two Alaska-specific environmental studies (collectively, the Alaska environmental study proceeding). DOE currently is preparing a supplemental Environmental Impact Statement (SEIS) for the Alaska environmental study proceeding (DOE/EIS-0512-S1). After the conclusion of the SEIS process, DOE may decide to modify, set aside, in whole or in part, or to reaffirm the original Alaska LNG Order, pursuant to its authority under the Natural Gas Act. Because DOE's SEIS and order are now the only remaining Federal environmental review and necessary authorization on this project, DOE now is the lead agency for this project.
- ***Cardinal-Hickory Creek 345 kV Transmission Line Project***: All Federal environmental reviews and certain authorizations were completed for the project in FY 2021. However, based on the final project design and landowner negotiations after completion of Federal environmental review, the project sponsor requested modifications to the route, which prompted the USDA Rural Utilities Service to prepare new Environmental Assessment (EA) of the alternative route, and review of the project was placed back "in progress" on the Permitting Dashboard. The project has been subject to litigation and judicial order,²⁰ which, as indicated on the Permitting Dashboard, is affecting the preparation and possible content of the EA.²¹
- ***Ten West Link***: The Federal Aviation Administration (FAA) Obstruction Lighting and Marking Authorization action, review and approval of an Avian Protection Plan for Endangered Species Act compliance, and a BLM Notice to Proceed erroneously were not included in the project's original permitting timetable, and so the project was erroneously marked "complete" when the other actions on the project's permitting timetable were completed. The actions identified above subsequently were added to the project's permitting timetable, placing the project back into "in progress." The Obstruction Lighting and Marking Authorization and Avian Protection Plan actions have been since completed; only the Notice to Proceed, which is dependent on a project sponsor action, remains incomplete.

Milestones Completed as Anticipated

This section of the ARC presents a comparison of anticipated and actual milestone completion dates. FAST-41 does not require agencies to meet the milestones that they establish early in the permitting process, only that they modify their milestones according to the procedures established in FAST-41. Accordingly, the information contained in this section is intended to be purely descriptive and is not a reflection of agency

²⁰ See *Nat'l Wildlife Refuge Ass'n v. RUS*, No. 21-096, ECF No. 175 (WD Wis., Jan. 14, 2022).

²¹ See <https://www.permits.performance.gov/proj/cardinal-hickory-creek-345-kv-transmission-line-project/environmental-assessment-ea>.

compliance with the provisions of FAST-41, which instead will be addressed in the Executive Director's quarterly compliance report pursuant to 42 U.S.C. 4370m-7(a)(2).

Because the Dashboard currently captures the “initial completion date”²² for an action only after an agency starts work on the action, this means that agencies are able to accurately predict completion of a permitting review task once they begin work on it. Consistent with the IJA amendments to FAST-41, the Permitting Council is developing Permitting Dashboard enhancements²³ that will facilitate agencies' forecasting and management of environmental review and authorization completion dates far earlier in the project review process. Accordingly, future reports likely will show a drop in the agencies' ability to complete environmental reviews and authorizations as originally anticipated, but only because the originally anticipated forecast for completion in most cases will be made long before the agency starts work on the authorization at issue.

Table 1 shows the number of milestones for each project that have been completed as originally anticipated, completed early, and completed at a later date in FY 2021. Table 1 includes only projects that had milestones scheduled for completion in FY 2021 and does not include all active projects. The table also shows, for each project with milestones this FY, the number of incomplete milestones that have been moved to a later date, milestones within actions that have been paused, and milestones that are in planned status as of the end of FY 2021.²⁴ The milestones assessed include both milestones that were dependent on information submitted by project sponsors and milestones that represent agency actions. In FY 2022, the Permitting Council Office of the Executive Director (OED) will work with agencies to identify project sponsor milestones, which will allow for improved data analysis of future milestone date changes.²⁵

²² The Dashboard refers to initial completion dates as “original target dates.”

²³ Dashboard enhancements will capture initial completion date as those identified when the permitting timetable is initially established.

²⁴ *Completed early or completed on time* is used for milestones that are completed on or before the date they were scheduled to be completed.

Completed at a later date in FY21 is used for milestones that are completed later than the date they were scheduled to be completed.

Moved to a later date is used for milestones that are not completed and their current target date has been pushed to a later date.

Not updated is used for milestones that are not completed and their current target date is not updated.

Paused is used for milestones within actions that are paused or projects that are paused.

Planned is used for milestones within actions that are planned.

Cancelled is used for milestones within actions that are cancelled.

Note: Any prior completed milestone entered into the permitting timetable within one day after the first permitting timetable publication date is not included.

²⁵ Project sponsor milestones are not required to be tracked but agencies are encouraged to include them in permitting timetables to the extent practicable for additional transparency and to assist Federal agencies in managing dependencies.

Table 1: Table depicting the number of milestones completed on time, early, or at a later date, and incomplete, paused, planned, and cancelled milestones at the end of FY 2021.²⁶

Project	Completed early or completed on time	Completed at a later date in FY21	Moved to a later date	Not updated	Paused	Planned	Cancelled
Alaska LNG Project	1	0	0	0	0	0	0
Cardinal-Hickory Creek 345 kV Transmission Line Project	1	1	0	1	0	0	0
Coastal Virginia Offshore Wind Commercial Project	4	1	0	0	0	0	0
Empire Wind Energy Project	2	0	0	0	0	2	0
Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline	5	0	0	4	2	0	0
Kitty Hawk Offshore Wind Project	5	0	0	0	0	0	0
Lake Elsinore Advanced Pumped Storage Project	2	0	1	0	3	3	0
Mid-Barataria Sediment Diversion	8	0	0	0	0	0	0
Mid-Breton Sediment Diversion	0	0	0	0	0	2	0
New England Wind	2	0	0	1	0	0	0
Ocean Wind Project	2	0	0	0	0	1	0
Plains Pipeline, L.P. Lines 901 and 903 Replacement Project	5	0	2	0	2	0	1
Port of Corpus Christi Authority Channel Deepening Project	0	0	8	0	0	0	1
Revolution Wind Farm Project	3	0	0	1	0	0	0
South Fork Wind Farm and South Fork Export Cable	16	0	1	2	0	0	2
Sunrise Wind Farm	5	0	0	0	0	0	0
Ten West Link	1	0	0	0	0	0	0
Yellow Pine Solar	0	2	0	0	0	0	0
Total	62	4	12	9	7	8	4

²⁶ Table 1 includes only projects that had milestones scheduled for completion in FY 2021. Table 1 also excludes projects that were in planned or cancelled status at the end of FY 2021. Therefore, Table 1 does not include all projects having undergone active Federal review in FY 2021.

Permitting Timetable Modifications

Agencies modified 50 milestones for covered projects in FY 2021. The most prevalent reason for date change was updating a planned date, followed by project sponsor factors. Of the modified 50 milestone dates, agencies indicated that only 7 changes were attributable to government factors (i.e., internal agency factors or interagency factors).²⁷ Figure 6 includes all active projects that changed dates during FY 2021. The revised Data Management Guide refines the reasons for date changes to improve transparency for timetable modifications.

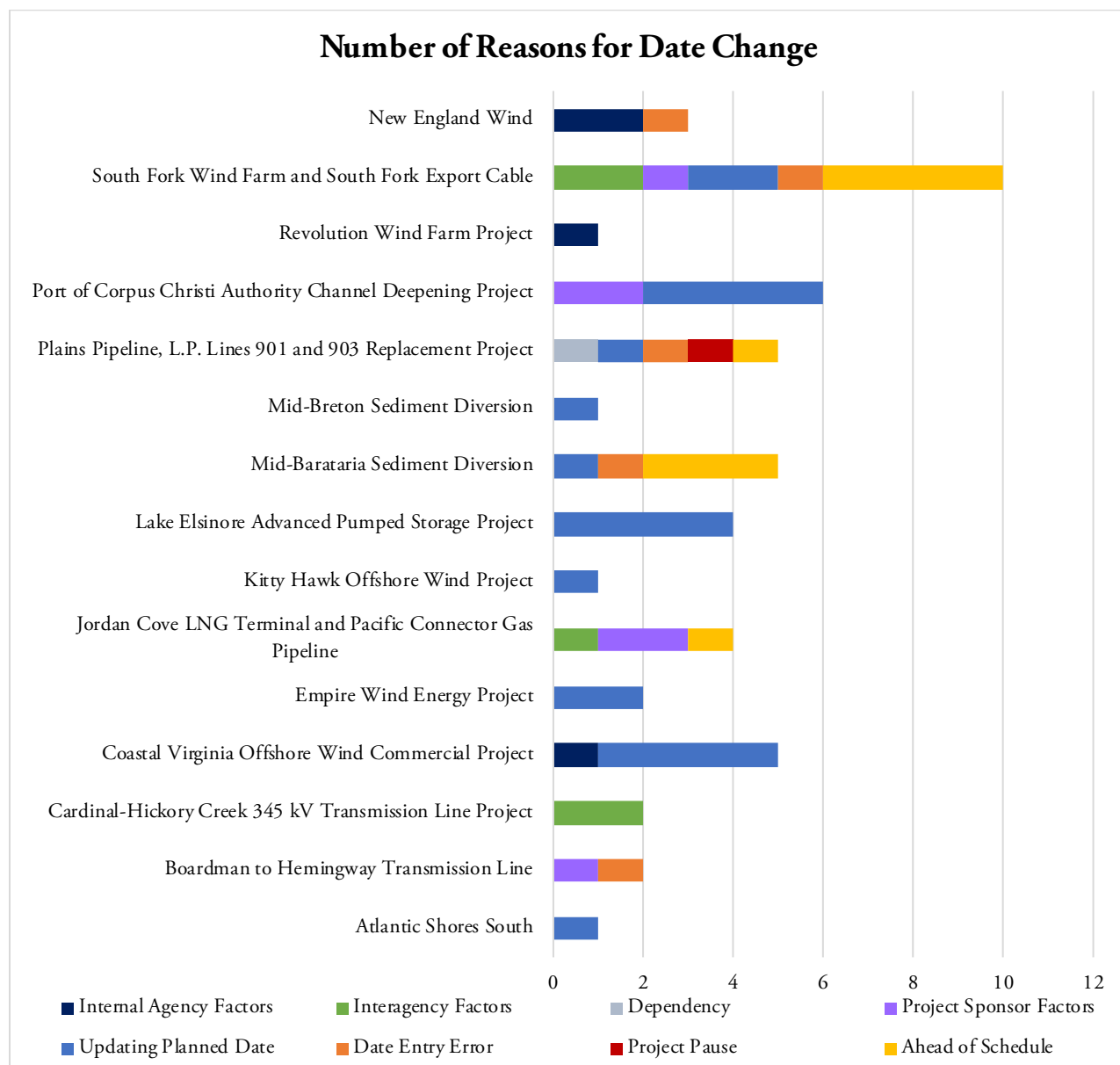


Figure 6: Graph showing reasons for date changes by project.

²⁷ Figure 6 excludes projects that did not have milestones modified during FY 2021. Therefore, Figure 6 does not include all projects having undergone active Federal review in FY 2021.

Conclusion

Although FY 2021 was a time of transition for the Permitting Council, the Permitting Council nevertheless made significant strides in implementing FAST-41. During FY 2021, the Permitting Council upgraded its operations, internal structures, and processes to function as an independent Federal agency, and is no longer reliant solely on part-time detailees, contractors, and GSA support. With the help of BOEM, its Federal agency cooperators, and project sponsors, in FY 2021 the Permitting Council became the central coordinating body for permitting offshore wind energy in the United States, and a key implementing agent of the Administration's goal to deploy 30 gigawatts (GW) of offshore wind in the United States by 2030, while protecting biodiversity and promoting ocean co-use. The Permitting Council also made significant progress in implementing all aspects of its Tribal Initiative and initiated a suite of permitting timetable and Dashboard improvements that will improve transparency, foster more complete permitting timetables, better account for permitting dependencies, and account for project sponsor actions and other contingencies on which the timing of Federal agency permitting actions depend.

With the passage of IIJA, the Permitting Council anticipates a significant increase in the number of projects covered by FAST-41, including additional offshore wind projects, and substantial changes to the way the Permitting Council creates and manages FAST-41 covered project permitting timetables on the Permitting Dashboard. The Executive Director is working closely with the Permitting Council to implement necessary changes and upgrades to accommodate the anticipated increased workload and to enhance the Permitting Council's ability to manage complex permitting timetables and increase permitting timetable data quality in the future.

Appendix

Milestone Dependency Information

Dependency information describes how particular milestones are contingent on the completion of other milestones associated with different environmental reviews or authorizations. Table 2 depicts the number of dependences identified for each active project in FY 2021.²⁸

Table 2: Number of dependencies identified per active project in FY 2021, projects are listed chronologically by the date they were added to the Dashboard.

Project Undergoing Active Federal Review in FY 2021	Number of Dependencies Identified
Aiya Solar Project (Moapa)	0
PennEast Pipeline	4
Ten West Link	0
Mid-Barataria Sediment Diversion	10
Boardman to Hemingway Transmission Line	0
Alaska LNG Project	10
Cardinal-Hickory Creek 345 kV Transmission Line Project	0
Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline	17
Bay State Wind Project	0
Plains Pipeline, L.P. Lines 901 and 903 Replacement Project	6
South Fork Wind Farm and South Fork Export Cable	5
Mid-Breton Sediment Diversion	16
Port of Corpus Christi Authority Channel Deepening Project	17
Ocean Wind Project	1
Yellow Pine Solar	4
Skipjack Wind Farm	0
Empire Wind Energy Project	0
Lake Elsinore Advanced Pumped Storage Project	10
Revolution Wind Farm Project	0
Sunrise Wind Farm	11
Battle Born Solar Project	0
Coastal Virginia Offshore Wind Commercial Project	10
Kitty Hawk Offshore Wind Project	16
New England Wind	10
Atlantic Shores South	5
Mayflower Wind Energy Project	5
SunZia Southwest Transmission Project	0
Bonanza Solar Project	0
Kulning Wind Energy Project	0
Total	157

²⁸ Dependency information was derived from analysis of the Dashboard's non-public revision history dataset "Dependency Milestone ID" data field. This data field reflects agency mapping of dependencies at the milestone level.