

**Executive Order (EO) 13927, Accelerating the Nation’s Economic Recovery from the COVID-19  
Emergency by Expediting Infrastructure Investments**

**USDA Report on Actions**

**July 7, 2020**

**A. Purpose**

Section 9 of Executive Order (E.O.) 13927, Accelerating the Nation’s Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities, 85 Fed. Reg. 35,165 (Jun. 4, 2020), requires all federal agencies within 30 days, to:

1. Review all statutes, regulations, and guidance that may provide for emergency or expedited treatment of infrastructure, energy, environmental, or natural resource-related projects or project reviews;
2. Identify planned or potential actions that may be subject to such emergency or expedited procedures; and
3. Provide a summary report listing such actions to the Director of the Office of Management and Budget (OMB), Assistant to the President for Economic Policy, and the Chairman of the Council on Environmental Quality.

Section 9(b) of E.O. 13927 additionally requires agencies to utilize their statutory and regulatory authorities that provide for emergency or expedited treatment of infrastructure, energy, environmental, or natural resource-related projects and project reviews “to the fullest extent permitted to facilitate the Nation’s economic recovery.”

To help fulfil USDA’s obligations under E.O. 13927, the following Expedited Project Actions and specific agency actions are being implemented to further consolidate and expedite federal environmental review, administrative, and decision-making processes. These actions are designed to help eliminate duplication, reduce risks and uncertainty for taxpayers and the private sector and to timely deliver urgently needed infrastructure projects.

The following actions apply to all of USDA:

1. Consistent with sections 6(a)(i)(D) and 6(b) of E.O. 13927, USDA will, to the maximum extent practicable, utilize, incorporate, and rely upon appropriate and applicable documentation and analyses, including analysis undertaken pursuant to section 102(2) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2), the Endangered Species Act, 33 U.S.C. §§ 1351 et seq., the Marine Mammal Protection Act, 16 U.S.C. §§ 1361 et seq., and Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108, previously developed by that Agency or other federal or state agency before initiating new and potentially duplicative independent surveys and research not explicitly required by statute or regulation.
2. USDA will utilize all available communication technologies to: (i) maximize the opportunity for required Project-related public input, particularly from stakeholder groups and communities acutely affected by the COVID-19 emergency; (ii) maintain effective engagement with relevant federal, state, local, and tribal governments on Project-related matters throughout the COVID-19 emergency, and (iii) prevent avoidable delays in the federal environmental review and authorization process for Projects.

3. USDA will prioritize infrastructure projects most likely to directly or immediately support the revitalization of economically distressed communities or that that would avoid, minimize, or mitigate negative environmental or economic impacts of the COVID-19 emergency that may disproportionately affect minority or low-income populations.

## **B. Expedited Project Actions for USDA Major Infrastructure Projects**

USDA will implement the Expedited Project Actions identified in this Section. These actions will apply exclusively to infrastructure projects that meet the criteria for “covered projects” in 42 U.S.C. § 4370m(6) (FAST41) and One Federal Decision (OFD) projects subject to E.O. 13807.

1. USDA will execute a Memorandum of Understanding with the Federal Permitting Improvement Steering Council (FPISC) who will fund up to \$750,000 through 2021 for reimbursable personnel support from USDA to effectively implement major infrastructure projects covered under FAST 41 and OFD.
  - a. Designated project managers from USDA field organizations for each covered project will be funded between 10 to 100 percent of their salary based on complexity of the project.
  - b. \$750,000 in salary savings to USDA field organizations will be applied to funding additional capacity at the regional or field level to execute permit activities for USDA Major Infrastructure Projects.
  - c. Field project managers will consult with USDA OSEC, CEQ and FPISC to implement process improvements and best practices related to expedited permit actions associated with EO 13927, EO 13807 and FAST41.
2. USDA will fully utilize all authorities that allow for the use of non federal funds, and federal cost recovery from project sponsors and contributed funds agreements with FPISC, other agencies, states, local, and tribal governments and project sponsors, and to the maximum extent legally permissible, use such funds to assist state, local, and tribal governments and to retain private sector contractors to immediately support the submission, processing, and completion of project applications and all related environmental review and authorizations processes.
3. By August 4<sup>th</sup>, 2020, each USDA Agency will identify and submit to the Office of the Secretary a list of required federal actions for projects in Section III that can be completed within 90, 180, or 365 days, and include a description of any staff resource constraints or other relevant issues that could prevent the Agency from meeting these target completion dates. In determining whether required federal actions for a given project can be completed within 90, 180, or 365 days, agencies will account for all opportunities for concurrent agency review per section 4.39 of the CEQ/OMB Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects, M-17-14 (Jan. 13, 2017).
4. USDA will maintain a current list of Projects for which required federal actions can be completed within 90, 180, or 365 days.
5. Consistent with 42 U.S.C. § 4370m-4, each USDA Agency will reduce duplicative reviews by coordinating required public involvement, including issuing joint public notices and providing concurrent public comment periods, wherever possible.
6. USDA Cooperating Agencies will not delay a FAST-41 or One Federal Decision Permitting Timetable milestone by withholding any required analysis, determination, concurrence, or

other action for reasons relating to issues outside the scope of the that agency’s jurisdiction or authority over the project.

7. USDA Office of the Secretary will assist the USDA Agencies in implementing the Expedited Project Actions, including by resolving disputes, facilitating coordination, and, where permissible, allocating funds from the Environmental Review Improvement Fund (42 U.S.C. § 4370m-8).

**C. USDA Major Infrastructure Project List subject to FAST41 and OFD**

Note – Planned and potential actions and identified resource constraints to be completed by August 4, 2020 and will be updated as appropriate.

Type	Project	Role	Lead Dept	USDA Mode	Sector	Planned and potential actions within			Identified Resource Constraints
						90 days	180 days	365 days	
FAST 41	Cardinal-Hickory Creek 345kV Transmission Line connecting northeast Iowa and south-central Wisconsin	Lead	USDA	RD	Elec Transmission				
OFD	Caribou-Targhee National Forest, Idaho; Lower Valley Energy Crow Creek Pipeline Project connecting Montpelier, ID and Afton WY	Lead	USDA	USFS	Pipeline				
OFD	McClellanville 115kV Transmission Line - Berkeley, Charleston and Georgetown Counties, SC.	Lead	RD	USFS	Elec Transmission				
OFD	Nebraska Department of Transportation U.S. Highway 275 West Point to Scribner Project	Coop	USACE	FPAC	Transportation				
FAST 41	Mid-Barataria Sediment Diversion	Coop	USACE	FPAC	Water Resources				
FAST 41	Boardman OR to Hemingway ID Transmission Line - 500kV	Coop	USDA	USFS	Elec Transmission				

Type	Project	Role	Lead Dept	USDA Mode	Sector	Planned and potential actions within			Identified Resource Constraints
						90 days	180 days	365 days	
FAST 41	Mountain Valley Pipeline - crossing Jefferson NF in VA	Coop	FERC	USFS	Pipeline	draft SEIS	final SEIS, ROD		
OFD	Jordon Cove Pacific Connector Gas Pipeline - crossing Freemont-Winema, Rogue River-Siskiyou, Umpqua NFs in OR	Coop	FERC	USFS	Pipeline				
FAST 41	Plains Pipeline - replacing existing pipeline crossing Los Padres NF in CA	Coop	DOI	USFS	Pipeline				
OFD	Lake Elsinore Advanced Pump Storage (LEAPS) - constructing new reservoir and transmission lines on Cleveland NF in CA	Coop	FERC	USFS	Water Resources		DEIS		
OFD	Boise BOR - Raise Anderson Ranch Dam by 10 feet on Boise NF in ID to increase reservoir capacity	Coop	DOI	USFS	Water Resources				
OFD	Twin Metals underground copper, nickel, platinum group metals and cobalt mine in MN	Coop	DOI	USFS	Mining	NOI			
FAST 41	MagLev - high speed rail between Washington DC and Baltimore, MD with alternative to utilize USDA lands in Beltsville, MD for train maintenance facility	Coop	DOT	ARS	Transportation	SEIS			
FAST 41	Stibnite Gold mine – Midas Gold in ID. Hardrock mine and legacy clean up, production of a listed critical mineral (antimony), gold and supporting infrastructure.	Lead	USDA	USFS	Mining				

## **D. USDA Agency COVID-Related Actions**

1. Farm Production and Conservation (FPAC) Actions. FPAC is the programmatic point of entry for the nation's farmers and ranchers and other stewards of private agricultural lands and non-industrial private forest lands. FPAC-wide Actions include:
  - a. USDA FPAC will issue a notice providing additional guidance to State and field offices for conducting consultations with State Historic Preservation Officers and Tribes under the National Historic Preservation Act (NHPA) related to delays resulting from the impacts of COVID-19.
  - b. A draft FPAC Prototype Programmatic Agreement (PPA) has been submitted to the Advisory Council on Historic Preservation (ACHP) for compliance with the National Historic Preservation Act (NHPA). This agreement will assist the FPAC agencies by simplifying the NHPA compliance process including actions that fall under emergency provisions. Due to COVID-19, the ACHP has informed FPAC it has put the review of this agreement on hold.
  - c. Natural Resource Conservation Service (NRCS) Actions:
    - i. NRCS extended Emergency Watershed Protection Program (EWPP) projects for reasons related to COVID-19. There are 40 agreements that were extended in 10 states.
    - ii. NRCS issued a memorandum informing its State Conservationists and Directors of the availability of an extension waiver of the requirement for a written request from the project sponsor for justifying the extension. NRCS continues to receive these requests and has extended agreements as necessary.
    - iii. NRCS is utilizing Practice Code 368 Emergency Animal Mortality Management to assist producers during this pandemic. Accordingly, 36 C.F.R. §800.12 of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA) may be employed to expedite the Section 106 review process under either of two options:
      1. States with a PPA with the State Historic Preservation Officer (SHPO) are following those NHPA procedures.
      2. States without a PPA may notify the ACHP and appropriate SHPO/Tribe and afford them an expedited, seven-day comment period, rather than the usual 30-day comment period.
    - iv. FPAC submitted a request to ACHP to continue the options identified in subparagraphs 1 and 2 above beyond the current expiration date in August.
    - v. NRCS implemented no-cost extensions on approximately 400 agreements where partners needed additional time to meet fund match requirements and remain in compliance with their agreements
  - d. Farm Service Agency (FSA) Actions:
    - i. USDA FPAC has completed a Programmatic FSA-850 for FSA in Georgia (GA) to categorically exclude Farm Storage Facility Loans (FSFL) where the facilities

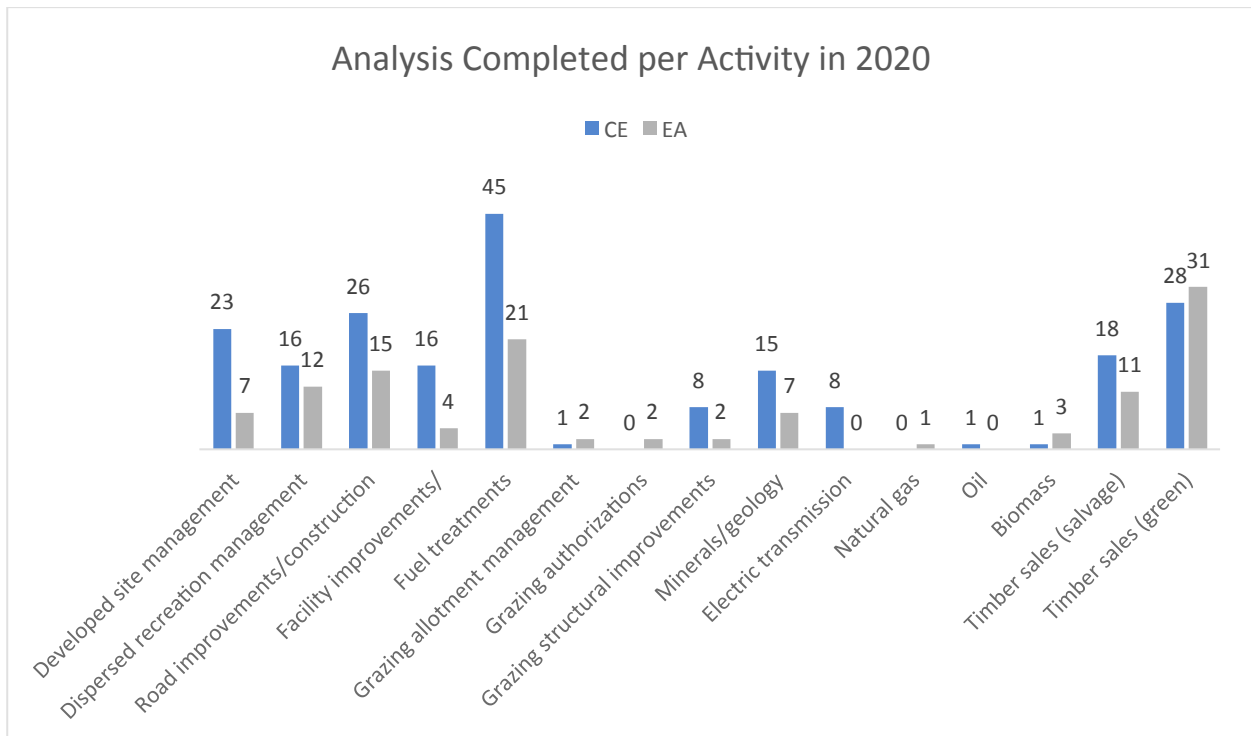
will be placed in areas of prior disturbance and no extraordinary circumstances exist that would require consultations. This Programmatic FSA-850 was necessary because of the closure of ethanol plants due to COVID-19 and the need for producers to store their excess corn yields. This will eliminate the need for individual FSA-850s for each FSFL in the State, requiring individual FSA-850s only for those FSFL that don't meet these specifications.

- ii. USDA FPAC ENV is also proactively completing a nationwide Programmatic FSA-850 to categorically exclude FSFL where the facilities will be placed in areas of prior disturbance and no extraordinary circumstances exist that would require consultations. This will alleviate the need for individual FSA-850s, similar to the one described above. For that reason, individual FSA-850s will only be required for those FSFL that do not meet these specifications.

2. USDA Forest Service (Forest Service) Actions:

The Forest Service is moving forward with projects that can proceed under previously completed NEPA analysis. Specifically, the Forest Service has been working to streamline its NEPA analysis processes by conducting NEPA at the lowest level possible to speed completion of its environmental analyses and using Categorical Exclusions (CE) whenever they apply. The Forest Service is also focusing its Environmental Assessments (EA) by developing precise Purpose and Need statements and limiting Effects discussions to the truly relevant issues.

As set forth in the following chart, to date, the Forest Service has completed 511 decisions using CE and 85 decisions using EAs.

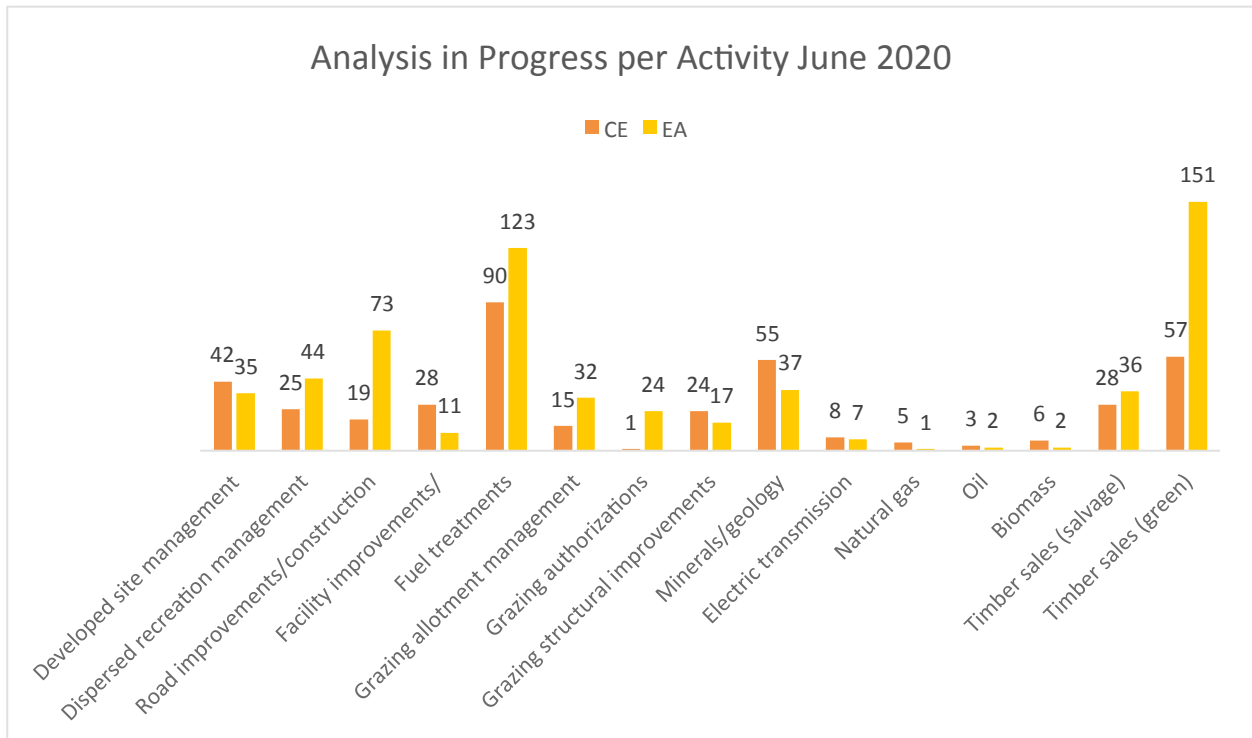


Note that many NEPA documents analyze more than one activity, so the numbers in these charts represent activities, rather than the number of NEPA documents. When possible, the agency

continues to routinely assess in a single NEPA document the effects of activities that take place in the same location within the same period of time to increase efficiency.

Moreover, Section 6 of EO 13927 directs agencies to report on planned or potential projects to facilitate the Nation’s economic recovery that can be expedited under NEPA or exemptions from NEPA. The Forest Service has such an exemption under Section 603 of the Healthy Forests Restoration Act of 2003, which allows the agency to conduct certain insect and disease or hazardous fuels treatments without review of extraordinary circumstances. The Forest Service has 32 such projects in progress.

The Forest Service is actively working to complete CEs and EAs for a number of additional projects responsive to Section 6 of EO 13927 as displayed in the chart below.



Facility improvements and construction activities include communication sites, fiber optic lines, and dam safety improvements. Grazing structural improvements include corrals, water pipelines and tanks, and fences. Road construction and improvement projects include roads accessing oil and gas and other minerals sites, bridge replacement, and water pipeline replacement. All of these activities either employ Americans directly, or provide them with needed resources to do their work and contribute to the economy.

Sections 7 and 8 of the EO respectively discuss emergency consultation under the Endangered Species Act (ESA) and emergencies under several Army Corps of Engineers permitting authorities, such as the Clean Water Act (CWA). The majority of activities currently under analysis are CEs which typically do not require ESA consultation, or consultation is handled informally. For activities identified for analysis through an EA, consultation is also often informal. Local units are instructed to monitor consultation processes on individual projects and work with local ESA regulatory agencies to seek expedited consultation as the need arises.

The majority of projects are not associated with waters regulated under the CWA and will not require CWA permits. The remainder are typically expected to qualify for nationwide permits which are not expected to result in any excessive delays in reaching project decisions. Local units are directed to monitor CWA permitting requirements and work with local Army Corps of Engineers offices to expedite permitting, if necessary. The agency is working to identify which of the more than 500 projects currently under analysis have the opportunity and need for expedited procedures based on a variety of factors such as comment periods, proponent schedules, cooperating agency needs, and state requirements such as permitting.

Consistent with Section 9 of the EO, the Forest Service has 16 regulations and 116 policy directives in process for revision. These policy and regulatory actions are designed to streamline and improve delivery in a variety of resource and program areas, including for leasable and locatable mineral activities, NEPA procedures, special uses permitting, timber management, landscape scale restoration, recreation and recreation infrastructure management, and Forest Service operations.

The Chief of the Forest Service has directed all units to expedite ongoing analyses and implementation of decisions in accordance with the EO.

### 3. USDA Rural Development (RD) Actions:

RD has existing emergency authorities and codified regulations for environmental processes related to infrastructure deployment.

RD regulations found at 7 C.F.R. §1970 implement RD policy and processes. The §1970 regulation applies to all RD programs, including those that fund infrastructure projects. The §1970 regulation includes sections that mirror the emergency provisions in the statutes. In 7 C.F.R. §1970, an emergency is defined as a disaster or situation that involves an immediate or imminent threat to public health or safety. There are two primary sections that enable RD to expedite or postpone the environmental analysis required in the statutes: §1970.18 – Emergencies, and §1970.11 – Timing of the Environmental Review Process.

Rural Development is a major source of funding for rural infrastructure, including energy, broadband and water. The agency has existing pending applications that are under review for possible emergency treatment under §1970.

RD Electric and Business Programs also have authority to finance working capital in certain circumstances. The Electric Program has obligated three recent small COVID-related liquidity loans, pursuant to the Rural Electrification Act. All three loans were offered in lieu of requests for deferrals. As needed, the Program will continue to carefully leverage this authority to give borrowers increased liquidity and rapid access to historically low interest rates. The Business Program is accepting and reviewing applications for Business and Industry Guarantees for working capital loans pursuant to the CARES Act.

In addition, RD has taken a number of immediate actions to help rural residents, businesses, and communities affected by the COVID-19 outbreak. These include using existing servicing authorities and CARES Act authorities to offer deferrals and moratoriums on housing, infrastructure, community facilities and business loans.



4. USDA Marketing and Regulatory Programs (MRP) Actions:

USDA Animal and Plant Health Inspection Service (APHIS) National Veterinary Stockpile (NVS) serves as the primary source of materials, supplies, and equipment for the response to, control of, and containment of significant animal disease outbreaks. NVS has two primary objectives:

- a. To deploy countermeasures, within 24 hours of approval, against the most damaging animal diseases including highly pathogenic avian influenza, foot-and-mouth disease, virulent Newcastle disease, and classical swine fever; and
- b. To assist States, Tribes, and Territories with planning, training, and exercises for the rapid request, receipt, processing, and distribution of NVS countermeasures during an event.

To prepare for an incident response, the NVS program works with States, Tribes, and Territories to develop their logistics plans, conduct logistics training, and organize logistics exercises.

Since March, the NVS has used emergency authorities to deploy large quantities of personal protective equipment (PPE), including N95 respirators and nitrile gloves, for use by APHIS and AMS front line employees to continue our mission operations during COVID-19.

In late April, APHIS established a National Incident Coordination Center for assisting States and producers whose animals cannot move to market as a result of COVID-19-related issues at processing plants. APHIS has a \$2 million budget to build emergency systems and acquire equipment to assist the States with animal depopulation and is developing and reviewing forms for tracking and collecting information on swine that were depopulated as a result of this event. APHIS has the following equipment available to States: captive bolt guns, shoots, gates and a limited amount of PPE. Additionally, AHPIS helping producers identify potential alternative markets for their animals and providing technical information and advice on depopulation and disposal methods.