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This Permit Reform Already Works. Why Aren't More Mining Projects Using It?



In January 2021, the Federal Permitting Improvement Steering Council (the Permitting Council) issued a final rule, adding mining as a sector of projects covered by Title 41 of the Fixing America's Surface Transportation (FAST) Act (FAST-41). It was an unusual move, for a few reasons, but one that promised to improve timeliness, efficiency, predictability, and transparency of the decisionmaking process for mine permit applicants who used the program.

Though the U.S. Congress often works in mysterious ways, it still seems unusual to find a multi-section infrastructure permitting law (FAST-41) buried within a surface transportation law (the FAST Act) extended through rulemaking to apply to mining. The FAST Act was signed into law on December 4, 2015. It was the first multi-year federal transportation bill in a decade, and within its 500-page expanse lay the seeds of a pilot project intended to reform the permitting process for complex, multiagency projects.

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