

port detailing the progress accomplished under this subchapter during the previous fiscal year.

(2) Contents

The report described in paragraph (1) shall assess the performance of each participating agency and lead agency based on the best practices described in section 4370m-1(c)(2)(B) of this title, including—

(A) agency progress in making improvements consistent with those best practices; and

(B) agency compliance with the performance schedules established under section 4370m-1(c)(1)(C) of this title.

(3) 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 paragraph (1).

(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.

(Pub. L. 114-94, div. D, title XLI, § 41008, Dec. 4, 2015, 129 Stat. 1760.)

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§ 4370m-8. Funding for governance, oversight, and processing of environmental reviews and permits

(a) In general

The heads of agencies listed in section 4370m-1(b)(2)(B) of this title, with the guidance of the Director of the Office of Management and Budget and in consultation with the Executive Director, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for project proponents to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered 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 and 4370m-2 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.

(d) Environmental Review and Permitting Improvement Fund

(1) In general

All amounts collected pursuant to this section shall be deposited into a separate fund in the Treasury of the United States to be known as the “Environmental Review Improvement Fund” (referred to in this section as the “Fund”).

(2) Availability

Amounts in the Fund shall be available to the Executive Director, without appropriation or fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council.

(3) Transfer

The Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other agencies to facilitate timely and efficient environmental reviews and authorizations for proposed covered projects.

(e) Effect on permitting

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

(f) Transfer of appropriated funds

(1) In general

The heads of agencies listed in section 4370m-1(b)(2)(B) of this title shall have the authority to transfer, in accordance with section 1535 of title 31, funds appropriated to those agencies and not otherwise obligated to other affected Federal agencies for the purpose of implementing the provisions of this subchapter.

(2) Limitation

Appropriations under title 23 and appropriations for the civil works program of the Army Corps of Engineers shall not be available for transfer under paragraph (1).

(Pub. L. 114-94, div. D, title XLI, § 41009, Dec. 4, 2015, 129 Stat. 1760.)

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§ 4370m-9. Application

This subchapter applies to any covered project for which—