

**DEPARTMENT OF ENERGY****10 CFR Part 900****[DOE–HQ–2023–0050]****RIN 1901–AB62****Coordination of Federal Authorizations for Electric Transmission Facilities****AGENCY:** Grid Deployment Office, U.S. Department of Energy.**ACTION:** Notice of proposed rulemaking and request for comment.

**SUMMARY:** The Department of Energy (DOE) is proposing to amend its regulations for the timely coordination of Federal authorizations for proposed interstate electric transmission facilities pursuant to the Federal Power Act (FPA). Specifically, DOE is proposing to establish an integrated and comprehensive Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program); make participation by application in the Integrated Interagency Preapplication (IIP) Process a pre-condition for a decision under the CITAP Program; require project proponents to develop resource reports and public engagement plans for communities that would be affected by a proposed qualifying project through an iterative and collaborative process with Federal agencies while providing that Federal entities would remain responsible for completion of environmental reviews, for government-to-government consultation with Indian Tribes (and government-to-sovereign consultation in the context of Native Hawaiian relations), and for any findings and determinations; require project proponents to conduct robust engagement with all Tribes and communities of interest that would be affected by a proposed qualifying project; ensure that DOE may carry out its statutory obligation to prepare a single Environmental Impact Statement (EIS) sufficient for the purposes of all Federal authorizations necessary to site a qualifying project; and align and harmonize the IIP Process and implementation of the FPA with Title 41 of the Fixing America's Surface Transportation (FAST) Act.

**DATES:** DOE will accept comments, data, and information regarding this proposed rule on or before October 2, 2023. Please refer to section V (Public Participation—Submission of Comments) of the **SUPPLEMENTARY INFORMATION** section of this proposed rule for additional information.

**ADDRESSES:** Interested persons are encouraged to submit comments using

the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov), under docket number DOE–HQ–2023–0050. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number DOE–HQ–2023–0050 and/or Regulation Identification Number (RIN) 1901–AB62, by any of the following methods:

- *Email:* [CITAP@hq.doe.gov](mailto:CITAP@hq.doe.gov). Include docket number DOE–HQ–2023–0050 and/or RIN 1901–AB62 in the subject line of the email.
- *Mail:* Address written comments to U.S. Department of Energy, Grid Deployment Office, 4H–065, 1000 Independence Avenue SW, Washington, DC 20585.

• *Hand Delivery/Courier:* U.S. Department of Energy, Grid Deployment Office, 4H–065, 1000 Independence Avenue SW, Washington, DC 20585.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation—Submission of Comments” (section V) of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

*Docket:* The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov), under docket number DOE–HQ–2023–0050. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

**FOR FURTHER INFORMATION CONTACT:** Liza Reed, U.S. Department of Energy, Grid Deployment Office, 4H–065, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586–2006. Email: [CITAP@hq.doe.gov](mailto:CITAP@hq.doe.gov).

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**I. Executive Summary**

In this notice of proposed rulemaking (NOPR), DOE is proposing regulatory amendments to 10 CFR part 900 in response to the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, also known as the “Bipartisan Infrastructure Law”) and the Inflation Reduction Act (IRA) (Pub. L. 117–169). The IIJA and IRA made significant investments in clean energy manufacturing and generation, and the electrification of homes, businesses, and vehicles. The full benefits of those investments will not be realized, however, unless the United States can quickly, sustainably, and equitably expand our electric transmission infrastructure. Transmission solutions are needed to accommodate the generation and load changes enabled by the financial incentives included in both laws.<sup>1</sup>

Given the capacity constraints and congestion on the nation’s electric transmission grid, it is imperative that the Federal Government provide a clear, efficient, and well-coordinated process to allow project proponents<sup>2</sup> to obtain expedient approval to fill this vital need. For these reasons, DOE is proposing to amend part 900 to establish a Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program) that will reduce the time required for transmission project developers to receive decisions on Federal authorizations<sup>3</sup> for transmission projects.

<sup>1</sup> DOE, National Transmission Needs Study (Feb. 2023), available at: <https://www.energy.gov/sites/default/files/2023-02/022423-DRAFTNeedsStudyforPublicComment.pdf>.

<sup>2</sup> Throughout the preamble discussion, DOE uses terminology defined in the proposed regulatory text. Unless the meaning of the term is made clear from the context of the discussion, the first occurrence of the term is accompanied by a footnote that provides the proposed definition of the term. Proposed § 900.2 defines “project proponent” as a person or entity who initiates the IIP Process in anticipation of seeking a Federal authorization for a qualifying project.

<sup>3</sup> Section 216(h)(1) of the Federal Power Act defines “Federal authorization” as “any authorization required under Federal law in order to site a transmission facility” and provides that the term includes “permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.” Proposed § 900.2 defines

## II. Background and Authority

The electric transmission system is the backbone of the United States' electricity system, connecting electricity generators to distributors and customers across the nation. Electric transmission facilities often traverse long distances and cross multiple jurisdictions, including Federal, State, Tribal, and private lands. To receive Federal financial support or build electric transmission facilities on or through Federal lands and waters, project developers often must secure authorizations from one or multiple Federal agencies, which can take considerable time and result in costly delays.

Recognizing the need for increased efficiency in the authorization process for transmission facilities, the Energy Policy Act of 2005 (Pub. L. 109–58) (EPA) established a national policy to enhance coordination and communication among Federal agencies with authority to site electric transmission facilities. Section 1221(a) of EPA added a new section 216 to Part II of the Federal Power Act (16 U.S.C. 824p) (FPA), which sets forth provisions relevant to the siting of interstate electric transmission facilities. Section 216(h) of the FPA (16 U.S.C. 824p(h)), “Coordination of Federal Authorizations for Transmission Facilities,” requires the DOE to coordinate all Federal authorizations and related environmental reviews needed for siting interstate electric transmission projects, including National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended, 42 U.S.C. 4321 *et seq.*) (NEPA) reviews. DOE is proposing to amend its section 216(h) implementing regulations, found in 10 CFR part 900, to implement this authority and better coordinate review of Federal authorizations for proposed interstate electric transmission facilities.

Section 216(h) of the FPA provides for DOE’s coordination of Federal transmission siting determinations for project proponents seeking permits, special use authorizations, certifications, opinions, or other approvals required under Federal law to site an electric transmission facility.

First, section 216(h)(2) authorizes DOE to act as the lead agency to coordinate Federal authorizations and related environmental reviews required

“authorization” as any license, permit, approval, finding, determination, or other administrative decision required under Federal, state, local, or Tribal law to site an electric transmission facility, including permits, special use authorization, certifications, opinions, or other approvals. Proposed § 900.2 defines “Federal authorization” as any authorization required under Federal law.

to site an interstate electric transmission facility. 16 U.S.C. 824p(h)(2). Section 216(h)(3) requires the Secretary of Energy, to the maximum extent practicable under Federal law, to coordinate the Federal authorization and review process with any Indian Tribes, multi-state entities, and state agencies that have their own separate permitting and environmental reviews. 16 U.S.C. 824p(h)(3).

Second, section 216(h)(4)(A) directs the Secretary to “establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.” 16 U.S.C. 824p(h)(4)(A). If an agency fails to act on an application within the deadline set by DOE, or denies an application, the project proponent or any state where the facility would be located may appeal to the President for review of the application. 16 U.S.C. 824p(h)(6)(A).

Third, the statute directs the Secretary to “provide an expeditious pre-application mechanism for prospective [project proponents]. . . .” 16 U.S.C. 824p(h)(4)(C).

Fourth, the statute directs the Secretary, “in consultation with the affected agencies,” to “prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.” 16 U.S.C. 824p(h)(5)(A).

Finally, section 216(h)(7) directs the Secretary to issue regulations necessary to implement section 216(h) and directs the Secretary and the heads of all affected agencies to enter into a memorandum of understanding (MOU) to “ensure the timely and coordinated review and permitting of electricity transmission facilities.” 16 U.S.C. 824p(h)(7).

As discussed in the following section, DOE entered into an implementing MOU with eight other agencies and has established the pre-application mechanism required by section 216(h)(4)(C) under regulations at 10 CFR part 900. For the reasons explained in the following sections, DOE is proposing modifications to update and expand part 900.

### A. Section 216(h): Implementation History

In 2006, nine Federal agencies with permitting or other Federal authorization responsibility for the siting of electric transmission facilities entered into a *Memorandum of Understanding on Early Coordination of Federal Authorizations and Related Environmental Reviews Required in*

*Order to Site Electric Transmission Facilities* (2006 MOU).<sup>4</sup>

On September 19, 2008, DOE published an interim final rule establishing procedures at 10 CFR part 900 under which prospective project proponents could request that DOE coordinate Federal authorizations for the siting of interstate electric transmission facilities and related environmental reviews pursuant to section 216(h) (73 FR 54456). The interim final rule became effective on October 20, 2008. Also on September 19, 2008, DOE published a NOPR, which proposed amendments to the interim final rule (73 FR 54461) (2008 NOPR). Comments were filed in response to the 2008 interim final rule and 2008 NOPR. DOE addressed the comments submitted in response to both the interim final rule and the 2008 NOPR in a 2011 NOPR issued on December 13, 2011 (77 FR 77432). In 2009, nine Federal agencies signed the *Memorandum of Understanding Regarding Coordination in Federal Agency Review of Electric Transmission Facilities on Federal Land* (2009 MOU), superseding the 2006 MOU.<sup>5</sup>

On February 2, 2016, DOE withdrew the 2011 NOPR and instead proposed revisions to 10 CFR part 900 that would establish an Integrated Interagency Pre-Application (IIP) Process to encourage cooperation prior to the submission of a formal application for authorizations necessary to site transmission facilities (81 FR 5383). On September 28, 2016, DOE issued a final rule establishing the IIP Process (81 FR 66500). The final rule went into effect on November 28, 2016.

In May 2023, nine Federal agencies signed the *Memorandum of Understanding Regarding Facilitating Federal Authorizations for Electric Transmission Facilities* (2023 MOU), superseding the 2009 MOU.<sup>6</sup> The 2023

<sup>4</sup> The 2006 MOU signatory agencies are the Department of Energy (DOE), the Department of Agriculture (USDA), the Department of Defense (DOD), the Department of the Interior (DOI), the Department of Commerce (DOC), the Federal Energy Regulatory Commission (FERC), the Environmental Protection Agency (EPA), the Council on Environmental Quality (CEQ), and the Advisory Council on Historic Preservation (ACHP). The 2006 MOU is publicly available at <https://www.energy.gov/oe/articles/memorandum-understanding-early-coordination-federal-authorizations-and-related>.

<sup>5</sup> The nine 2009 MOU signatory agencies are the USDA, DOC, DOD, DOE, EPA, CEQ, ACHP, DOI, and FERC. The 2009 MOU is publicly available at <https://www.energy.gov/sites/prod/files/Transmission%20Siting%20on%20Federal%20Lands%20MOU%20October%202023%2C%202009.pdf>.

<sup>6</sup> The nine 2023 MOU signatory agencies are USDA, DOC, DOD, DOE, DOI, EPA, Federal Permitting Steering Improvement Steering Council

MOU signatory agencies recognized that insufficient budgetary resources, lack of agency staff, and limited mechanisms for coordination across Federal agencies have contributed to delays in permitting timelines for transmission facilities. In the 2023 MOU, DOE agreed, in consultation with the heads of the other signatory agencies, to update its regulations implementing section 216(h) within six months of signing the 2023 MOU. The 2023 MOU expands efforts to ensure pre-construction coordination and provide updated direction to Federal agencies in expediting the siting, permitting, and construction of electric transmission infrastructure. After the execution of the 2023 MOU but before the publication of this NOPR, Congress enacted the Fiscal Responsibility Act of 2023 (Pub. L. 118–5) (FRA). Section 107 of the FRA, entitled “Timely and Unified Federal Reviews,” amended NEPA to require the designation of a lead agency empowered to perform a coordinating and schedule-setting function. Although the source of authority for this NOPR is section 216(h), through which Congress specifically addressed Federal reviews for electric transmission facilities, the reforms proposed in this NOPR are consistent with the FRA and, DOE believes, likely to advance Congress’ goal of achieving a timely and unified review process among Federal agencies. In this NOPR, DOE has referred to “lead” and “co-lead” agencies, consistent with the terminology used in the 2023 MOU. DOE believes these terms to be substantively equivalent to the FRA’s “lead” and “joint lead” agencies. DOE seeks comment on its use of these terms.

#### *B. Need for Proposed Revisions*

DOE is proposing to update its regulations implementing section 216(h) to establish the CITAP Program, improve the IIP Process, and provide for the coordinated review of applications for Federal authorizations necessary to site transmission facilities.

First, DOE is establishing a comprehensive and integrated CITAP Program. Under this program, DOE proposes to: (i) provide for an effective IIP Process to facilitate timely submission of materials necessary for Federal authorizations and related environmental reviews required under Federal law; (ii) set intermediate milestones and ultimate deadlines for the review of such authorizations and

environmental reviews; and (iii) serve as the lead agency for the preparation of a single EIS in compliance with NEPA, designed to serve the needs of all relevant Federal entities<sup>7</sup> and effectively inform their corresponding Federal authorization decisions. These elements of the CITAP Program are described in more detail throughout this proposed rule.

Second, pursuant to the FPA, DOE proposes to make the IIP Process a mandatory precondition for participation in the CITAP Program. Consistent with DOE’s interpretation in 2016, in this rule, DOE does not propose to require the participation of any Federal or non-Federal entity<sup>8</sup> in the IIP Process. 81 FR 66500. Rather, Federal entities have agreed to participate through the 2023 MOU. Non-Federal entities may participate at their discretion. DOE does, however, propose that a project proponent’s participation in the IIP Process is a prerequisite for the coordination and schedule-setting aspects of the CITAP Program.

DOE recognizes that this represents a departure from the IIP Process established by DOE’s 2016 rule. However, DOE has concluded that a project proponent’s participation in the IIP Process is necessary for the success of other elements of the CITAP Program and for the Secretary’s satisfaction of the statutory obligations imposed by section 216(h). Specifically, section 216(h)(4)(B) requires that the Secretary determine that “an application has been submitted with such data as the Secretary considers necessary” and requires that the Secretary “ensure” that, once such data is submitted, “all permit decisions and related environmental reviews under all applicable Federal law . . . be completed” as soon as is practicable. DOE has determined that participation in the IIP Process is necessary for a project proponent to provide the “data . . . the Secretary considers necessary” such that the Secretary may determine

that the permit decisions and related environmental reviews relevant to that application may be completed within the time period DOE will establish by schedule. As detailed further below, the IIP Process affords a unique opportunity for project proponents to provide essential information and to coordinate with Federal entities prior to submission of applications for Federal authorizations. DOE has determined that it will not be able to establish binding milestones and deadlines for projects that do not complete the IIP Process. DOE will also not be able to prepare a single EIS for such a project. Accordingly, DOE has proposed to make participation in the IIP Process a mandatory precondition for participation in those other aspects of the Program.

In 2016, when DOE issued its previous regulations, there was no CITAP Program. Accordingly, DOE had no occasion then to consider whether a project proponent was required to participate in the IIP Process to benefit from the CITAP Program. For the reasons explained above, DOE has determined that the CITAP Program requires a project proponent’s participation in the IIP Process. As discussed further below, DOE tentatively concludes that the benefits of participating in the IIP Process, and the resulting access to the CITAP Program, will justify the costs to project proponents. DOE expects that the CITAP Program will substantially accelerate the process by which transmission projects are permitted and developed. The expected reduction in permitting timelines will generate benefits that, while difficult to quantify with specificity, are likely to significantly exceed the cost of participating in the IIP Process.

Third, DOE proposes to improve the IIP Process to ensure that it provides project proponents and Federal entities an opportunity to identify as early as possible potential environmental and community impacts associated with a proposed project. Accordingly, DOE proposes to require that project proponents submit resource reports and public participation and engagement plans, developed with guidance from Federal entities, and participate in a series of meetings to ensure that Federal entities have ample opportunities to provide this guidance.

As proposed, the IIP Process is an iterative process, anchored by three meetings: the initial meeting, the review meeting, and the close-out meeting. These meetings, defined in proposed §§ 900.5, 900.8 and 900.9, are milestones in the process, and are not

(FPISC), CEQ, and the Office of Management and Budget (OMB). The 2023 MOU is publicly available at <https://www.whitehouse.gov/wp-content/uploads/2023/05/Final-Transmission-MOU-with-signatures-5-04-2023.pdf>.

<sup>7</sup> Proposed § 900.2 defines “Federal entity” as any Federal agency or department. That section also defines “relevant Federal entity” as a Federal entity with jurisdictional interests that may have an effect on a qualifying project, that is responsible for issuing a Federal authorization for the qualifying project, that has relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the qualifying project, or that provides funding for the qualifying project. The term includes participating agencies. The term includes a Federal entity with either permitting or non-permitting authority; for example, those entities with which consultation or review must be completed before a project may commence, such as DOD for an examination of military test, training or operational impacts.

<sup>8</sup> Proposed § 900.2 defines “non-Federal entity” as an Indian Tribe, multi-state governmental entity, state agency, or local government agency.

intended to preclude any additional meetings or communications between the project proponent and the relevant Federal entities. The iterative nature of the process is provided for in procedures for evaluating the completeness and the suitability for relevant agency decision-making of materials before each milestone.

The project proponent resource reports are intended to develop data and materials that will facilitate Federal entities' review of the project proponent's applications under a number of Federal statutes, including, but not limited to, NEPA, section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108) (NHPA), section 10 of the Rivers and Harbors Act (33 U.S.C. 403), section 404 of the Clean Water Act (33 U.S.C. 1344) (CWA), and the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA). As proposed, drafts of the reports would be submitted before the IIP Process review meeting. Federal entities responsible for making determinations under those statutes would have the opportunity to review the reports before the meeting and would then be able to present any concerns at the meeting. The project proponent would be required to submit final versions of the reports before the IIP Process close-out meeting.

DOE recognizes that the information requested in the proposed resource reports is extensive and that gathering that information will require a significant investment of time and effort on the part of the project proponent. However, the investment of time and resources required by this proposed process cannot be assessed against a zero-investment baseline. The information DOE proposes to require is information necessary for Federal entities to review applications for authorizations and prepare related environmental reviews. Accordingly, most information required to be submitted in the proposed resource reports would likely be required absent this proposal. The IIP Process is intended to ensure that all necessary information is provided to relevant Federal entities in a timely and coordinated fashion; it is also intended to avoid the duplication of cost and effort that project proponents and Federal entities face in navigating the series of authorizations necessary to site a transmission line.

DOE believes that collating this information at an early stage of the CITAP Program will ultimately allow both the project proponent and the Federal entities to avoid time and resource-consuming pitfalls that would otherwise appear during the application

process. Nevertheless, the IIP Process does not relieve the relevant Federal entities of their legal obligation to comply with applicable environmental requirements.

In addition to the resource reports, DOE also proposes to require submission of public participation and engagement plans for communities that would be affected as described in the proposed qualifying project.<sup>9</sup> DOE further proposes requiring project proponents to follow these plans and coordinate with relevant Federal entities to conduct robust engagement with all Tribes<sup>10</sup> and communities that could be affected by the proposed qualifying project. This early engagement would inform a project proponent's development of a proposed project and would begin before an application is submitted to the Federal Government. Such engagement would not relieve the Federal entities of legal obligations to consult with Tribes and engage with communities, but rather would provide opportunities for Tribes and communities to express their views early in the process and to share their concerns directly with project proponents.

As a key example, the contents of Resource Report 4 in § 900.6 are intended to facilitate initiation of section 106 of the NHPA. As proposed, the rule is intended to allow project proponents to obtain as much information as possible about cultural and historic resources located within the affected environment, including preliminary detailed information about resources that may be implicated in the section 106 process, such as cultural and historic resources that may be listed on the National Register of Historic Places. This initial information-gathering and recommendation stage will give Federal entities insight into the potential range of resources and impacts implicated in the proposed project; gathering this information from project proponents does not bind Federal entity decisionmakers. Federal entities remain responsible for findings and determinations required by and reserved to them in 36 CFR part 800.

The initial information-gathering phase precedes the formal consultation process under section 106. As proposed, DOE would authorize project proponents, as applicants to the CITAP

<sup>9</sup> Proposed changes to the term "qualifying project" are discussed in more detail in this section and the following sections. "Qualifying project" is defined in proposed § 900.2.

<sup>10</sup> Proposed § 900.2 defines "Indian Tribe" as having the same meaning as provided by 25 U.S.C. 5304(e). The preamble discussion uses the terms "tribe" and "Indian tribe" interchangeably.

Program, to begin section 106 consultation during the IIP Process, but only at such time as a project is sufficiently well developed to allow formal consultation to begin. DOE proposes that, within 45 days of the IIP Process review meeting described in proposed § 900.8, DOE would determine whether the project proponent has developed the scope of its proposed project and alternatives adequately for DOE to determine that there exists an "undertaking" for purposes of section 106 of the NHPA. If DOE so determines, then DOE would authorize project proponents to initiate consultation with State Historical Preservation Officers (SHPOs), Tribal Historical Preservation Officers (THPOs), and others consistent with 36 CFR 800.2(e)(4). For all qualifying projects, DOE and the relevant Federal entity or entities shall serve as co-lead agencies for consultation for section 106 of the NHPA per 36 CFR 800.2(a)(2). This would maximize coordination between NEPA and section 106 processes per 36 CFR 800.8, for example, by enabling DOE to seek public input on the section 106 process during the opportunities for public comment provided by NEPA. Agencies often use the public input process of NEPA to seek public input on section 106. DOE would remain responsible for consulting on a government-to-government basis with Tribes (and government-to-sovereign consultation in the context of Native Hawaiian relations), including pursuant to section 106. DOE would also remain legally responsible for all findings and determinations charged to the agency under section 106.

Fourth, DOE proposes to establish intermediate milestones and ultimate deadlines for Federal authorizations and related environmental reviews through the introduction of standard and project-specific schedules. This proposal is intended to implement Congress's express directive to "establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to" the projects. 16 U.S.C. 824p(h)(4)(A). Congress also contemplated a specific timeline in section 216(h)(4)(B), which directs the Secretary of Energy to ensure that, "once an application [for a Federal authorization] has been submitted with such data as the Secretary considers necessary," the decision on that application shall be completed within 1 year or as soon as practicable.

In the 2023 MOU, the agencies determined that DOE would prepare a "standard schedule," upon which each project's project-specific schedule

would be based. The standard schedule is intended as a template showing the steps and expected timeline of a model transmission project from the beginning of the IIP Process through the end of the Federal authorizations process. The MOU signatory agencies agreed that the standard schedule should allow for “a final decision on all Federal authorizations within two years of the publication of a notice of intent to prepare an EIS or as soon as practicable thereafter.” (2023 MOU at section V(b)(i)) The agencies also agreed to a process for modifying a project-specific schedule if deadlines are not met. (2023 MOU at section V(b)(v))

Consistent with the 2023 MOU and section 216(h)(4)(A), DOE proposes to establish project-specific schedules for each project participating in the IIP Process. The project-specific schedule will establish the binding deadlines by which Federal authorizations and related environmental reviews for a particular project must be completed. (See MOU at sections V(b) and (c)) The project-specific schedule will be developed during the IIP Process through consultation with the project proponent and other Federal agencies and finalized at the conclusion of that process.

Fifth, DOE proposes to simplify the development of an administrative record by incorporating the IIP Process administrative file into a single docket that contains all the information assembled and utilized by the relevant Federal entities as the basis for Federal authorizations and related reviews. DOE and any NEPA co-lead agency will then maintain that docket. Access to, and restrictions of access to, the docket will be worked out at the time of project-specific implementation.

Sixth, DOE proposes to amend its regulations to provide that DOE will serve as the lead NEPA agency and that, in collaboration with any NEPA co-lead agency determined pursuant to procedures established by these regulations and the 2023 MOU and in coordination with the relevant Federal entities, DOE will prepare a single EIS to serve as the NEPA document for all required Federal authorizations. DOE recognizes that this proposal reflects a departure from the 2016 Rule. This proposed change is intended to establish a transparent and consistent NEPA process for the project proponent. Under current regulations, the lead agency is determined through consultation with relevant Federal entities and may not be known until the IIP Process close-out meeting. The proposed revisions would eliminate the uncertainty of that process, instead

ensuring that DOE will serve as the lead agency for every project alongside a co-lead, as appropriate. This change would provide consistency in the NEPA process for all projects under the CITAP Program. Moreover, as additional projects utilize the CITAP Program, DOE anticipates that it will be able to improve upon its NEPA processes, ultimately leading to greater efficiencies for both project proponents and Federal agencies.

Finally, DOE proposes to limit the scope of the CITAP Program to high voltage transmission projects that are expected to require preparation of an EIS. Accordingly, DOE proposes to amend its regulations to define “qualifying projects” as those with electric transmission lines of (generally though not necessarily) 230 kV and above. Further, DOE is proposing to revise its regulations for the application process in § 900.3 by which a project proponent may seek DOE assistance under these regulations for projects that do not meet the qualifying projects definition. DOE also proposes to clarify that, while “qualifying project” definition does not apply to marine lines, under the processes for accepting “other projects” summarized at § 900.3, these and other lines that are expected to require an EIS, may, with the agreement of the relevant Federal entities, participate in the CITAP Program.

### III. Section-by-Section Analysis

This proposed rule would revise 10 CFR part 900 in several respects. The following discussion explains the revisions using the section numbers from the proposed rule.

#### A. Section 900.1 Purpose and Scope

DOE proposes to revise § 900.1 to update the purpose of part 900, reference the establishment of the CITAP Program, and improve readability. These changes reflect DOE’s understanding that Congress intended DOE to make the process to obtain multiple Federal authorizations more efficient and reduce administrative delays, which requires clear authority, process, and timelines. The proposed changes in this section reflect DOE’s intent to carry out the full scope of the authority that Congress provided.

DOE is proposing to divide § 900.1 into proposed paragraphs (b) through (d). Portions of the text dealing with the IIP Process would be updated to clarify that the process will require submission of materials necessary for Federal authorizations and that the IIP Process should be initiated prior to the submission of any application for a

Federal authorization. The proposed changes also clarify that the IIP Process is integrated into the CITAP Program.

Proposed paragraph (a) would be added to establish the overarching CITAP Program and provide a roadmap to authorities and processes proposed to be added to part 900. The proposed paragraph would state that DOE will act as a lead agency for preparing an EIS for any qualifying project. Proposed paragraph (a), as well as proposed paragraph (d), would also point out DOE’s role in establishing and monitoring adherence to intermediate milestones and final deadlines, as required by section 216(h). Paragraph (d) also elaborates on the role DOE will play in determining when a project proponent may initiate section 106 consultation for an undertaking consistent with 36 CFR 800.2(c)(4).

DOE proposes to add paragraph (e) to clarify the intended relationship between the early coordination envisioned by the IIP Process and the duties prescribed by section 106 of the NHPA and the implementing regulations at 36 CFR part 800. In particular, DOE intends to clarify that nothing in the IIP Process is intended to abrogate the obligations of Federal agencies under 36 CFR part 800. Additionally, DOE intends to authorize a project proponent as an applicant to the CITAP Program to initiate section 106 consultation during that proponent’s involvement in the IIP Process.

DOE proposes to redesignate paragraphs (a) and (e) of current § 900.2 as new paragraphs (f) and (g) of this section because the paragraphs contain general propositions regarding part 900 and are better suited to the general “Purpose and scope” section.

Proposed paragraph (h) would be added to afford the Director of DOE’s Grid Deployment Office, or that person’s delegate, flexibility necessary to ensure that part 900 does not result in unnecessary, duplicative, or impracticable requirements. DOE proposes to authorize the Director to waive any such requirements. Further, this paragraph specifically contemplates a scenario in which a Federal entity is the principal project developer. Under such circumstances, DOE proposes that the Director will consider modifications to the requirements under this part as may be necessary under the circumstances.

#### B. Section 900.2 Definitions

DOE proposes to redesignate § 900.3 as § 900.2 for the purpose of providing the definitions of terms before those

terms occur in the body of the regulation. DOE proposes to:

- Add a definition for “authorization” to provide clarity in several places where that term occurs. Amend the definition for “Federal authorization” to account for the new definition of “authorization.”
- Add a definition for “communities of interest” to ensure broad coverage of potentially impacted populations during the public engagement process and establishment of the public engagement plan.
- Add a definition for “participating agencies” to serve as shorthand for the group of agencies that will serve various roles under the proposed amendments to the coordination of Federal authorizations.
- Add a definition of “NEPA co-lead agency” to identify where information about the designation of a NEPA co-lead agency occurs in the rule.
- Remove the term “OE-1,” meaning the Assistant Secretary for DOE’s Office of Electricity Delivery and Energy Reliability, and replace it with the definition for “Director,” meaning the Director of DOE’s Grid Deployment Office or that person’s delegate. Under section 1.14(D) of Delegation Order No. S1–DEL–S3–2023 and section 1.9(D) of Redesignation Order No. S3–DEL–GD1–2023 the Secretary of Energy delegated authority to exercise authority under section 216(h) to the Grid Deployment Office. That authority had previously been delegated to DOE’s Office of Electricity Delivery and Energy Reliability. The proposed text would make the same substitution throughout part 900 to reflect that delegation change.
- Revise the reference to the definition of “Indian Tribe” in the United States Code to the correct reference following the 2016 editorial reclassification. This proposed change does not amend the definition.
- Add the definitions for “relevant Federal entity” and “relevant non-Federal entity” using the substance of the definitions from “Federal entity” and “non-Federal entity,” respectively. These proposed changes are intended to show that the terms only mean Federal or non-Federal entities with some relation to a particular qualifying project. These changes would be updated throughout part 900.
- Revise the definitions for “regional mitigation approach” and “regional mitigation strategies or plans” as “landscape mitigation approach” and “landscape mitigation strategies or plans”, respectively, to reflect terminology in current use. The definition of “landscape mitigation

approach” is further revised to improve readability and promote consistency in terminology with other agencies.

- Revise the definition for “MOU signatory agency” to reflect the title of the 2023 MOU and the agencies to which it applies.
- Revise the definition for “qualifying project” in a number of ways. First, the proposed definition would remove the qualifier “non-marine” before high voltage transmission line and electric transmission line to match potential scope of the Program with that agreed to in the MOU. Second, the proposed definition would limit the term to projects that are expected to require preparation of an EIS because the Federal coordination will be most impactful for such projects due to their complexity. Third, the proposed revision would provide a mechanism under proposed § 900.3 by which a project that does not meet the definition of a qualifying project may still participate in the Program. This change is discussed in more detail in the following section. Fourth, in accordance with the 2023 MOU, DOE proposes to amend the definition to state that the term does not include any transmission facility authorized under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)). The exception to that restriction included in the 2023 MOU is provided for in the proposed changes to § 900.3 and discussed further in that following section. Also, in accordance with the 2023 MOU, the term excludes a transmission facility that would require a construction or modification permit from the Federal Energy Regulatory Commission (FERC) pursuant to section 216(b) of the FPA. Fifth and finally, the proposed definition would exclude projects located wholly within the Electric Reliability Council of Texas interconnection, as required by section 216(k) (16 U.S.C. 824p(k)). This exclusion is also located in § 900.2(c) of the current rule, but DOE proposes to replicate it in this proposed definition for clarity.
- Remove the definitions of “DOE”, “NEPA”, and “FPA” because those terms are acronyms best addressed in the regulatory text rather than as definitions.
- Remove the definitions for “early identification of project issues,” “IIP resources report”, “IIP process administrative file”, “lead 216(h) agency”, “MOU principals”, and “other projects” because those terms no longer occur in the proposed part 900.
- Remove the definition for “NEPA Lead Agency” because that term is self-

explanatory in the context in which it occurs.

### C. Section 900.3 Applicability to Other Projects

Section 900.2 of the current rule, titled “Applicability”, provides an application process by which a project proponent may seek DOE assistance under part 900 for an “other project.” Current § 900.3 defines an “other project” to be a transmission facility that does not meet the definition of “qualifying project”. The proposed rule would redesignate § 900.2 as § 900.3 and retain a mechanism by which projects that do not otherwise qualify as “qualifying projects” may be treated as such but would modify the text as follows.

Current § 900.2(b) would be reworded and divided into proposed § 900.3(a) through (c) to more clearly communicate the process by which a project proponent may request that a facility be approved as a qualifying project. In particular, the proposed rule would remove the definition of the term “other project” and instead include the substance of that term in paragraph (a) of the revised section.

DOE proposes to redesignate paragraphs (d) and (e) of current § 900.2 to proposed § 900.1 as new paragraphs (f) and (g), respectively, because those paragraphs contain general propositions regarding part 900 and are better suited to the general “Purpose and scope” section. Current paragraphs (g) and (h) would be relocated to proposed § 900.4 as paragraphs (e) and (f), respectively, because proposed § 900.4 provides a general background to the IIP Process, and the substance of those paragraphs is more relevant to the IIP Process than the rest of part 900.

The first sentence of current § 900.2(e) is proposed to be removed as unnecessary because part 900 does not purport to affect other Federal law requirements except in specific, articulated instances. Current paragraph (f), which describes the IIP process as a complementary process that does not supplant existing pre-application processes, is proposed to be removed because the proposed rule establishes the IIP Process as the mandatory precondition for coordination under section 216(h).

Whereas the current version of paragraph (d) provides that the section does not apply to a transmission facility that will require a construction or modification permit from FERC, the revised version would allow such projects to take advantage of part 900, provided that the FERC chair submits

the request to be included in the CITAP Program.

The proposed rule would add new paragraphs (e) and (f)(1) that allow a project proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act to receive coordination assistance under part 900, provided that the project is not proposed to be authorized in connection to a generation project and that all 2023 MOU signatories agree to the project's inclusion in the CITAP Program. These additions reflect the terms of the 2023 MOU.

Finally, current paragraph (c) is proposed to be moved to paragraph (f)(2) to improve the readability of the section.

#### D. Section 900.4 Purpose of IIP Process

Section 900.4 of the current rule states the purpose and structure of the IIP Process. The proposed rule would divide this section into proposed §§ 900.4, 900.5, 900.8, and 900.9 to improve readability. Section 900.4(a) of the current rule would remain in § 900.4 but would be further divided into proposed paragraphs (a), (b), and (c) to improve readability.

Additionally, while the current paragraph (a) describes the IIP Process as an optional process, the proposed § 900.4(b) would establish the IIP Process as a prerequisite for coordination, consistent with the statutory language and the proposed revisions to the purpose of part 900 in § 900.1.

The proposed rule would add a new paragraph (d) to clarify that the IIP Process does not preclude additional communications between the project proponent and relevant Federal entities outside of the meetings envisioned by the IIP Process. The paragraph further emphasizes that DOE intends for the IIP Process to be an iterative process and that each milestone in the process is designed to improve upon the materials that Federal entities have available for authorization and environmental review decisions.

As described previously, the proposed rule would redesignate § 900.2(g) and (h) as proposed § 900.4(e) and (f), respectively, because § 900.4 provides a general background to the IIP Process, and the substance of those paragraphs is more relevant to the IIP Process than the rest of part 900.

Paragraph (g) of the proposed § 900.4 would give authority to the Director to request additional information from a project proponent during the IIP Process to ensure that DOE can collect the information needed to adequately complete the IIP Process.

Finally, the proposed rule would add new paragraphs (h) and (i), which provide processes by which a person may submit confidential information during the IIP Process or to request designation of information containing Critical Electric Infrastructure Information (CEII). These provisions would establish the mechanisms through which the IIP Process complies with 10 CFR 1004.11 and 1004.13.

#### E. Section 900.5 Initiation of IIP Process

Proposed § 900.5 is composed of current § 900.4(b), (c), (e), (g), (h), (i), and (j). DOE proposes to revise these provisions to enumerate the documents and information required to initiate the IIP Process, expedite that process, ensure that community impacts from the project are identified early, and improve the overall readability and clarity of the provisions.

Currently, an initiation request to begin the IIP Process must include a summary of the qualifying project; a summary of affected environmental resources and impacts, including associated maps, geospatial information, and studies; and a summary of early identification of project issues. The proposed rule would make several changes to the contents of the request. First, DOE proposes to update the contents required in the summary of the qualifying project in proposed paragraph (b) to include project proponent details; identification of any environmental and engineering firms and subcontractors under contract to develop the qualifying project; and a list of anticipated relevant Federal and non-Federal entities to ensure sufficient information is provided for DOE to review and to include all necessary agencies in the process. DOE also proposes to require additional maps as part of the initiation request, as detailed in proposed paragraph (c). DOE believes the additional information in proposed paragraphs (b) and (c) are necessary to properly identify the relevant agencies for efficient coordination.

DOE also proposes to require submission of a project participation plan as part of the initiation request. This plan is proposed in place of the summary of early identification of project issues currently required under the rule. The project participation plan, as detailed in proposed paragraph (d), would include the project proponent's history of engagement and a public engagement plan for the project proponent's future engagement with communities of interest and with Indian Tribes that would be affected by a proposed qualifying project. The plan

would include specific information on the proponent's engagement with communities of interest and with Indian Tribes that would be affected by a proposed qualifying project. An updated public engagement plan would be required at the end of the IIP Process to reflect any activities during that process. The addition of a public engagement plan that includes communities of interest and Indian Tribes that could be affected by a proposed qualifying project, would ensure that the project proponent follows best practices around outreach. Moreover, by including this plan in the IIP Process, the proposed regulation would provide relevant Federal entities an opportunity to provide input into the project proponent's engagement efforts, and to ensure that the project proponent engages with all communities of interest and Indian Tribes that could be affected by the proposed qualifying project. The engagement would complement Tribal consultation and public engagement undertaken by the relevant Federal entities and would not substitute for Federal agencies engaging in Nation-to-Nation consultation with Indian Tribes and public engagement with stakeholders and communities of interest.

In new paragraph (e), DOE proposes to require submission of a statement regarding the project's status under Title 41 of the Fixing America's Surface Transportation Act (FAST-41) (42 U.S.C. 4370m *et seq.*) as part of the initiation request. This statement is intended to facilitate coordination between the IIP Process and the FAST-41 Process. Project proponents would be required to indicate whether their proposed project currently is a FAST-41 "covered project".

DOE proposes to add paragraph (f) to outline the timeline for DOE's review of the initiation request and provide relevant Federal entities and relevant non-Federal entities with a copy of the initiation request and notify each entity as to whether it should participate in the IIP Process and DOE's rationale for that determination. Under proposed paragraph (g), DOE would notify the project proponent and all relevant Federal entities and relevant non-Federal entities whether the initiation request meets the requirements of this section.

The proposed rule would remove the requirement to submit an affected environmental resources and impacts summary as part of the initiation request. As discussed in more detail in the next section, that summary would be replaced by thirteen resource reports

submitted after the IIP Process initial meeting.

This section also proposes changes to the timeline for convening the IIP Process initial meeting. Under the current rule, DOE is required to convene the initial meeting within 45 days of providing notice to the project proponent and the relevant Federal and non-Federal entities that it has received an IIP Process initiation request. The proposed rule would require DOE to convene the IIP Process initial meeting within 30 days of providing notice under proposed paragraph (g) that the initiation request meets the requirements of the section.

Likewise, the contents of the initial meeting would be updated. Under proposed § 900.5(h)(1), DOE and the relevant Federal entities would be required to discuss the IIP Process and requirements with the project proponent, and the different Federal authorization processes. This meeting would also include discussion of arrangements for the project proponent to contribute funds to DOE to cover costs in the IIP Process (in accordance with 42 U.S.C. 7278), establishment of cost recovery agreements or procedures in accordance with regulations of relevant Federal entities, where applicable, or the use of third-party contractors under DOE's supervision, where applicable. DOE believes an early discussion of the process and requirements will ensure efficient participation of the parties and early identification of potential issues.

Proposed § 900.5(h)(2) would require DOE to identify certain applications that need to be submitted to relevant Federal entities during the IIP Process (for example, Standard Form 299, which an applicant would file to seek authorization for transmission lines crossing Federal property). The timing of the expected Federal applications, including which applications may be required during the IIP Process and which should be submitted following the conclusion of the IIP Process, will be covered in the initial meeting.

Additionally, the current rule requires DOE to produce a final initial meeting summary within 30 days of receiving corrections to the draft summary. The proposed rule would reduce this timeframe to 15 days. Both changes are intended to expedite the IIP Process.

The proposed section in paragraph (l) requires DOE to add the final initial meeting summary to the consolidated administrative docket. This requirement was previously located in § 900.6 and is currently required under the proposed revision of that section, but is duplicated here for clarity.

Finally, portions of paragraph (j)(3)(v) are proposed to be removed as unnecessary because the contents are addressed elsewhere.

#### *F. Section 900.6 Project Proponent Resource Reports*

The proposed rule would require project proponents to develop, in collaboration with relevant Federal entities, thirteen resource reports that will serve as inputs, as appropriate, into the relevant Federal entities' own environmental analysis and authorization processes. This pre-application material would provide for earlier collection of critical information to inform the future application process relating to the proposed transmission line and facilities, including preliminary information to support DOE's and the relevant Federal entities' compliance with section 106 of the NHPA, the ESA, and NEPA. The thirteen resource reports are: General project description; Water use and quality; Fish, wildlife, and vegetation; Cultural resources; Socioeconomics; Geological resources; Soil resources; Land use, recreation, and aesthetics; Communities of interest; Air and noise quality; Alternatives; Reliability and safety; and Tribal interests.

DOE proposes to require project proponents develop these resource reports as part of the pre-application process instead of the affected environmental resources and impacts summary document required from project proponents under the existing rule at § 900.4(d). The proposed resource reports identify information needed to complete NEPA and other review and authorization requirements. However, the topics identified and the proposed reports do not limit the information relevant Federal entities may need, require from project proponents, or develop independently, as necessary to satisfy each relevant Federal entity's applicable statutory and regulatory obligations. Each resource report will comprehensively discuss the baseline conditions and anticipated impacts to resources relevant to DOE's required environmental review, namely under NEPA, ESA, and section 106 of the NHPA. NEPA requires Federal agencies to analyze and assess potential environmental effects of the proposed Federal agency action, and these effects can vary in significance and complexity. Accordingly, by giving each resource proper consideration in individualized reports, DOE anticipates it will be able to meet its requirements under the various environmental laws referenced previously. In addition, proper assessment of the resources potentially

affected by the proposed action can also help DOE identify resource conflicts, missing information, and needs from other agencies, and inform the project-specific schedule. These conflicts and needs can then be discussed and addressed during the review meeting and throughout the IIP Process.

These resource reports would be developed by project proponents during the IIP Process with input and feedback from the Federal and non-Federal entities involved in authorization decisions. As proposed, this procedure better matches the IIP Process with the project development and Federal review timelines. Under the proposed changes, a project proponent may initiate the IIP Process without detailed environmental resources information, but the detailed information required by this proposed section must be developed to complete the IIP Process. The more detailed pre-application information, presented in the resource reports, would allow project proponents and the relevant Federal entities to coordinate and identify issues prior to submission of applications for authorizations, inform project design, and expedite relevant Federal entities' environmental reviews by providing environmental information that relevant Federal entities can use after submission of applications to inform their own reviews and by ensuring those applications are complete.

DOE is particularly interested in seeking comment on these items in the proposed resource reports: (1) whether 0.25 mile distance of the proposed transmission project facilities is an adequate distance to: affected landowners, the National Wild and Scenic Rivers System (16 U.S.C. 1271), the National Wildlife Refuge system (16 U.S.C. 668dd-ee), the National Wilderness Preservation System (16 U.S.C. 1131), the National Trails System (16 U.S.C. 1241), the National Park System (54 U.S.C. 100101), National Historic Landmarks (NHLs), National Natural Landmarks (NNLs), Land and Water Conservation Fund (LWCF) acquired Federal lands, LWCF State Assistance Program sites and the Federal Lands to Parks (FLP) program lands, or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132); or the National Marine Sanctuary System, including national marine sanctuaries (16 U.S.C. 1431 *et seq.*) and Marine National Monuments as designated under authority by the Antiquities Act (54 U.S.C. 320301-320303) or by Congress; (2) whether any other distances listed in the regulations are appropriate; and (3) whether the page limits identified in the regulations



is appropriate; (4) whether the duplicative aspects of the resource reports should be rectified; and (5) whether further revisions are needed to proposed § 900.6(m)(8).

As discussed in the following sections, the proposed rule would provide for additional opportunity for project proponents, DOE, relevant Federal entities, and relevant non-Federal entities to communicate regarding the potential impacts of a proposed project.

#### *G. Section 900.7 Standard and Project-Specific Schedules*

Section 216(h) directs DOE to “establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.” 16 U.S.C. 824p(h)(4)(A). DOE proposes to amend how it will carry out that obligation. Specifically, in paragraph (a), the proposed rule describes the “standard schedule,” which DOE will publish as guidance and update from time to time. The standard schedule is not project specific. Rather, DOE proposes that it will describe, as a general matter, the steps necessary to review applications for Federal authorizations, and the related environmental reviews necessary to site qualifying projects. DOE proposes that this schedule will contemplate that authorizations and related environmental reviews be completed within two years.

Paragraph (b) describes the project-specific schedule. As discussed further, DOE proposes to develop this schedule with the NEPA co-lead agency and the relevant Federal entities on a per-project basis during the IIP Process. This schedule would provide the “binding intermediate milestones and ultimate deadlines” required by section 216(h). This proposed provision is intended to specify the considerations that DOE will incorporate into its determination of the appropriate project-specific schedule including co-lead and other agency-specific regulations and schedules. Section 216(h)(4)(B) requires DOE to set a project-specific schedule under which all Federal authorizations may be completed within one year of the filing of a complete application unless other requirements of Federal law require a longer schedule. DOE intends to determine the project-specific schedule based on the considerations specified in proposed paragraph (b).

#### *H. Section 900.8 IIP Process Review Meeting*

The proposed rule would amend the IIP Process to ensure that DOE and the

Federal and non-Federal entities involved have meaningful opportunities to identify issues of concern prior to the project proponent’s submission of applications for authorizations. In addition to the initial and close-out meetings included in the current text of part 900, the proposed rule would establish an IIP Process review meeting, to be held at the request of the project proponent following initial submission of the requisite thirteen resource reports. In addition, DOE proposes to require that a project proponent requesting the review meeting also update DOE on the status of the project public engagement, and provide updated environmental information.

As proposed, the IIP Process review meeting would ensure that DOE and the relevant Federal and non-Federal entities involved have meaningful opportunities to identify issues of concern prior to the close of the IIP Process and submission of applications for Federal authorizations. To this end, DOE proposes in paragraph (e) that at the review meeting the relevant Federal entities should discuss any remaining issues of concern, information gaps, data needs, potential issues or conflicts, statutory and regulatory standards, and expectations for complete applications for Federal authorizations. Additionally, DOE proposes that the meeting participants would provide updates on the siting process, including stakeholder outreach and input. To facilitate these discussions, DOE proposes in paragraph (a) that a project proponent should submit a request for the review meeting containing helpful documents and information such as a summary table of changes made to the project since the initial meeting, maps of proposed routes within study corridors, a conceptual plan for implementation and monitoring of mitigation measures, and an updated public engagement plan.

Additionally, the proposed IIP Process review meeting would provide an opportunity for DOE and the relevant Federal and non-Federal entities to review the detailed resource reports prepared pursuant to § 900.6. Therefore, DOE proposes in paragraph (a) that the review meeting would only be held after submission of the reports. As proposed at § 900.8(e)(8), during the IIP Process review meeting DOE and the relevant Federal and non-Federal entities would identify any updates to the information included in those reports that the project proponent must make before the conclusion of the IIP Process. Finally, proposed § 900.8(i) would require the project proponent to revise resource reports based on feedback received during the meeting. DOE believes that

identifying and addressing issues in the reports during the IIP Process instead of at the end of that process would expedite DOE’s preparation of an EIS and increase the likelihood of readiness of the project proponent’s application(s) for Federal authorization(s).

Furthermore, the IIP Process review meeting would integrate DOE’s statutory schedule-setting function discussed in the previous section into the IIP Process. For this purpose, DOE proposes that the review meeting request under proposed paragraph (a) should include a schedule for completing upcoming field resource surveys, if known, and estimated dates that the project proponent will file requests for Federal and non-Federal authorizations and consultations. These resources will assist DOE in preparing the proposed project-specific schedule, which DOE would be required to present at the review meeting under proposed § 900.8(e)(9). At the meeting, the relevant Federal entities would discuss the process for, and estimated time to complete, required Federal authorizations. These discussions along with other matters discussed at the review meeting would, in turn, allow DOE to continue refining the project-specific schedule.

DOE proposes in paragraph (b) that within 15 days of receiving the review meeting request, DOE must provide relevant Federal entities and relevant non-Federal entities with materials included in the request and resource reports submitted under proposed § 900.6. In paragraph (c), DOE proposes a 60-day period to review the request for sufficiency and provide notice to the proponent and relevant Federal and non-Federal agencies. Furthermore, DOE proposes in paragraph (d) to convene the review meeting within 30 days of providing notice that the request has been accepted. These timelines will ensure that the IIP Process is pursued expeditiously while affording the relevant Federal entities sufficient time to review the relevant materials. The requirement to share the review meeting request and resources reports in paragraph (b) would ensure that all entities participating in the meeting have access to the materials being discussed at the meeting.

DOE proposes in paragraphs (e), (f), and (g) that the IIP Process review meeting would conclude with a draft and, subsequently, a final review meeting summary, to be prepared by DOE. This summary would be included in the consolidated administrative docket described by § 900.10. It would serve as a docket of the issues identified by the parties to the review meeting, and to ensure that the project

proponent, the relevant Federal and non-Federal entities, and DOE, have a shared understanding of the work remaining to be done during the IIP Process.

DOE proposes in paragraph (h) to include a mechanism by which it may determine whether the project proponent has developed the scope of its proposed project and alternatives sufficiently for DOE to determine that there exists an undertaking with the potential to affect historic properties for purposes of section 106 of the NHPA. If DOE so determines, DOE would initiate its section 106 review of the undertaking and authorize project proponents as CITAP Program applicants to initiate consultation with SHPOs, THPOs, and others consistent with 36 CFR 800.2(c)(4). This provision is intended to allow initiation of section 106 consultation during the IIP Process, prior to submission of applications for authorizations, but with sufficient opportunity for the project proponent, the relevant Federal entities, and DOE, to determine the scope of the proposed project.

#### *I. Section 900.9 IIP Process Close-Out Meeting*

The proposed rule also would amend the close-out meeting provisions of the current rule at § 900.4(k) and (l). As in the current rule, DOE proposes that the IIP Process would conclude with the close-out meeting. The proposed rule would require submission of a close-out meeting request to specify the modifications to the project since the review meeting. However, while the current rule states that the request may be submitted no less than 45 days after the initial meeting, DOE proposes to remove that requirement because changes to the IIP Process in the proposed rule no longer allow for a request to be submitted within that timeframe.

DOE proposes to pare down the request by removing paragraphs (k)(3), (5), (8), and (9). The information required under those paragraphs would be submitted with the review meeting request under proposed § 900.8(a). Likewise, DOE proposes to remove paragraphs (k)(4), (6), and (7) because the information required under those paragraphs would be submitted in the resources reports under proposed § 900.6. Finally, paragraph (k)(1) is proposed to be removed because the submission of close-out meeting request materials is presumed to indicate that a close-out meeting is being requested.

However, DOE also proposes that new materials be included with the request for the purpose of updating meeting

participants on changes to the project. Paragraphs (a)(2) and (3) would require a description of all changes made to the qualifying project since the review meeting and a final public engagement plan. In paragraph (a)(4) DOE proposes the project proponent provide the requests for Federal authorizations for the qualifying project. These are proposed to be included in the close-out meeting request to ensure that the project proponent is ready to begin the Federal authorization process.

DOE proposes to revise the timelines for requesting and convening a close-out meeting. In current paragraphs (a)(1) through (3), DOE has 30 days to respond to a close-out meeting request and 60 days from the date of providing a response to convene the close-out meeting. DOE proposes in paragraph (b) that within 15 days of receiving the request, DOE must provide relevant Federal entities and relevant non-Federal entities with materials included in the request and any updated resource reports submitted under § 900.6. Proposed paragraph (c) provides that DOE has 60 days to review the request for sufficiency and notify the project proponent and all relevant Federal and non-Federal entities of DOE's decision. Under proposed paragraph (d), DOE would convene the close-out meeting within 30 days of notifying the project proponent that the request has been accepted. These new timelines will ensure that the IIP Process is pursued expeditiously. Furthermore, the requirement to share the close-out meeting request materials in paragraph (b) would ensure that all entities participating in the meeting have access to the materials being discussed at the meeting.

DOE proposes that the substance of the close-out meeting will no longer include a description of remaining issues of concern, information gaps, data needs, and potential issues or conflicts that could impact the time it will take relevant Federal entities to process applications for Federal authorizations. That information is proposed to be covered at the review meeting under § 900.8(d). Likewise, DOE proposes to eliminate paragraphs (l)(3)(ii) through (v) because that information is now required to be discussed at the review meeting. DOE proposes in paragraph (e) that DOE will present the final project-specific schedule at the meeting, in keeping with DOE's statutory schedule-setting function discussed previously. As explained previously, the project-specific schedule will include the intermediate milestones and final deadlines for review of the project

proponent's application and related environmental reviews.

DOE proposes to remove the portion of paragraph (l) of the current regulation which states that "The IIP Process Close-Out Meeting will also result in the identification of a potential NEPA Lead Agency pursuant to § 900.6 described." DOE proposes to select the NEPA co-lead agency earlier in the IIP Process to allow for sufficient coordination.

DOE proposes to remove paragraph (l)(3)(vi) because the information covered by the Final IIP Resources Report is proposed to be covered by the thirteen resources reports. Additionally, DOE proposes to remove paragraph (l)(3)(vii), which encourages agencies to use the Final IIP Resources Report to inform the NEPA Process. Instead, DOE proposes at § 900.12(f) to require all relevant Federal entities to use the EIS as the basis for Federal authorization decisions. That requirement is discussed in more detail below.

DOE proposes to remove paragraph (l)(3)(viii), which requires relevant Federal entities to identify a preliminary schedule for authorizations for the proposed qualifying project, because DOE now proposes to set a project-specific schedule for all relevant Federal entities in consultation with such entities.

DOE proposes in paragraphs (f) through (h) that the IIP Process close-out meeting would conclude with a draft and, subsequently a final close-out meeting summary, to be prepared by DOE. This summary would be included in the administrative docket. It would serve as a docket of the issues identified by the parties to the close-out meeting, and ensure that the project proponent, the relevant Federal and non-Federal entities, and DOE, have a shared understanding of the conclusion of the IIP Process.

In paragraph (h)(4), in accordance with the 2023 MOU, DOE proposes to notify the Federal Permitting Improvement Steering Council (FPISC) Executive Director that the project should be included on the FPISC Dashboard as a transparency project if the project is not identified as a covered project pursuant to § 900.5(e).

Finally, in paragraph (i), DOE proposes that DOE and the NEPA co-lead agency shall issue a notice of intent to publish an EIS in accordance with the final project-specific schedule.

#### *J. Section 900.10 Consolidated Administrative Docket*

Current § 900.6 requires DOE to maintain an IIP Process Administrative File with all relevant documents and communications between the project

proponent and the agencies and encourages agencies to work with DOE to create a single record. To better integrate and coordinate Federal authorizations, the new section proposes to dispense with the IIP Process Administrative File and combine all documents that were previously included in that file along with all information assembled by relevant Federal entities for authorizations and reviews after completion of the IIP Process into a single, consolidated administrative docket.

To this end, the proposed § 900.10 expands current paragraph (b) as a new paragraph (a) to articulate more clearly the information that should be included in the docket, including requests made during the IIP Process, IIP Process meeting summaries, resources reports, and the final project-specific schedule. The sentence in current paragraph (b) regarding the Freedom of Information Act is proposed to be removed because that law applies to requests for information from the public on its own terms.

Current paragraph (b) also requires DOE to share the IIP Process Administrative File with the co-lead NEPA agency. However, proposed paragraph (c) would require DOE to make the consolidated administrative docket available to both the NEPA co-lead agency and any Federal or non-Federal entity that will issue an authorization for the project. This change is proposed to ensure that other entities are able to use the docket for their own authorizations. Consequently, the proposed rule also proposes to remove current paragraph (d), which says that Federal entities are strongly encouraged to maintain information developed during the IIP Process.

The proposed rule would also add a new paragraph (d) providing notice that, as necessary and appropriate, DOE may require a project proponent to contract with a qualified docket-management consultant to assist DOE and the NEPA co-lead agency in compiling and maintaining the administrative docket. Such a contractor may assist DOE and the relevant Federal entities in maintaining a comprehensive and readily accessible docket. DOE is also proposing that any such contractor shall operate at the direction of DOE, and that DOE shall retain responsibility and authority over the content of the docket to ensure the integrity and completeness of the docket.

Finally, the proposed rule relocates paragraph (a) of the current rule to paragraph (b) for organizational purposes.

#### *K. Section 900.11 NEPA Lead Agency and Selection of NEPA Co-Lead Agency*

Under the proposed rule, DOE would serve in the NEPA lead agency role contemplated in section 216(h) except where a co-lead is designated.

Under the current § 900.5, DOE coordinates the selection of a NEPA lead agency in compliance with NEPA, CEQ implementing regulations at 40 CFR part 1500, and each agency's respective NEPA implementing regulations and procedures. Paragraphs (a) through (d) of the current section govern the selection of a NEPA lead agency for projects that cross lands administered by both the Department of Interior (DOI) and the Department of Agriculture (USDA).

The proposed rule proposes to redesignate current § 900.5 to new § 900.11 and proposes to update this section to reflect that DOE, in accordance with section 216(h)(5)(A) and the 2023 MOU, will serve as lead agency for purposes of NEPA along with any NEPA co-lead agency as designated pursuant to the MOU and § 900.11 consistent with its obligation as lead agency to coordinate with relevant Federal entities.

In the 2023 MOU, the MOU signatory agencies agreed to a process by which a NEPA co-lead agency could be designated. Under that process, DOE and the agency with the most significant interest in the management of Federal lands or waters that would be traversed or affected by the qualifying project would serve as lead agencies jointly responsible for preparing an EIS under NEPA. Proposed § 900.11(b) reflects that agreed-upon process.

The proposed amendments also provide that, for projects that would traverse both USDA and DOI lands, DOE will request that USDA and DOI determine the appropriate NEPA co-lead agency.

#### *L. Section 900.12 Environmental Review*

Consistent with DOE's proposed role as lead agency, a new § 900.12 proposes to define DOE's responsibilities as lead agency for environmental reviews and the NEPA process, including by preparing a single EIS designed to serve the needs of all relevant Federal entities. In paragraph (a) of this section, the proposed rule would clarify that DOE will begin preparing an EIS following the conclusion of the IIP Process and after receipt of a relevant application. It also notes that DOE will do so in conjunction with any NEPA co-lead agency selected under § 900.11.

The other provisions of this proposed section specify details of DOE's—and

any NEPA co-lead agency's—role as lead NEPA agency, including to arrange for contractors, publish completed documents, and identify the full scope of alternatives for analysis. As proposed, the applicable permitting agencies would maintain responsibility for identifying information, analysis, and alternatives necessary for their respective authorizations.

Consistent with section 216(h)(5)(A), which requires that DOE's EIS serve as “the basis for all decisions on the project under Federal law,” proposed paragraph (f) would establish that the relevant Federal agencies will use the EIS as the basis for their respective decisions.

Finally, proposed paragraph (g) would specify that DOE and the applicable permitting agency or agencies will serve as co-lead agencies for purposes of consultation under the ESA and compliance with the NHPA. This provision would allow DOE to meet its obligation under section 216(h)(2) to coordinate “all . . . related environmental reviews of the facility.”

#### *M. Section 900.13 Severability*

Proposed § 900.13 would provide that the provisions of the proposed rule are separate and severable from one another, and that if any provision is stayed or determined to be invalid by a court of competent jurisdiction, the remaining provisions shall continue in effect. This standard severability clause is intended to clearly express the Department's intent that should a provision be stayed or invalidated the remaining provisions shall continue in effect. The Department has carefully considered the requirements of the proposed rule, both individually and in their totality, including their potential costs and benefits to project proponents. In the event a court were to stay or invalidate one or more provisions of this rule as finalized, the Department would want the remaining portions of the rule as finalized to remain in full force and legal effect.

## **IV. Regulatory Review**

### *A. Review Under Executive Orders 12866, 13563, and 14094*

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, “Modernizing Regulatory Review,” 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only

upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action constitutes a “significant regulatory action” within the scope of E.O. 12866. Accordingly, this action is subject to review under E.O. 12866 by OIRA of the Office of Management and Budget (OMB).

Section 6(a) of E.O. 12866 requires an agency issuing a “significant regulatory action” to provide an assessment of the potential costs and benefits of the regulatory action. To that end, DOE has further assessed the qualitative and quantitative costs and benefits of this NOPR.

The societal costs of the action are the direct costs incurred by project proponents during the IIP Process. DOE discussed in the previous sections that most of the information required to be submitted during the IIP Process would likely be required absent this proposal and therefore the investment of time

and resources required by this proposed process are unlikely to be an additional burden on respondents. However, the full costs are considered in this analysis for transparency. These costs of \$399,083 per year are detailed in the Paperwork Reduction Act burden analysis. The table below captures the 10-year and 20-year net present value (NPV) of those annual costs under two discount rates (3% and 7%), assuming annual cost increases of 2%.<sup>11</sup>

CITAP PROGRAM NPV COST ESTIMATES

Discount rate	3%	7%
10-year NPV .....	\$3,783,815.40	\$3,096,337.74
20-year NPV .....	7,215,911.27	5,015,060.67

The benefits of the CITAP Program, designed to reduce the Federal authorization timelines for interstate electric transmission facilities and enable more rapid deployment of transmission infrastructure, include direct benefits to the project proponents in decreased time and expenditure on authorizations and a series of indirect social benefits. DOE seeks comment on how much time or expense could be saved by the procedures in the proposed rule.

Increasing the current pace of transmission infrastructure deployment will generate benefits to the public in multiple ways that can be categorized into grid operations, system planning, and non-market benefits. Grid operation benefits include a reduction in the congestion costs for generating and delivering energy; mitigation of weather and variable generation uncertainty enhanced diversity of supply, which increases market competition and reduces the need for regional backup power options; and increased market liquidity and competition.<sup>12</sup> From a system planning standpoint, accelerated transmission investments will allow the development of new, low cost power plants in areas of high congestion which might not otherwise see investment due to capacity constraints, and additional grid hardening or resilience. Finally, non-market benefits to the public include reduced costs for meeting public policy goals related to emissions

and equitable energy access, as well as emissions reductions system wide.<sup>13</sup>

The DOE Grid Deployment Office released a draft of the 2023 National Transmission Needs Study (Needs Study), which identified significant need for the expansion of electric transmission across the contiguous United States.<sup>14</sup> This draft Needs Study and 2022 interconnection queue analysis by Berkeley Lab support DOE’s analysis that the CITAP Program will provide substantial benefits by reducing authorization timelines for transmission projects and increasing the speed of transmission development and clean energy integration.<sup>15</sup>

The quantitative benefits of the CITAP Program will ultimately depend on the projects that are designed and developed by project proponents. However, the quantifiable benefits of transmission development can be estimated generally. These quantifiable benefits are the result of reductions in transmission congestion costs and avoided emissions from the increased use of clean energy enabled by additional transmission.

A 2023 analysis of transmission congestion costs by a consulting group found that congestion costs have risen from an average of \$7.1 billion between 2016 and 2021 to \$20.8 billion in 2022.<sup>16</sup> A 2022 study by Lawrence Berkeley National Lab found that between 2012 and 2021, a 1000 megawatts (MW) interregional transmission line could have provided \$20 to \$670 million dollars per year in value by providing congestion relief, which would have lowered energy costs to consumers.<sup>17</sup> Forward-looking projections for transmission value along these parameters are not available, and DOE is reluctant to project the complex changes to technical operations and market dynamics given the wide range in projected value. However, DOE notes that it has estimated that the CITAP Program will serve three projects a year that are each roughly equivalent to a 1000 MW line, an increase in the average number of these transmission projects authorized by a Federal agency

<sup>13</sup> *Id.*

<sup>14</sup> DOE, National Transmission Needs Study (Feb. 2023), available at: <https://www.energy.gov/sites/default/files/2023-02/022423-DRAFTNeedsStudyforPublicComment.pdf>.

<sup>15</sup> Berkeley Lab, *Queued up: Characteristics of power plants seeking transmission interconnection* (2023), Electricity Markets and Policy Group. Available at: <https://emp.lbl.gov/queues>.

<sup>16</sup> (2023) *Transmission congestion costs rise again in U.S. RTOS*, 1. Available at: [https://gridstrategiesllc.com/wp-content/uploads/2023/07/GS\\_Transmission-Congestion-Costs-in-the-U.S.-RTOS1.pdf](https://gridstrategiesllc.com/wp-content/uploads/2023/07/GS_Transmission-Congestion-Costs-in-the-U.S.-RTOS1.pdf).

<sup>17</sup> Millstein, *et al.*, 2022, 15.

<sup>11</sup> NPV analysis uses a 2% annual inflation, informed by the Federal Reserve Economic Data 10-year and 30-year Inflation Expectations and 5-year Forward Inflation Expectation.

<sup>12</sup> Millstein, A. *et al.* (2022) *Empirical estimates of transmission value using locational marginal prices*, *Empirical Estimates of Transmission Value using Locational Marginal Prices | Electricity Markets and Policy Group*, 6. Available at: <https://emp.lbl.gov/publications/empirical-estimates-transmission>.

in the past 17 years. With decreased authorization times after the CITAP Program is initialized, the additional capacity enabled by this proposed action would likely provide substantial congestion relief, consistent with the studies cited above.

A key driver of transmission congestion costs is that the growth of low-cost renewable energy projects is outpacing the rate of transmission expansion. Inadequate transmission capacity can lead to curtailment of available renewable energy in favor of thermal generators, which increases costs to consumers due to fuel prices and increases emissions.<sup>18 19</sup> A recent projection found that transmission capacity must expand by 2.3% annually to realize the full benefits of the clean energy investments in the IRA. However, in the last decade, transmission capacity has only increased an average of 1% per year.<sup>20</sup> The modeling projects that increasing the rate of transmission capacity expansion by even just 50% (1% to 1.5% annually) would significantly reduce emissions by enabling more clean energy on the grid, estimating nearly 600 million tons of avoided emissions (CO<sub>2</sub> equivalent) in 2030 alone.<sup>21</sup> An annual 1.5% increase in transmission capacity is estimated to add 7,000 MW to the grid in 2030 and provide an estimated \$53.4 billion in societal benefits from avoided emissions that year, using a \$89/ton social cost of carbon.<sup>22</sup> DOE estimates that the CITAP

Program will increase the number of high capacity projects seeking Federal authorizations, providing a portion of projected avoided emissions benefits through increased transmission capacity. These benefits would continue to grow in the following years as transmission capacity is increased.

While these estimates of quantitative benefits are necessarily approximate, the benefits of the CITAP Program to the public far offset the costs to project proponents. By enabling rapid development of enhanced transmission capacity, the CITAP Program will help increase access to a diversity of generation sources, offset transmission congestion and carbon costs, and deliver reliable, affordable power that future consumers will need when and where they need it.

#### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a general notice of proposed rulemaking is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (*see* 68 FR 7990). DOE has made its procedures and policies available on the Office of the General Counsel’s website ([www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel)).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth.

DOE expects that the provisions of this proposed rule, if adopted, would not affect the substantive interests of such project proponents, including any project proponents that are small entities. DOE expects actions taken under the provisions to coordinate information and agency communication before applications for Federal authorizations are submitted to Federal agencies for review and consideration

would help reduce application review and decision-making timelines. Ensuring that all project proponents avail themselves of the benefits of the IIP Process will result in a clear, non-duplicative, process. Participation in the CITAP Program is optional. Thus, proposing to make the IIP Process a condition of the Program does not prevent project proponents from submitting application outside of the Program. DOE, however, encourages project proponents to take advantage of the Program based on the urgency and a consensus among 2023 MOU signatories of the anticipated benefits the Program will provide.

Furthermore, these changes are procedural and apply only to project proponents that develop electric transmission infrastructure. Historically, entities that develop transmission infrastructure are larger entities. Therefore, these procedures are unlikely to directly affect small businesses or other small entities. For these reasons, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this proposed rulemaking. DOE’s certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

#### *C. Review Under the Paperwork Reduction Act of 1995*

The proposed rule contains information collection requirements subject to review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and the procedures implementing that Act (5 CFR 1320.1 through 1320.18). The request to approve and revise this collection requirement has been submitted to OMB for approval. The proposed amendments are intended to improve the pre-application procedures and result in more efficient processing of applications.

This proposed rule would modify certain reporting and recordkeeping requirements included in OMB Control No. 1910–5185 which is an ongoing collection. The proposed revisions to DOE’s regulations associated with the OMB Control No. 1910–5185 information collection are intended to ensure that DOE may carry out its statutory obligations under section 216(h) of the FPA.

Information supplied will be used to support an initiation request necessary to begin DOE’s IIP Process. The proposed revisions include a project

<sup>18</sup> Howland, E. (2023) *US grid congestion costs jumped 56% to \$20.8B in 2022: Report, Utility Dive*. Available at: <https://www.utilitydive.com/news/grid-congestion-costs-transmission-gets-grid-strategies-report/687309/>  
#:~:text=Costs%20to%20consumers%20from%20congestion%20on%20the%20U.S.,report%20released%20Thursday%20by%20consulting%20firm%20Grid%20Strategies.

<sup>19</sup> *Nationwide transmission congestion costs rise to \$20.8 billion in 2022 (2023)*. Advanced Power Alliance. Available at: <https://poweralliance.org/2023/07/13/nationwide-transmission-congestion-costs-rise-to-20-8-billion-in-2022/>  
#:~:text=By%20extrapolating%20data%20from%20Independent%20Market%20Monitor%20reports,congestion%20costs%20reached%20%2420.8%20billion%20nationwide%20last%20year.

<sup>20</sup> Jenkins, J.D. et al. (2022) *Electricity transmission is key to unlock the full potential of the Inflation Reduction Act*, Zenodo. Available at: <https://zenodo.org/record/7106176#~:text=Previously%2C%20REPEAT%20Project%20estimated%20that%20IRA%20could%20cut,from%20electric%20vehicles%2C%20heat%20pumps%2C%20and%20other%20electrification>.

<sup>21</sup> *Id.*

<sup>22</sup> *Technical support document: Social cost of carbon, methane, (2021)* whitehouse.gov, 5. Available at: <https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocumentSocialCostofCarbonMethaneNitrousOxide.pdf>.

proponent provide: (1) additional maps and information for the summary of qualifying project; (2) a project participation plan; and (3) a statement regarding whether the project is a FAST-41 covered project. Additional information collection required includes thirteen resource reports describing the project and its impacts to allow DOE to complete a single EIS as part of the IIP Process. Those reports are: General project description; Water use and

quality; Fish, wildlife, and vegetation; Cultural resources; Socioeconomics; Geological resources; Soil resources; Land use, recreation, and aesthetics; Communities of interest; Air and noise quality; Alternatives; Reliability and safety; and Tribal interests. Additionally, during the review and close-out meetings, project proponents will provide updates to project documents and the project schedule.

The proposed revisions would represent an increase in information collection requirements and burden for OMB No. 1910-5185.

The estimated burden and cost for the requirements contained in this NOPR follow.

Each entry indicates the time estimated for a meeting or the time estimated for the respondent to prepare the report or request.

ESTIMATE OF ANNUAL RESPONDENT REPORTING AND RECORDKEEPING BURDEN AND COST

Form No./title (and/or other collection instrument name)	Estimated number of respondents	Estimated number of total responses *	Estimated number of burden hours per response	Estimated burden hours (total responses × number of hours per response)	Estimated reporting and recordkeeping cost burden **
<b>Current Rule Estimate of Annual Respondent Reporting and Recordkeeping Burden and Cost</b>					
Section 900.2 .....	5	5	1	5	\$ 283
Section 900.4 .....	5	10	5	50	2,830
<b>Total</b> .....		15		55	3,113

<b>Proposed Rule Estimate of Annual Respondent Reporting and Recordkeeping Burden and Cost</b>					
Initiation Request .....	3	3	30	90	5,855
Initial Meeting .....	3	3	2	6	390
Resource Report 1: General project description .....	3	3	96	288	18,734
Resource Report 2: Water use and quality .....	3	3	125	375	24,394
Resource Report 3: Fish, wildlife, and vegetation .....	3	3	200	600	39,030
Resource Report 4: Cultural resources .....	3	3	200	600	39,030
Resource Report 5: Socioeconomics .....	3	3	160	480	31,224
Resource Report 6: Geological resources .....	3	3	160	480	31,224
Resource Report 7: Soil resources .....	3	3	200	600	39,030
Resource Report 8: Land use, Recreation and aesthetics .....	3	3	220	660	42,933
Resource Report 9: Communities of interest .....	3	3	96	288	18,734
Resource Report 10: Air and noise quality .....	3	3	220	660	42,933
Resource Report 11: Alternatives .....	3	3	160	480	31,224
Resource Report 12: Reliability and safety .....	3	3	100	300	19,515
Resource Report 13: Tribal interests .....	3	3	160	480	31,224
Review Meeting Request .....	3	3	1	3	195
Review Meeting .....	3	3	2	6	390
Close-Out Meeting Request .....	3	3	1	3	195
Close-Out Meeting .....	3	3	1	3	195
<b>Total</b> .....	3	3	2,134	6,402	416,451

\* One response per respondent.

\*\* estimated cost based on median hourly wage for a project manager from <https://www.bls.gov/oes/current/oes131111.htm> (\$45.81/hr) and fully burdened scaling factor from [https://www.bls.gov/regions/southwest/news-release/employercostsforemployeecompensation\\_regions.htm](https://www.bls.gov/regions/southwest/news-release/employercostsforemployeecompensation_regions.htm) (1.42).

DOE recognizes that some of the above estimates for the information collection activities proposed are new. Therefore, DOE seeks comment on the burden and costs associated with the requirements contained in this proposed rule.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless

that collection of information displays a currently valid OMB Control Number.

*D. Review Under the National Environmental Policy Act of 1969*

DOE has analyzed this proposed rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this proposed rule is covered under the categorical exclusion located at 10 CFR part 1021, subpart D, appendix A, Categorical Exclusion A5 because the proposed rule would revise existing

regulations at 10 CFR part 900. The changes would affect the process for the consideration of future proposals for electricity transmission, and potential environmental impacts associated with any particular proposal would be analyzed pursuant to NEPA and other applicable requirements. DOE has considered whether this action would result in extraordinary circumstances that would warrant preparation of an Environmental Assessment or EIS and has determined that no such extraordinary circumstances exist.

Therefore, DOE has determined that this proposed rulemaking does not require an Environmental Assessment or an EIS.

#### *E. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of E.O. 12988 specifically requires that agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; (6) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

#### *F. Review Under Executive Order 13132*

E.O. 13132, “Federalism”, 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of

policy describing the intergovernmental consultation process it will follow in the development of such regulations (see 65 FR 13735). DOE has examined this document and has tentatively determined that the proposed rule would not preempt State law and would not have a substantial direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. No further action is required by E.O. 13132.

#### *G. Review Under Executive Order 13175*

Under E.O. 13175, “Consultation and Coordination with Indian Tribal Governments,” 65 FR 67249 (Nov. 6, 2000), DOE may not issue a discretionary rule that has Tribal implications or that imposes substantial direct compliance costs on Indian Tribal governments unless DOE provides funds necessary to pay the costs of the Tribal governments or consults with Tribal officials before promulgating the rule. The proposed rule aims to improve the coordination of Federal authorizations for proposed interstate electric transmission facilities pursuant to the FPA. Specifically, the proposed amendments are intended to refine the pre-application procedures and result in more efficient processing of applications. As a result, the proposed amendments in this document would not have substantial direct effects on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal laws. Accordingly, the funding and consultation requirements of E.O. 13175 do not apply, and a Tribal summary impact statement is not required.

DOE invites Indian Tribal governments to provide comments on the costs and effects that this proposed rule could potentially have on Tribal communities.

#### *H. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and Tribal governments, and the private sector. (Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531)) For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency

to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant Federal intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (see 62 FR 12820) (this policy is also available at: [www.energy.gov/gc/guidance-opinions](http://www.energy.gov/gc/guidance-opinions)). DOE examined the proposed rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

#### *I. Review Under Executive Order 12630*

DOE has determined, under E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

#### *J. Review Under Executive Order 13211*

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) is a significant regulatory action under E.O. 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the

action and their expected benefits on energy supply, distribution, and use. This proposed rule is intended to improve the pre-application procedures for certain transmission projects, and therefore result in the more efficient processing of applications, and thus this proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### *K. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *L. Review Under the Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002).

DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### **V. Public Participation—Submission of Comments**

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested individuals are invited to participate in this proceeding by submitting data, views, or arguments with respect to the specific sections addressed in this proposed rule using the methods described in the **ADDRESSES** section at the beginning of this document.

1. *Submitting comments via www.regulations.gov.* The *www.regulations.gov* web page will require you to provide your name and

contact information. Your contact information will be viewable by DOE Grid Deployment Office staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment. However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through *www.regulations.gov* will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

2. *Submitting comments via email or mail.* Comments and documents submitted via email or mail will also be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

3. *Confidential Business Information.* Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data he or she believes to be confidential and exempt by law from public disclosure should submit two well-marked copies: One copy of the document marked “CONFIDENTIAL” including all the information believed to be confidential, and one copy of the document marked “NON-CONFIDENTIAL” with the information believed to be confidential deleted. Submit these documents via email to *CITAP@hq.doe.gov*. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

4. *Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

#### **VI. Approval by the Office of the Secretary of Energy**

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

#### **List of Subjects in 10 CFR Part 900**

Electric power, Electric utilities, Energy, Reporting and recordkeeping requirements.

#### **Signing Authority**

This document of the DOE was signed on August 8, 2023, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the



undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 8, 2023.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

For the reasons stated in the preamble, the Department of Energy proposes to revise 10 CFR part 900 to read as follows:

## **PART 900—COORDINATION OF FEDERAL AUTHORIZATIONS FOR ELECTRIC TRANSMISSION FACILITIES**

Sec.

- 900.1 Purpose and scope.
- 900.2 Definitions.
- 900.3 Applicability to other projects.
- 900.4 Purpose of IIP Process.
- 900.5 Initiation of IIP Process.
- 900.6 Project proponent resource reports.
- 900.7 Standard and project-specific schedules.
- 900.8 IIP Process review meeting.
- 900.9 IIP Process close-out meeting.
- 900.10 Consolidated administrative docket.
- 900.11 NEPA lead agency and selection of NEPA co-lead agency.
- 900.12 Environmental review.
- 900.13 Severability.

**Authority:** 16 U.S.C. 824p(h).

### **§ 900.1 Purpose and scope.**

(a) Pursuant to section 216(h) of the Federal Power Act (16 U.S.C. 824p(h)), the Department of Energy (DOE) establishes the Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program) under this part to coordinate the review and processes related to Federal authorizations necessary to site a transmission facility. Pursuant to section 216(h)(4)(A), this part establishes the mechanism by which DOE will set intermediate milestones and ultimate deadlines for the processes related to deciding whether to issue such authorizations. In addition, as the lead agency and in collaboration with any National Environmental Policy Act (NEPA) co-lead agency and in consultation with the relevant Federal entities, as applicable, DOE will prepare a single environmental impact statement (EIS), which will be designed to serve the needs of all relevant Federal agencies and inform all Federal authorization decisions on the proposed qualifying project.

(b) This part provides a process for the timely submission of information needed for Federal decisions related to authorizations for proposed electric transmission facilities. This part seeks to ensure that electric transmission projects are developed consistent with the nation's environmental laws, including laws that protect endangered and threatened species, critical habitats, and cultural and historic properties. This part provides a framework, called the Integrated Interagency Pre-Application (IIP) Process, by which DOE will coordinate submission of materials necessary for Federal authorizations and related environmental reviews required under Federal law to site qualified electric transmission facilities, and integrates the IIP Process into the CITAP Program.

(c) This part describes the timing and procedures for the IIP Process, which should be initiated prior to a project proponent's submission of any application for a required Federal authorization. The IIP Process provides for timely and focused pre-application meetings with relevant Federal and non-Federal entities, as well as for early identification of potential siting constraints and opportunities and seeks to promote thorough and consistent stakeholder engagement by a project proponent. At the close-out of each IIP Process, DOE in coordination with the relevant Federal entities will establish the schedule by which all Federal authorizations and related reviews necessary for the qualifying project will be conducted.

(d) This part improves the Federal permitting process by facilitating the early submission, compilation, and documentation of information needed for coordinated review by relevant Federal entities under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). This part also facilitates expeditious action on necessary Federal authorizations by ensuring that relevant Federal entities coordinate their consideration of those applications and by providing non-Federal entities the opportunity to coordinate their non-Federal permitting and environmental reviews with the reviews of the relevant Federal entities.

(e) This part facilitates improved and earlier coordination of and consultation between relevant Federal entities, relevant non-Federal entities, and others pursuant to section 106 of the National Historic Preservation Act (54 U.S.C. 306108) (NHPA) and its implementing regulations found at 36 CFR part 800. Under this part, DOE may establish it has an undertaking with the potential to affect historic properties and, following

the IIP review meeting, authorize a project proponent, as a CITAP applicant, to initiate section 106 consultation for the undertaking consistent with 36 CFR 800.2(c)(4). Prior to that determination, this part requires project proponents to gather initial information and make recommendations relevant to the section 106 process to the extent possible. This part also establishes DOE as co-lead for the section 106 process, consistent with DOE's role as lead or co-lead agency for purposes of NEPA, in order to maximize opportunities for coordination between the NEPA and section 106 processes. Federal entities remain responsible for government-to-government consultation with Indian Tribes (and government-to-sovereign consultation in the context of Native Hawaiian relations) and for any findings and determinations required by and reserved to Federal agencies in 36 CFR part 800.

(f) This part applies only to qualifying projects as defined by § 900.2.

(g) Participation in the IIP Process does not alter any requirements to obtain necessary Federal authorizations for electric transmission facilities. Nor does this part alter any responsibilities of the relevant Federal entities for environmental review or consultation under applicable law.

(h) The Director may waive any requirement imposed on a project proponent under this part if, in the Director's discretion, the Director determines that the requirement is unnecessary, duplicative, or impracticable under the circumstances relevant to the qualifying project. Where the principal project developer is itself a Federal entity that would be otherwise expected to prepare an EIS for the project, the Director shall consider modifications to the requirements under this part as may be necessary under the circumstances.

### **§ 900.2 Definitions.**

As used in this part:

*Affected landowner* means an owner of real property interests who is usually referenced in the most recent county or city tax records, and whose real property:

- (1) Is located within either 0.25 miles of a proposed study corridor or route of a qualifying project or at a minimum distance specified by State law, whichever is greater; or
- (2) Contains a residence within 3,000 feet of a proposed construction work area for a qualifying project.

*Authorization* means any license, permit, approval, finding, determination, or other administrative decision required under Federal, State,

local, or Tribal law to site an electric transmission facility, including permits, special use authorization, certifications, opinions, or other approvals.

*Communities of interest* include disadvantaged, fossil energy, rural, Tribal, indigenous, geographically proximate, or communities with environmental justice concerns that could be affected by the qualifying project.

*Director* means the Director of the DOE Grid Deployment Office, that person's delegate, or another DOE official designated to perform the functions of this part by the Secretary of Energy.

*Federal authorization* means any authorization required under Federal law.

*Federal entity* means any Federal agency or department.

*Indian Tribe* has the same meaning as provided by 25 U.S.C. 5304(e).

*Landscape mitigation approach* means an approach that applies the mitigation hierarchy to develop mitigation measures for impacts to resources from a qualifying project at the relevant scale, however narrow or broad, that is necessary to sustain those resources, or otherwise achieve established goals for those resources. The mitigation hierarchy refers to an approach that first seeks to avoid, then minimize impacts, then, when necessary, compensate for residual impacts. A landscape mitigation approach identifies the needs and baseline conditions of targeted resources, potential impacts from the qualifying project, cumulative impacts of past and likely projected disturbances to those resources, and future disturbance trends, then uses this information to identify priorities for mitigation measures across the relevant area to provide the maximum benefit to the impacted resources. Such an approach includes full consideration of the conditions of additionality (meaning that the benefits of a compensatory mitigation measure improve upon the baseline conditions in a manner that is demonstrably new and would not have occurred without the mitigation measure) and durability (meaning that the effectiveness of a mitigation measure is sustained for the duration of the associated direct and indirect impacts).

*Landscape mitigation strategies or plans* mean documents developed through, or external to, the NEPA process that apply a landscape mitigation approach to identify appropriate mitigation measures in advance of potential impacts to resources from qualifying projects.

*MOU signatory agency* means a signatory of the interagency Memorandum of Understanding (MOU) executed in May 2023, titled "Memorandum of Understanding among the U.S. Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, the Environmental Protection Agency, the Council on Environmental Quality, the Federal Permitting Improvement Steering Council, Department of the Interior, and the Office of Management and Budget Regarding Facilitating Federal Authorizations for Electric Transmission Facilities."

*NEPA co-lead agency* means the agency means the Federal entity designated under § 900.11.

*Non-Federal entity* means an Indian Tribe, multi-State governmental entity, State agency, or local government agency.

*Participating agencies* means:

- (1) The Department of Agriculture (USDA);
- (2) The Department of Commerce;
- (3) The Department of Defense (DOD);
- (4) The Department of Energy;
- (5) The Environmental Protection Agency (EPA);
- (6) The Council on Environmental Quality;
- (7) The Office of Management and Budget;
- (8) The Department of the Interior (DOI);
- (9) The Federal Permitting Improvement Steering Council (FPISC);
- (10) Other agencies and offices as the Secretary of Energy may from time to time invite to participate; and
- (11) The following independent agencies, to the extent consistent with their statutory authority and obligations, and determined by the chair or executive director of each agency, as appropriate:
  - (i) The Federal Energy Regulatory Commission (FERC); and
  - (ii) The Advisory Council on Historic Preservation.

*Project area* means the geographic area considered when the project proponent develops study corridors and then potential routes for environmental review and potential project siting as a part of the project proponent's planning process for a qualifying project. It is an area located between the two end points of the project (e.g., substations), including their immediate surroundings, as well as any proposed intermediate substations. The size of the project area should be sufficient to allow for the evaluation of various potential alternative routes and route segments with differing environmental, engineering, and regulatory constraints.

The project area does not necessarily coincide with "permit area," "area of potential effect," "action area," or other defined terms of art that are specific to types of regulatory review.

*Project proponent* means a person or entity who initiates the IIP Process in anticipation of seeking a Federal authorization for a qualifying project.

*Qualifying project* means:

(1) A high-voltage electric transmission line (230 kV or above) and its attendant facilities, or other regionally or nationally significant electric transmission line and its attendant facilities:

(i) For which all or part of the proposed electric transmission line is used for the transmission of electric energy in interstate or international commerce for sale at wholesale;

(ii) Which is expected to require preparation of an environmental impact statement (EIS) pursuant to NEPA to inform an agency decision on a Federal authorization;

(iii) Which is not proposed for authorization under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p));

(iv) Which will not require a construction or modification permit from FERC pursuant to section 216(b) of the Federal Power Act; and

(v) Which is not wholly located within the Electric Reliability Council of Texas interconnection; or

(2) An electric transmission facility that is approved by the Director under the process set out in § 900.3.

*Relevant Federal entity* means a Federal entity with jurisdictional interests that may have an effect on a qualifying project, that is responsible for issuing a Federal authorization for the qualifying project, that has relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the qualifying project, or that provides funding for the qualifying project. The term includes participating agencies. The term includes a Federal entity with either permitting or non-permitting authority; for example, those entities with which consultation or review must be completed before a project may commence, such as DOD for an examination of military test, training or operational impacts.

*Relevant non-Federal entity* means a non-Federal entity with relevant expertise or jurisdiction within the project area, that is responsible for issuing an authorization for the qualifying project, that has special expertise with respect to environmental and other issues pertinent to or potentially affected by the qualifying

project, or that provides funding for the qualifying project. The term includes an entity with either permitting or non-permitting authority, such as an Indian Tribe, Native Hawaiian Organization, or State or Tribal Historic Preservation Offices, with whom consultation must be completed in accordance with section 106 of the NHPA prior to approval of a permit, right-of-way, or other authorization required for a Federal authorization.

*Route* means an area along a linear path within which a qualifying project could be sited that is:

(1) Wide enough to allow minor adjustments in the alignment of the qualifying project to avoid sensitive features or to accommodate potential engineering constraints; and

(2) Narrow enough to allow detailed study.

*Stakeholder* means any relevant non-Federal entity, any non-governmental organization, affected landowner, or other person potentially affected by a proposed qualifying project.

*Study corridor* means a contiguous area (not to exceed one mile in width) within the project area where alternative routes or route segments may be considered for further study.

### § 900.3 Applicability to other projects.

(a) Following the procedures set out in this section, the Director may determine that an electric transmission facility that does not meet the description of a *qualifying project* under paragraph (1) of the definition in § 900.2 is a *qualifying project* under paragraph (2) of the definition.

(b) A requester seeking DOE assistance under this part for an electric transmission facility that does not meet the description of a *qualifying project* under paragraph (1) of the definition in § 900.2 must file a request for coordination with the Director. The request must contain:

(1) The legal name of the requester; its principal place of business; and the name, title, and mailing address of the person or persons to whom communications concerning the request for coordination are to be addressed;

(2) A concise description of the proposed facility sufficient to explain its scope and purpose;

(3) A list of anticipated relevant Federal entities involved in the proposed facility; and

(4) A list of anticipated relevant non-Federal entities involved in the proposed facility, including any agency serial or docket numbers for pending applications.

(c) Not later than 30 calendar days after the date that the Director receives

a request under this section, the Director, in consultation with the relevant Federal entities, will determine if the electric transmission facility is a qualifying project under this part and will notify the project proponent in writing of one of the following:

(1) If accepted, that the facility is a qualifying project and the project proponent must submit an initiation request as set forth under § 900.5; or

(2) If not accepted, that the project proponent must follow the procedures of each relevant Federal entity that has jurisdiction over the facility without DOE performing a coordinating function.

(d) For a transmission facility that will require a construction or modification permit from FERC pursuant to section 216(b) of the Federal Power Act, DOE may not consider a request for assistance under this section unless the requestor under paragraph (b) of this section is FERC acting through its chair.

(e) At the discretion of the MOU signatory agencies, this section may be applied to a transmission facility proposed for authorization under section 8(p) of the Outer Continental Shelf Lands Act, if the proposed authorization is independent of any generation project.

(f) This section does not apply to:

(1) A transmission facility proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act in conjunction with a generation project; or

(2) A transmission facility wholly located within the Electric Reliability Council of Texas interconnection.

### § 900.4 Purpose of IIP Process.

(a) The Integrated Interagency Pre-Application (IIP) Process is intended for a project proponent who has identified potential study corridors and/or potential routes and the proposed locations of any intermediate substations for a qualifying project.

(b) Participation in the IIP Process is a prerequisite for the coordination provided by DOE between relevant Federal entities, relevant non-Federal entities, and the project proponent.

(c) The IIP Process ensures early interaction between the project proponents, relevant Federal entities, and relevant non-Federal entities to enhance early understanding by those entities. Through the IIP Process, the project proponent will provide relevant Federal entities and relevant non-Federal entities with a clear description of the qualifying project, the project proponent's siting process, and the environmental and community setting

being considered by the project proponent for siting the transmission line; and will coordinate with relevant Federal entities to develop resource reports that will serve as inputs, as appropriate, into the relevant Federal analyses and facilitate early identification of project issues.

(d) The IIP Process is an iterative process anchored by three meetings: the initial meeting, review meeting, and close-out meeting. These meetings, defined in §§ 900.5, 900.8 and 900.9, are milestones in the process and do not preclude any additional meetings or communications between the project proponent and the relevant Federal entities. The iterative nature of the process is provided for in procedures for evaluating the completeness of submitted materials and the suitability of materials for the relevant Federal entities' decision-making before each milestone.

(e) DOE, in exercising its responsibilities under this part, will communicate regularly with FERC, electric reliability organizations and electric transmission organizations approved by FERC, relevant Federal entities, and project proponents. DOE will use information technologies to provide opportunities for relevant Federal entities to participate remotely.

(f) DOE, in exercising its responsibilities under this part, will to the maximum extent practicable and consistent with Federal law, coordinate the IIP Process with any relevant non-Federal entities. DOE will use information technologies to provide opportunities and reduce burdens for relevant non-Federal entities to participate remotely.

(g) The Director may at any time require the project proponent to provide additional information necessary to resolve issues raised by the IIP Process.

(h) Pursuant to 10 CFR 1004.11, any person submitting information during the IIP Process that the person believes to be confidential and exempt by law from public disclosure should submit two well-marked copies, one marked "confidential" that includes all the information believed to be confidential, and one marked "non-confidential" with the information believed to be confidential deleted or redacted. DOE will make its own determination about the confidential status of the information and treat it according to its determination. The project proponent must request confidential treatment for all material filed with DOE containing location, character, and ownership information about cultural resources.

(i) Pursuant to 10 CFR 1004.13, any person submitting information during

the IIP Process that the person believes might contain Critical Electric Infrastructure Information (CEII) should submit a request for CEII designation of information.

#### § 900.5 Initiation of IIP Process.

(a) *Initiation request.* A project proponent shall submit an initiation request to DOE. The project proponent may decide when to submit the initiation request. The initiation request must include, based on best available information:

(1) A summary of the qualifying project, as described by paragraph (b) of this section;

(2) Associated maps, geospatial information, and studies (provided in electronic format), as described by paragraph (c) of this section;

(3) A project participation plan, as described by paragraph (d) of this section; and

(4) A statement regarding the proposed qualifying project's status pursuant to Title 41 of the Fixing America's Surface Transportation Act (FAST-41) (42 U.S.C. 4370m-2(b)(2)), as described by paragraph (e) of this section.

(b) *Summary of the qualifying project.* The summary of the qualifying project is limited to 10 pages, single-spaced and must include:

(1) The following information:

(i) The project proponent's legal name and principal place of business;

(ii) The project proponent's contact information and designated point(s) of contact;

(iii) Whether the project proponent is an individual, partnership, corporation, or other entity and, if applicable, the State laws under which the project proponent is organized or authorized; and

(iv) If the project proponent resides or has its principal office outside the United States, documentation related to designation by irrevocable power of attorney of an agent residing within the United States;

(2) A statement of the project proponent's interests and objectives;

(3) To the extent available, copies of or links to:

(i) Any regional electric transmission planning documents, regional reliability studies, regional congestion or other related studies that relate to the qualifying project or the need for the qualifying project; and

(ii) Any relevant interconnection requests;

(4) A brief description of the evaluation criteria and methods used by the project proponent to identify and develop the potential study corridors or

potential routes for the proposed qualifying project;

(5) A brief description of the proposed qualifying project, including end points, voltage, ownership, intermediate substations if applicable, and, to the extent known, any information about constraints or flexibility with respect to the qualifying project;

(6) Identification of any environmental and engineering firms and sub-contractors under contract to develop the qualifying project;

(7) The project proponent's proposed schedule for filing necessary Federal and State applications, construction start date, and planned in-service date, assuming receipt of all necessary authorizations; and

(8) A list of anticipated relevant Federal entities and relevant non-Federal entities, including contact information for each Federal agency, State agency, Indian Tribe, or multi-State entity that is responsible for or has a role in issuing an authorization or environmental review for the qualifying project.

(c) *Maps, geospatial information, and studies.* The Integrated Interagency Pre-Application (IIP) Process initiation request must include maps, geospatial information, and studies in support of the information provided in the summary of the qualifying project under paragraph (b) of this section. Maps must be of sufficient detail to identify the proposed route or routes. Project proponents must provide the maps, information, and studies as electronic data files that may be readily accessed by relevant Federal entities and relevant non-Federal entities. The maps, information, and studies described in this paragraph (c) must include:

(1) Location maps and plot plans to scale showing all major components, including a description of zoning and site availability for any permanent facilities; cultural resource location information should be submitted in accordance with § 900.4(h);

(2) A map of the project area showing potential study corridors and/or potential routes;

(3) Electronic access to any existing data or studies relevant to the summary information provided as part of the initiation request; and

(4) Citations identifying sources, data, and analyses used to develop the IIP Process initiation request materials.

(d) *Project participation plan.* The project participation plan, which may not exceed 10, single-spaced pages, summarizes the stakeholder outreach that the project proponent conducted prior to submission of the initiation request, and describes the project

proponent's planned outreach to communities of interest going forward. A supplemental appendix may be submitted to provide sufficient detail in addition to the narrative elements. The project participation plan must include:

(1) A summary of prior outreach to communities of interest and stakeholders including:

(i) A description of what work already has been done, including stakeholder and community outreach and public engagement related to project engineering and route planning, as well as any entities and organizations interested in the proposed undertaking;

(ii) A list of environmental, engineering, public affairs, other contractors or consultants employed by the proponent to facilitate public outreach;

(iii) A description of any materials provided to the public, such as environmental surveys or studies;

(iv) A description of the communities of interest identified and the process by which they were identified;

(v) A general description of the real property interests that would be impacted by the project and the rights that the owners and Federal land managers of those property interests would have under State law; and

(vi) A summary of comments received during these previous engagement activities, issues identified by stakeholders, communities of interest (including various resource issues, differing project alternative corridors or routes, and revisions to routes), and responses provided to commenters, if applicable; and

(2) A public engagement plan, which must:

(i) Describe the project proponent's outreach plan and status of those activities, including planned future activities corresponding to each of the items identified in paragraphs (d)(1)(i) through (vi) of this section, specifying the planned dates or frequency;

(ii) Describe the manner in which the project proponent will reach out to communities of interest about potential mitigation of concerns;

(iii) Describe planned outreach activities during the permitting process, including efforts to identify, and engage, individuals with limited English proficiency and linguistically isolated communities, and provide accommodations for individuals with accessibility needs; and

(iv) Discuss the specific tools and actions used by the project proponent to facilitate stakeholder communications and public information, including a readily accessible, easily identifiable,

single point of contact for the project proponent.

(e) *FAST-41 statement.* The FAST-41 statement required under paragraph (a) of this section must specify the status of the proposed qualifying project pursuant to FAST-41. The statement must either:

(1) State whether the project proponent has sought FAST-41 coverage pursuant to 42 U.S.C. 4370m-2(a)(1); and state whether the Executive Director of the FPISC has created an entry on the Permitting Dashboard for the project as a covered project pursuant to 42 U.S.C. 4370m-2(b)(2)(A); or

(2) State that the project proponent elected not to apply to be a FAST-41 covered project at this time.

(f) *Determination.* Not later than 15 calendar days after DOE receives an IIP Process initiation request, DOE shall provide relevant Federal entities and relevant non-Federal entities with an electronic copy of the initiation request, and notify each entity that:

(1) Based on DOE's initial review of the initiation request, DOE has identified the entity as either a relevant Federal entity or relevant non-Federal entity for the project; and

(2) The entity should participate in the IIP Process for the project, with DOE's rationale for that determination.

(g) *Notification of initiation request determination.* Not later than 30 calendar days after the date that DOE receives an initiation request, DOE shall notify the project proponent and all relevant Federal entities and relevant non-Federal entities that:

(1) The initiation request meets the requirements of this section, including that the project is a qualifying project; or

(2) The initiation request does not meet the requirements of this section. DOE will provide the reasons for that finding and a description of how the project proponent may, if applicable, address any deficiencies in the initiation request so that DOE may reconsider its determination.

(h) *Initial meeting.* If a project proponent submits a valid initiation request, DOE, in consultation with the identified relevant Federal entities, shall convene the IIP Process initial meeting with the project proponent and all relevant Federal entities notified by DOE under paragraph (g) of this section as soon as practicable and no later than 30 calendar days after the date that DOE provides notice under paragraph (g) that the initiation request meets the requirements of this section. DOE shall also invite relevant non-Federal entities to participate in the initial meeting. During the initial meeting:

(1) DOE and the relevant Federal entities shall discuss with the project proponent the IIP Process, Federal authorization process, related environmental reviews, any arrangements for the project proponent to contribute funds to DOE to cover costs incurred by DOE and the relevant Federal entities in the IIP Process (in accordance with 42 U.S.C. 7278), any requirements for entering into cost recovery agreements, and paying for third-party contractors under DOE's supervision, where applicable;

(2) DOE will identify any Federal applications that must be submitted during the IIP Process, to enable relevant Federal entities to begin work on the review process, and those applications that will be submitted after the IIP Process. All application submittal timelines will be accounted for in the project-specific schedule described in § 900.7;

(3) The project proponent shall describe the qualifying project and the contents of the initiation request; and

(4) DOE and the relevant Federal entities, along with any relevant non-Federal entities who choose to participate, will review the information provided by the project proponent and publicly available information, and, to the extent possible and based on agency expertise and experience, preliminarily identify the following and other reasonable criteria for adding, deleting, or modifying preliminary routes from further consideration within the identified study corridors, including:

(i) Potential environmental, visual, historic, cultural, economic, social, or health effects or harm based on the potential project or proposed siting, and anticipated constraints (for instance, pole height and corridor width based on line capacity to improve safety and resiliency of project);

(ii) Potential cultural resources and historic properties of concern;

(iii) Areas under (or potentially under) special protection by State or Federal statute and areas subject to a Federal entity or non-Federal entity decision that could potentially increase the time needed for project evaluation and potentially foreclose approval of siting a transmission line route. Such areas may include, but are not limited to, properties or sites that may be of traditional religious or cultural importance to Indian Tribe(s), National Scenic and Historic Trails, National Landscape Conservation system units managed by the Bureau of Land Management (BLM), Land and Water Conservation Fund lands, National Wildlife Refuges, national monuments, units of the National Park System,

national marine sanctuaries, or marine national monuments;

(iv) Opportunities to site routes through designated corridors, previously disturbed lands, and lands with existing infrastructure as a means of potentially reducing impacts and known conflicts as well as the time needed for affected Federal land managers to evaluate an application for a Federal authorization if the route is sited through such areas (e.g., colocation with existing infrastructure or location on previously disturbed lands or in energy corridors designated by the Department of the Interior or the Department of Agriculture under section 503 of the Federal Land Policy and Management Act (Pub. L. 94-579) or section 368 of the Energy Policy Act of 2005 (Pub. L. 109-58), an existing right-of-way, a National Interest Energy Transmission Corridor, or a utility corridor identified in a land management plan);

(v) Potential constraints caused by impacts on military test, training, and operational missions, including impacts on installations, ranges, and airspace;

(vi) Potential constraints caused by impacts on the United States' aviation system;

(vii) Potential constraints caused by impacts to navigable waters of the United States;

(viii) Potential avoidance, minimization, and conservation measures, such as compensatory mitigation (onsite and offsite), developed through a landscape mitigation approach or, where available, landscape mitigation strategies or plans to reduce the potential impact of the qualifying project to resources requiring mitigation; and

(ix) Based on available information provided by the project proponent, biological (including threatened, endangered, or otherwise protected avian, aquatic, and terrestrial species and aquatic habitats), visual, cultural, historic, and other surveys and studies that may be required for preliminary proposed routes.

(i) *Feedback to project proponent.* Feedback provided to the project proponent under paragraph (h) of this section does not constitute a commitment by any relevant Federal entity to approve or deny a Federal authorization request, nor does the IIP Process limit agency discretion regarding NEPA review.

(j) *Draft initial meeting summary.* Not later than 15 calendar days after the initial meeting, DOE shall:

(1) Prepare a draft initial meeting summary that includes a summary of the meeting discussion, a description of

key issues and information gaps identified during the meeting, and any requests for more information from relevant Federal entities and relevant non-Federal entities; and

(2) Convey the draft summary to the project proponent, relevant Federal entities, and any relevant non-Federal entities that participated in the meeting.

(k) *Corrections.* The project proponent and entities that received the draft initial meeting summary under paragraph (j) of this section will have 15 calendar days following receipt of the draft initial meeting summary to review the draft and provide corrections to DOE.

(l) *Final summary.* Not later than 15 calendar days following the close of the 15-day review period under paragraph (k) of this section, DOE shall:

(1) Prepare a final initial meeting summary by incorporating received corrections, as appropriate;

(2) Add the final summary to the consolidated administrative docket described by § 900.10; and

(3) Provide an electronic copy of the summary to all relevant Federal entities, relevant non-Federal entities, and the project proponent.

#### **§ 900.6 Project proponent resource reports.**

(a) *Preparation and submission.* The project proponent shall prepare and submit to DOE the 13 project proponent resource reports (“resource reports”) described in this section. The project proponent may submit the resource reports at any time before requesting a review meeting under § 900.8 and shall, at the direction of DOE, revise resource reports in response to comments received from relevant Federal entities and relevant non-Federal entities during the Integrated Interagency Pre-Application (IIP) Process.

(b) *Content.* Each resource report must include concise descriptions, based on the best available scientific and commercial information, of the known existing environment and major site conditions in the project area. The detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impacts. Each topic in each resource report must be addressed or its omission justified. If material required for one resource report is provided in another resource report or in another exhibit, it may be incorporated by reference. If any resource report topic is not addressed at the time the applicable resource report is filed or its omission is not addressed, the report must explain why the topic is missing.

(c) *Requirements for IIP Process progression.* Failure of the project proponent to provide at least the required initial or revised content will prevent progress through the IIP Process to the IIP review or close-out meetings, unless the Director determines that the project proponent has provided an acceptable reason for the item’s absence and an acceptable timeline for filing it. Failure to file within the accepted timeline will prevent further progress in the IIP Process.

(d) *General requirements.* As appropriate, each resource report shall:

(1) Address conditions or resources that might be directly or indirectly affected by the qualifying project;

(2) Identify environmental effects expected to occur as a result of the project;

(3) Identify the potential effects of construction, operation (including maintenance and malfunctions), and termination of the project, as well as potential cumulative effects resulting from existing or reasonably foreseeable projects;

(4) Identify measures proposed to enhance the environment or to avoid, mitigate, or compensate for potential adverse effects of the project; and

(5) Provide:

(i) A list of publications, reports, and other literature or communications, including agency communications, that were cited or relied upon to prepare each report; and

(ii) The name and title of the person contacted in any communication, their affiliations, and telephone number or email address.

(e) *Federal responsibility.* The resource reports prepared by the project proponent under this section do not supplant the requirements under existing environmental laws related to the information required for Federal authorization or consultation processes. The agencies shall independently evaluate the information submitted and shall be responsible for the accuracy, scope, and contents of all Federal authorization decision documents and related environmental reviews.

(f) *Resource Report 1—General project description.* This report will describe facilities associated with the project, special construction and operation procedures, construction timetables, future plans for related construction, compliance with regulations and codes, and permits that must be obtained. Resource Report 1 must:

(1) Describe and provide location maps of all facilities to be constructed, modified, abandoned, replaced, or removed, including related construction and operational support activities and

areas such as maintenance bases, staging areas, communications towers, power lines, and new access roads (roads to be built or modified), as well as any existing infrastructure proposed to be used for the project (*i.e.*, existing substations, connections to existing transmission, existing access roads);

(2) Describe specific generation resources that are known or reasonably foreseen to be developed or interconnected as a result of the project, if any;

(3) Identify other companies that may construct facilities related to the project (*i.e.*, fiber optic cables) and where those facilities would be located;

(4) Provide the following information for facilities described under paragraphs (f)(1) through (3) of this section:

(i) A brief description of each facility, including, as appropriate, ownership, land requirements, megawatt size, construction status, and an update of the latest status of Federal, State, and local permits and approvals;

(ii) Current topographic maps showing the location of the facilities;

(iii) Any communications with the appropriate State Historic Preservation and Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs) regarding cultural and historic resources in the project area;

(iv) Correspondence with the U.S. Fish and Wildlife Service (USFWS) (and National Marine Fisheries Service (NMFS), if appropriate) regarding potential impacts of the proposed facility on federally listed threatened and endangered species and their designated critical habitats; and

(v) An indication of whether the project proponent will need to submit a Coastal Zone Management Act (CZMA) Federal consistency certification to State coastal management program(s) for the proposed transmission project, as required by the National Oceanic and Atmospheric Administration’s (NOAA) Federal consistency regulations at 15 CFR part 930, subpart D; and

(vi) An indication of whether the project proponent will need to obtain a water quality certification under section 401 of the Clean Water Act (CWA) (33 U.S.C. 1341) for the proposed project.

(5) Identify and describe the following if the project is considering abandonment of certain resources:

(i) Facilities to be abandoned, and state how they would be abandoned, how the site would be restored, who would own the site or right-of-way after abandonment, and who would be responsible for any facilities abandoned in place; and

(ii) When the right-of-way or the easement would be abandoned, identify

whether landowners were or will be given the opportunity to request that the facilities on their property, including foundations and below ground components, be removed, identify any landowners whose preferences the company does not intend to honor, and provide the reasons why the company does not intend to honor them;

(6) Describe, by milepost, proposed construction and restoration methods to be used in areas of rugged topography, residential areas, active croplands, sites where the project would be located parallel to and under roads, and sites where explosives may be used;

(7) Unless provided in response to Resource Report 5 (see paragraph (j) of this section), describe estimated workforce requirements, including the number of construction spreads, average workforce requirements for each construction spread, estimated duration of construction from initial clearing to final restoration, and number of personnel to be hired to operate the proposed project;

(8) Describe reasonably foreseeable plans for future expansion of facilities, including additional land requirements and the compatibility of those plans with the current proposal;

(9) To the extent they are available and in accordance with the project-specific schedule described by § 900.7, describe all authorizations required to complete the proposed action and the status of applications for such authorizations and identify environmental mitigation requirements specified in any permit or proposed in any permit application to the extent not specified elsewhere in this resource report or another;

(10) Provide the names and mailing addresses of all affected landowners to certify that all affected landowners have been notified;

(11) Summarize any relevant potential avoidance, minimization, and conservation measures, such as proposed compensatory mitigation (onsite and offsite), developed through the use of a landscape mitigation approach or, where available, landscape mitigation strategies or plans, and anticipated by the project proponent to reduce the potential impacts of the qualifying project to resources warranting or requiring mitigation; and

(12) Describe how the project will reduce capacity constraints and congestion on the transmission system, meet unmet demand, or connect generation resources (including the expected type of generation, if known) to load, as appropriate.

(g) *Resource Report 2—Water use and quality.* This report must describe water

resources, water use, and water quality as well as potential impacts associated with the project on these resources. It must also provide data sufficient to determine the expected impact of the project and the effectiveness of mitigation, enhancement, or protective measures. Project proponents should also describe the measures taken to avoid and minimize adverse effects to such water resources, where appropriate. Resource Report 2 must:

(1) Identify and describe waterbodies, including perennial waterbodies, intermittent streams, and ephemeral waterbodies, as well as municipal water supply or watershed areas, specially designated surface water protection areas and sensitive waterbodies, floodplains, and wetlands that would be crossed by the project;

(2) For each waterbody, floodplain, or wetland crossing identified under paragraph (g)(1) of this section, identify the approximate width, State water quality classifications, any known potential pollutants present in the water or sediments, and any potable water intake sources within three miles downstream;

(3) Describe typical staging area requirements at waterbody, floodplain, and wetland crossings and identify and describe waterbodies and wetlands where staging areas are likely to be more extensive to avoid, minimize, or compensate for any potential impacts to water resources in those staging areas;

(4) Provide two copies of floodplain and National Wetland Inventory (NWI) maps or, if not available, appropriate State wetland maps clearly showing the proposed route and mileposts;

(5) For each wetland crossing, identify the milepost, the wetland classification specified by the USFWS, and the length of the crossing, and describe, by milepost, wetland crossings as determined by field delineations using the current Federal methodology;

(6) For each floodplain crossing, identify the mileposts, acres of floodplains affected, flood elevation, and basis for determining that elevation;

(7) Discuss proposed avoidance and mitigation measures to reduce the potential for adverse impacts to surface water, wetlands, floodplains, or groundwater quality, as well as any potential compensation that will be provided for remaining unavoidable impacts;

(8) Identify the location of known public and private groundwater supply wells or springs within 150 feet of proposed construction areas;

(9) Identify locations of EPA or State-designated principal-source aquifers

and wellhead protection areas crossed by the proposed facilities; and

(10) Discuss the results of any coordination with relevant Federal entities or non-Federal entities related to permitting and include any written correspondence that resulted from the coordination.

(h) *Resource Report 3—Fish, wildlife, and vegetation.* This report must describe aquatic life, wildlife, and vegetation in the proposed project area; expected impacts on these resources including potential effects on biodiversity; and proposed mitigation, enhancement, avoidance, or protection measures. Surveys may be required to determine specific areas of significant habitats or communities of species of special concern to Federal, Tribe, State, or local agencies. If species surveys are impractical, there must be field surveys to determine the presence of suitable habitat unless the entire project area is suitable habitat. Project proponents should describe proposed measures to avoid and minimize incidental take of federally protected species, including eagles and migratory birds. Resource Report 3 must:

(1) Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries;

(2) Describe terrestrial habitats, including wetlands, typical wildlife habitats, and rare, unique, or otherwise significant habitats that might be affected by the proposed project;

(3) Describe typical species that have commercial, recreational, or aesthetic value and that may be affected by the proposed project;

(4) Describe and provide the acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees;

(5) Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on State-listed endangered or threatened species;

(6) Describe the impact of maintenance, clearing, and treatment of the project area on fish, wildlife, and vegetation;

(7) Identify all federally listed or proposed endangered or threatened species and critical habitats that potentially occur in the project area;

(8) Identify all known and potential bald and golden eagle nesting and

roosting sites, migratory bird flyways, and any sites important to migratory bird breeding, feeding, and sheltering within 10 miles of the proposed project area. This should coincide with the USFWS's most current maps at the time this resource report is submitted;

(9) Discuss the results of any discussions conducted by the proponent to date with relevant Federal entities or relevant non-Federal entities related to fish, wildlife, and vegetation resources, and include any written correspondence that resulted from the discussions;

(10) Include the results of any required surveys unless seasonal considerations make this impractical, in which case such seasonal considerations should be specified in the report;

(11) If present, identify all federally listed essential fish habitat (EFH) that potentially occurs in the project area and provide:

(i) Information on all EFH, as identified by the pertinent Federal fishery management plans, which may be adversely affected by the project;

(ii) The results of discussions with NMFS; and

(iii) Any resulting EFH assessments;

(12) Describe anticipated site-specific mitigation measures to minimize impacts on fisheries, wildlife (including migration corridors), grazing, and vegetation; and

(13) Include copies of any correspondence not provided pursuant to paragraph (h)(9) or (10) of this section containing recommendations from appropriate Federal and State fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the project proponent's response to those recommendations.

(i) *Resource Report 4—Cultural resources.* This report must describe potential impacts to cultural resources, including but not limited to preliminary identification of the project's area of potential effects, of cultural resources within that area that may be eligible for listing on the National Register of Historic Places, and of potential adverse effects to those cultural resources. To the extent possible, the project proponent should provide initial recommendations for avoidance and minimization measures to address potential adverse effects. The information provided in Resource Report 4 will contribute to the satisfaction of DOE's and relevant Federal entities' obligations under section 106 of the NHPA.

(1) Resource Report 4 must contain:

(i) A summary of initial known cultural and historic resources in the affected environment including but not

limited to those listed or eligible for listing on the National Register of Historic Places;

(ii) A description of potential adverse effects to the resources identified in paragraph (i)(1)(i) of this section;

(iii) Documentation of the project proponent's initial communications and engagement, including preliminary outreach and coordination, with Indian Tribes, indigenous peoples, THPOs, SHPOs, communities of interest, and other entities having knowledge of, interest regarding, or an understanding about the resources identified in paragraph (i)(1)(i) of this section and any written comments from SHPOs, THPOs, other tribal historic preservation offices or governments, or others, as appropriate and available;

(iv) Recommended avoidance and minimization measures to address potential effects;

(v) Any initial and preliminary existing surveys or listing of cultural and historic resources in the affected environment; and

(vi) Recommendations for any additional surveys needed.

(2) If the project proponent chooses to undertake further preliminary surveys identified in paragraph (i)(1)(vi) of this section, the associated preliminary survey reports should be submitted as part of this report; if landowners deny access to private property and certain areas are not surveyed, the unsurveyed area must be identified by mileposts.

(3) The project proponent must request confidential treatment for all material filed with DOE containing location, character, and ownership information about cultural resources in accordance with § 900.4(h).

(j) *Resource Report 5—Socioeconomics.* This report must identify and quantify the impacts of constructing and operating the proposed project on the demographics and economics of communities in the project area, including minority and underrepresented communities. Resource Report 5 must:

(1) Describe the socioeconomic resources that may be affected in the proposed project area;

(2) Describe the positive and adverse socioeconomic impacts of the project;

(3) Evaluate the impact of any substantial migration of people into the proposed project area on governmental facilities and services and describe plans to reduce the impact on the local infrastructure;

(4) Describe on-site labor requirements during construction and operation, including projections of the number of construction personnel who currently reside within the impact area,

who would commute daily to the site from outside the impact area, or who would relocate temporarily within the impact area;

(5) Determine whether existing affordable housing within the impact area is sufficient to meet the needs of the additional population; and

(6) Describe the number and types of residences and businesses that would be displaced by the project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments.

(k) *Resource Report 6—Geological resources.* This report must describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed action or that could place the proposed facilities at risk, the potential effects of those hazards on the facility, and methods proposed to reduce the effects or risks. Resource Report 6 must:

(1) Describe mineral resources that are currently or potentially exploitable, if relevant;

(2) Describe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as high seismicity areas, active faults, and areas susceptible to soil liquefaction; planned, active, and abandoned mines; karst terrain (including significant caves protected under the Federal Cave Resources Protection Act (Pub. L. 100-691, as amended) (16 U.S.C. 4301 *et seq.*)); and areas of potential ground failure, such as subsidence, slumping, and land sliding;

(3) Discuss the risks posed to the project from each hazard identified in paragraph (k)(2) of this section;

(4) Describe how the project would be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction;

(5) Discuss the potential for blasting to affect structures and the measures to be taken to remedy such effects; and

(6) Specify methods to be used to prevent project-induced contamination from mines or from mine tailings along the right-of-way and whether the project would hinder mine reclamation or expansion efforts.

(l) *Resource Report 7—Soil resources.* This report must describe the soils that would be affected by the proposed project, the effect on those soils, and measures proposed to avoid, minimize, or mitigate impact. Resource Report 7 must:

(1) List, by milepost, the soil associations that would be crossed and describe the erosion potential, fertility,



and drainage characteristics of each association;

(2) If a site is larger than five acres:

- (i) List the soil series within the property and the percentage of the property comprised of each series;
- (ii) List the percentage of each series which would be permanently disturbed;
- (iii) Describe the characteristics of each soil series; and

(iv) Indicate which are classified as prime or unique farmland by the USDA, Natural Resources Conservation Service;

(3) Identify, potential impact from: soil erosion due to water, wind, or loss of vegetation; soil compaction and damage to soil structure resulting from movement of construction vehicles; wet soils and soils with poor drainage that are especially prone to structural damage; damage to drainage tile systems due to movement of construction vehicles and trenching activities; and interference with the operation of agricultural equipment due to the probability of large stones or blasted rock occurring on or near the surface as a result of construction;

(4) Identify, by milepost, cropland and residential areas where loss of soil fertility due to trenching and backfilling could occur; and

(5) Describe proposed avoidance, minimization, or mitigation measures to reduce the potential for adverse impact to soils or agricultural productivity.

(m) *Resource Report 8—Land use, recreation, and aesthetics.* This report must describe the existing uses of land on, and within various distances (as specified in paragraphs (m)(1) through (16) of this section), the proposed project and changes to those land uses and impacts to inhabitants and users that would occur if the project is approved. The report must discuss proposed mitigation measures, including protection and enhancement of existing land use. Resource Report 8 must:

(1) Describe the width and acreage requirements of all construction and permanent rights-of-way required for project construction, operation, and maintenance;

(2) List locations where the proposed right-of-way would be adjacent to existing rights-of-way of any kind, and where lines in the proposed project may be co-located within existing rights-of-way for other facilities (e.g., for roads, other utility) and any required utility coordination, permits, and fees that would be associated as a result;

(3) Identify, preferably by diagrams, existing rights-of-way that will be used for a portion of the construction or operational right-of-way, the overlap

and how much additional width will be required;

(4) Identify the total amount of land to be purchased or leased for each project facility, the amount of land that would be disturbed for construction, operation, and maintenance of the facility, and the use of the remaining land not required for project operation and maintenance, if any;

(5) Identify the size of typical staging areas and expanded work areas, such as those at railroad, road, and waterbody crossings, and the size and location of all construction materials storage yards and access roads;

(6) Identify, by milepost, the existing use of lands crossed by the proposed transmission facility, or on or adjacent to each proposed project facility;

(7) Describe planned development on land crossed by or within 0.25 mile of proposed facilities, the time frame (if available) for such development, and proposed coordination to minimize impacts on land use. Planned development means development that is included in a master plan or is on file with the local planning board or the county;

(8) Identify, by milepost and length of crossing, the area of direct effect of each proposed facility and operational site on lands owned or controlled by Federal or State agencies with special designations not otherwise mentioned in other resource reports, as well as lands controlled by private preservation groups (examples include sugar maple stands, orchards and nurseries, landfills, hazardous waste sites, nature preserves, game management areas, remnant prairie, old-growth forest, national or State forests, parks, designated natural, recreational or scenic areas, registered natural landmarks, or areas managed by Federal entities under existing land use plans as Visual Resource Management Class I or Class II areas), and identify if any of those areas are located within 0.25 mile of any proposed facility;

(9) Describe Tribal resources, including Indian Tribes, Tribal lands, and interests, including established treaty rights, that may be affected by the project; and

(i) Identify Indian Tribes and indigenous communities that may attach traditional cultural or religious significance to properties, whether on or off of any federally recognized Indian reservation; and

(ii) Submit, consistent with § 900.4(h), information made available under this paragraph (m)(9), including specific site or property locations, the disclosure of which will create a risk of harm, theft, or destruction of archaeological or Native American cultural resources or to

the site at which the resources are located, or which would violate any Federal law, including section 9 of the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95, as amended) (16 U.S.C. 470hh) and section 3 of the NHPA (54 U.S.C. 307103);

(10) Describe any areas crossed by or within 0.25 mile of the proposed transmission project facilities that are included in, or are designated for study for inclusion in if available: the National Wild and Scenic Rivers System (Pub. L. 90–542) (16 U.S.C. 1271 *et seq.*), the National Wildlife Refuge system (16 U.S.C. 668dd 668ee), the National Wilderness Preservation System (16 U.S.C. 1131), the National Trails System (16 U.S.C. 1241), the National Park System (54 U.S.C. 100101), National Historic Landmarks (NHLs), National Natural Landmarks (NNLs), Land and Water Conservation Fund (LWCF) acquired Federal lands, LWCF State Assistance Program sites and the Federal Lands to Parks (FLP) program lands, or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132); or the National Marine Sanctuary System, including national marine sanctuaries (16 U.S.C. 1431 *et seq.*) and Marine National Monuments as designated under authority by the Antiquities Act (54 U.S.C. 320301–320303) or by Congress;

(11) Indicate whether the project proponent will need to submit a CZMA Federal consistency certification to State coastal management program(s) for the proposed transmission project, as required by NOAA's Federal consistency regulations at 15 CFR part 930, subpart D;

(12) Describe the impact the project will have on present uses of the affected areas as identified in paragraphs (m)(1) through (11) of this section, including commercial uses, mineral resources, recreational areas, public health and safety, Federal scientific survey, research and observation activities, protected resources and habitats, and the aesthetic value of the land and its features and describe any temporary or permanent restrictions on land use resulting from the project;

(13) Describe mitigation measures intended for all special use areas identified under this paragraph (m);

(14) Provide a detailed operations and maintenance plan for vegetation management;

(15) Describe the visual characteristics of the lands and waters affected by the project. Components of this description include a description of how the transmission line project facilities will impact the visual character of project right-of-way and surrounding vicinity,

and measures proposed to lessen these impacts. Project proponents are encouraged to supplement the text description with visual aids; and

(16) Identify, by milepost, all residences and buildings within 200 feet of the edge of the proposed transmission line construction right-of-way and the distance of the residence or building from the edge of the right-of-way and provide survey drawings or alignment sheets to illustrate the location of the transmission facilities in relation to the buildings.

(i) *Buildings.* The report must list all dwellings and related structures, commercial structures, industrial structures, places of worship, hospitals, nursing homes, schools, or other structures normally inhabited by humans or intended to be inhabited by humans on a regular basis within a 0.5 mile-wide corridor centered on the proposed transmission line alignment and provide a general description of each habitable structure and its distance from the centerline of the proposed project. In cities, towns, or rural subdivisions, houses can be identified in groups, and the report must provide the number of habitable structures in each group and list the distance from the centerline to the closest habitable structure in the group.

(ii) *Electronic installations.* The report must list all known commercial AM radio transmitters located within 10,000 feet of the centerline of the proposed project and all known FM radio transmitters, microwave relay stations, or other similar electronic installations located within 2,000 feet of the centerline of the proposed project; provide a general description of each installation and its distance from the centerline of the projects; and locate all installations on a routing map.

(iii) *Airstrips.* List all known private airstrips within 10,000 feet of the centerline of the project. List all airports registered with the Federal Aviation Administration (FAA) with at least one runway more than 3,200 feet in length that are located within 20,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 100:1 horizontal slope (one foot in height for each 100 feet in distance) from the closest point of the closest runway. List all airports registered with the FAA having no runway more than 3,200 feet in length that are located within 10,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 50:1 horizontal slope from the closest point of the closest runway. List all heliports located within 5,000 feet of the centerline of the

proposed project. Indicate whether any transmission structures will exceed a 25:1 horizontal slope from the closest point of the closest landing and takeoff area of the heliport. Provide a general description of each private airstrip, registered airport, and registered heliport, and state the distance of each from the centerline of the proposed transmission line. Locate all airstrips, airports, and heliports on a routing map.

(n) *Resource Report 9—Communities of Interest.* This report must summarize known information about the presence of communities of interest that could be affected by the qualifying project. The resource report must identify and describe the potential impacts of constructing, operating, and maintaining the project on communities of interest; and describe any proposed measures intended to avoid, minimize, or mitigate such impacts or community concerns. The report must include a discussion of any disproportionate and/or adverse human health or environmental impacts to communities of interest.

(o) *Resource Report 10—Air quality and noise effects.* This report must identify the effects of the project on the existing air quality and noise environment and describe proposed measures to mitigate the effects. Resource Report 10 must:

(1) Describe the existing air quality in the project area, indicate if any project facilities are located within a designated nonattainment or maintenance area under the Clean Air Act (42 U.S.C. 7401 *et seq.*), and provide the distance from the project facilities to any Class I area in the project area;

(2) Estimate emissions from the proposed project and the corresponding impacts on air quality and the environment;

(i) Estimate the reasonably foreseeable emissions from construction, operation, and maintenance of the project facilities (such as emissions from tailpipes, equipment, fugitive dust, open burning, and substations) expressed in tons per year; include supporting calculations, emissions factors, fuel consumption rates, and annual hours of operation;

(ii) Estimate the reasonably foreseeable change in greenhouse gas emissions from the existing, proposed, and reasonably foreseeable generation resources identified in Resource Report 1 (see paragraph (f) of this section) that may connect to the project or interconnect as a result of the line, if any, as well as any other modeled air emissions impacts;

(iii) For each designated nonattainment or maintenance area, provide a comparison of the emissions

from construction, operation, and maintenance of the project facilities with the applicable General Conformity thresholds (40 CFR part 93);

(iv) Identify the corresponding impacts on communities and the environment in the project area from the estimated emissions;

(v) Describe any proposed mitigation measures to control emissions identified under this section; and

(vi) Estimate the reasonably foreseeable effect of the project on indirect emissions;

(3) Describe existing noise levels at noise-sensitive areas, such as schools, hospitals, or residences, including any areas covered by relevant State or local noise ordinances, and consider noise effects in sensitive wildlife habitat for federally threatened or endangered species, if appropriate;

(i) Report existing noise levels as the a-weighted decibel (dBA) Leq (day), Leq (night), and Ldn (day-night sound level) and include the basis for the data or estimates;

(ii) Include a plot plan that identifies the locations and duration of noise measurements, the time of day, weather conditions, wind speed and direction, engine load, and other noise sources present during each measurement; and

(iii) Identify any State or local noise regulations that may be applicable to the project facilities;

(4) Estimate the impact of the proposed project on the noise environment;

(i) Provide a quantitative estimate of the impact of transmission line operation on noise levels at the edge of the proposed right-of-way, including corona, insulator, and Aeolian noise; and for proposed substations and appurtenant facilities, provide a quantitative estimate of the impact of operations on noise levels at nearby noise-sensitive areas, including discrete tones; the operational noise estimates must demonstrate that the proposed project will comply with applicable State and local noise regulations and that noise attributable to any proposed substation or appurtenant facility does not exceed a day-night sound level (Ldn) of 55 dBA at any pre-existing noise-sensitive area;

(A) Include step-by-step supporting calculations or identify the computer program used to model the noise levels, the input and raw output data and all assumptions made when running the model, far-field sound level data for maximum facility operation, and the source of the data;

(B) Include sound pressure levels for project facilities, dynamic insertion loss for structures, and sound attenuation

from the project facilities to the edge of the right-of-way or to nearby noise-sensitive areas (as applicable);

(C) Include far-field sound level data measured from similar project facilities in service elsewhere, when available, may be substituted for manufacturers' far-field sound level data; and

(D) Describe wildlife-specific noise thresholds, like those specific to avian species that may be relevant in significant wildlife areas, if appropriate; and

(ii) Describe the impact of proposed construction activities, including any nighttime construction, on the noise environment; estimate the impact of any horizontal directional drilling, pile driving, or blasting on noise levels at nearby noise-sensitive areas and include supporting assumptions and calculations; and

(5) Describe measures, and manufacturer's specifications for equipment, proposed to mitigate impact to air and noise quality, including emission control systems, installation of filters, mufflers, or insulation of piping and buildings, and orientation of equipment away from noise-sensitive areas.

(p) *Resource Report 11—Alternatives.* This report must describe alternatives identified by the proponent during its initial analysis, which may inform the relevant Federal entities' subsequent analysis of alternatives. The report should address alternative routes and alternative design methods and compare the potential environmental impacts and potential impacts to cultural and historic resources of such alternatives to those of the proposed project. This report must also include all the alternatives identified by the proponent, including those the proponent chose not to examine or not examine in greater detail. The proponent should provide an explanation for the proponent's choices regarding the identification and examination of alternatives. The discussion must demonstrate whether and how environmental benefits and costs were weighed against economic benefits and costs to the public, and technological and procedural constraints in developing the alternatives, as well as an explanation of the costs to construct, operate, and maintain each alternative and the potential for each alternative to meet project deadlines and the potential environmental impacts of each alternative. Resource Report 11 must:

(1) Discuss the "no action" alternative and the potential for accomplishing the proponent's proposed objectives using alternative means;

(2) Provide an analysis of the potential relative environmental benefits and costs for each alternative; and

(3) Describe alternative routes or locations considered for the proposed transmission line and related facilities during the initial screening for the project and include the analysis in the thirteen environmental reports.

(i) Identify all the alternative routes the project proponent considered in the initial screening for the project but not recommended for further study and describe the environmental characteristics of each route or site and include the reasons why the proponent chose not to examine such alternatives. The report must identify the location of such alternatives on maps of sufficient scale to depict their location and relationship to the proposed action, and the relationship of the proposed transmission line to existing rights-of-way.

(ii) For alternative routes or locations recommended for more in-depth consideration, the report must describe the environmental characteristics of each route or site the proponent chose not to examine such alternatives in greater detail. The report must provide comparative tables showing the differences in environmental characteristics for the alternative and proposed action. The location of any alternatives in this paragraph (p)(3)(ii) shall be provided on maps.

(q) *Resource Report 12—Reliability, resilience, and safety.* This report must address the potential hazard to the public from failure of facility components resulting from accidents, intentional destructive acts, or natural catastrophes; how these events would affect reliability; and what procedures and design features have been used to reduce potential hazards. This report should account for any changes to the likelihood of relevant natural catastrophes resulting from climate change. This report must also address any benefits to reliability likely to result from the project. Resource Report 12 must:

(1) Describe measures proposed to protect the public from failure of the proposed facilities (including coordination with local agencies);

(2) Discuss hazards, the environmental impact, and service interruptions that could reasonably ensue from failure of the proposed facilities;

(3) Discuss design and operational measures to avoid or reduce risk;

(4) Discuss contingency plans for maintaining service or reducing downtime;

(5) Describe measures used to exclude the public from hazardous areas, measures used to minimize problems arising from malfunctions and accidents (with estimates of probability of occurrence) and identify standard procedures for protecting services and public safety during maintenance and breakdowns; and

(6) Describe improvements to reliability likely to result from the project.

(r) *Resource Report 13—Tribal interests.* This report will identify the Indian Tribes, indigenous communities, and their respective interests, if any, that may be affected by the construction, operation, and maintenance of the proposed transmission facilities, including those Indian Tribes and indigenous communities that may attach religious and cultural significance to historic properties within the right-of-way or in the project area as well as any underlying Federal land management agencies. To the extent Indian Tribes are willing to communicate and share resource information, this report should discuss the potential impacts of project construction, operation, and maintenance on Indian Tribes and Tribal interests, including impacts related to enumerated resources and areas identified in the resource reports listed in this section (for instance, water rights, access to property, wildlife and ecological resources, etc.), and set forth available information on traditional cultural and religious resources that could be affected by the proposed project. This resource report should acknowledge existing relationships between adjacent and underlying Federal land management agencies and the local Tribes and engage the Federal land manager early to leverage existing relationships. Specific site or location information, disclosure of which may create a risk of harm, theft, or destruction, or otherwise violate Federal law (see, e.g., 16 U.S.C. 470 *et seq.*, 43 CFR 7.18, 36 CFR 800.11(c)), should be submitted separately. The project proponent must request confidential treatment for all material filed with DOE containing location, character, and ownership information about Tribal resources in accordance with § 900.4(h).

(s) *Docketing of resource reports.* DOE shall include in the consolidated administrative docket, as detailed in § 900.10, the resource reports developed under this section, and any revisions to those reports.

**§ 900.7 Standard and project-specific schedules.**

(a) DOE shall publish, and update from time to time, a standard schedule that identifies the steps generally needed to complete decisions on all Federal environmental reviews and authorizations for a qualifying project. The standard schedule will include recommended timing for each step so as to allow final decisions on all Federal authorizations within two years of the publication of a notice of intent to prepare an environmental impact statement under § 900.9 or as soon as practicable thereafter, considering the requirements of relevant Federal laws, and the need for robust analysis of project impacts and early and meaningful consultation with potentially affected Indian Tribes and public engagement with potentially-affected stakeholders and communities of interest.

(b) During the Integrated Interagency Pre-Application (IIP) Process, DOE, in coordination with any NEPA co-lead agency and relevant Federal entities, shall prepare a project-specific schedule that is informed by the standard schedule prepared under paragraph (a) of this section and that establishes prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, a qualifying project, accounting for relevant statutory requirements, the proposed route, reasonable alternative routes, if any, the need to assess and address any impacts to military testing, training, and operations, and other factors particular to the specific qualifying project, including the need for early and meaningful consultation with potentially affected Indian Tribes and engagement with stakeholders. DOE may revise the project-specific schedule as needed to satisfy applicable statutory requirements, meaningfully engage with stakeholders, and to account for delays caused by the actions or inactions of the project proponent.

**§ 900.8 IIP Process review meeting.**

(a) An Integrated Interagency Pre-Application (IIP) Process review meeting is required for each qualifying project utilizing the IIP Process and may only be held after the project proponent submits a review meeting request to DOE. The project proponent may submit the request at any time following submission of the resource reports required under § 900.6. The review meeting request must include:

(1) A summary table of changes made to the qualifying project since the IIP Process initial meeting, including

potential environmental and community benefits from improved siting or design;

(2) Maps of potential proposed routes within study corridors, including the line, substations and other infrastructure, which include at least as much detail as required for the initial meeting initiation request described by § 900.5 and as modified in response to early stakeholder input and outreach and feedback from relevant Federal entities and relevant non-Federal entities as documented in the final initial meeting summary described by § 900.5;

(3) If known, a schedule for completing any upcoming field resource surveys, as appropriate;

(4) A conceptual plan for implementation and monitoring of mitigation measures, including avoidance, minimization, and conservation measures, such as compensatory mitigation (offsite and onsite), developed through the use of a landscape mitigation approach or, where available, landscape mitigation strategies or plans to reduce the potential impact of the qualifying project to resources warranting or requiring mitigation;

(5) An updated public engagement plan described in § 900.5(d)(2), reflecting actions undertaken since the project proponent submitted the initiation request and input received from relevant Federal entities and relevant non-Federal entities;

(6) Dates that the project proponent has already filed applications or requests for Federal authorizations for the qualifying project, if any, as well as estimated dates for any remaining such applications or requests or any revisions to applications or requests that have already been filed; and

(7) Estimated dates that the project proponent will file requests for authorizations and consultations with relevant non-Federal entities.

(b) Not later than 15 calendar days after the date that DOE receives the review meeting request, DOE shall provide relevant Federal entities and relevant non-Federal entities with materials included in the request and resource reports submitted under § 900.6 via electronic means.

(c) Not later than 60 calendar days after the date that DOE receives the review meeting request, DOE shall notify the project proponent and all relevant Federal entities and relevant non-Federal entities that:

(1) The meeting request meets the requirements of this section, including that the initial resource reports are sufficiently detailed; or

(2) The meeting request does not meet the requirements of this section. DOE will provide the reasons for that finding and a description of how the project proponent may, if applicable, address any deficiencies in the meeting request or resource reports so that DOE may reconsider its determination.

(d) Not later than 30 calendar days after the date that DOE provides notice to the project proponent under paragraph (c) of this section that the review meeting request has been accepted, DOE shall convene the review meeting with the project proponent and the relevant Federal entities. All relevant non-Federal entities participating in the IIP Process shall also be invited.

(e) During the IIP Process review meeting:

(1) Relevant Federal entities shall identify any remaining issues of concern, identified information gaps or data needs, and potential issues or conflicts that could impact the time it will take the relevant Federal entities to process applications for Federal authorizations for the qualifying project;

(2) Relevant non-Federal entities may identify remaining issues of concern, information needs, and potential issues or conflicts for the project;

(3) The participants shall discuss the project proponent's updates to the siting process to date, including stakeholder outreach activities, resultant stakeholder input, and project proponent response to stakeholder input;

(4) Based on information provided by the project proponent to date, the relevant Federal entities shall discuss key issues of concern and potential mitigation measures identified for the qualifying project;

(5) Led by DOE, all relevant Federal entities shall discuss statutory and regulatory standards that must be met to make decisions for Federal authorizations required for the qualifying project;

(6) Led by DOE, all relevant Federal entities shall describe the process for, and estimated time to complete, required Federal authorizations and, where possible, the anticipated cost (e.g., processing and monitoring fees and land use fees);

(7) Led by DOE, all relevant Federal entities shall describe their expectations for a complete application for a Federal authorization for the qualifying project;

(8) Led by DOE, all relevant Federal entities shall identify necessary updates to the resource reports that must be made before conclusion of the IIP Process, or, as necessary, following conclusion of the IIP Process; and

(9) DOE shall present the proposed project-specific schedule developed under § 900.7.

(f) Not later than 15 calendar days after the review meeting, DOE shall:

(1) Prepare a draft review meeting summary that includes a summary of the meeting discussion, a description of key issues and information gaps identified during the meeting, and any requests for more information from relevant Federal entities and relevant non-Federal entities; and

(2) Convey the draft summary to the project proponent, relevant Federal entities, and any non-Federal entities that participated in the meeting.

(g) The project proponent and entities that received the draft review meeting summary under paragraph (f) of this section will have 15 calendar days following receipt of the draft to review the draft and provide corrections to DOE.

(h) Not later than 15 calendar days following the close of the 15-day review period under paragraph (g) of this section, DOE shall:

(1) Prepare a final review meeting summary incorporating received corrections, as appropriate;

(2) Add the final summary to the consolidated administrative docket described by § 900.10;

(3) Provide an electronic copy of the summary to the relevant Federal entities, relevant non-Federal entities, and the project proponent; and

(4) Determine whether the project proponent has developed the scope of its proposed project and alternatives sufficiently for DOE to determine that there exists an undertaking for purposes of section 106 of the NHPA. If DOE so determines, then DOE shall authorize project proponents to initiate consultation with SHPOs, THPOs, and others consistent with 36 CFR 800.2(c)(4).

(i) After the review meeting and before the IIP Process close-out meeting described by § 900.9 the project proponent shall revise resource reports submitted under § 900.6 based on feedback from relevant Federal entities and relevant non-Federal entities received during the review meeting.

#### **§ 900.9 IIP Process close-out meeting.**

(a) An Integrated Interagency Pre-Application (IIP) Process close-out meeting concludes the IIP Process for a qualifying project and may only be held after the project proponent submits a close-out meeting request to DOE. The close-out meeting request shall include:

(1) A summary table of changes made to the qualifying project during the IIP Process, including potential

environmental and community benefits from improved siting or design;

(2) A description of all changes made to the qualifying project since the review meeting, including a summary of changes made in response to the concerns raised during the review meeting;

(3) A final public engagement plan, as described in § 900.5(d)(2);

(4) Requests for Federal authorizations for the qualifying project; and

(5) An updated estimated time of filing requests for all other authorizations and consultations with non-Federal entities.

(b) Not later than 15 calendar days after the date that DOE receives the close-out meeting request, DOE shall provide relevant Federal entities and relevant non-Federal entities with materials included in the request and any updated resource reports submitted under § 900.6 via electronic means.

(c) Not later than 60 calendar days after the date that DOE receives the review meeting request, DOE shall notify the project proponent and all relevant Federal entities and relevant non-Federal entities that:

(1) The meeting request meets the requirements of this section, including that the initial resource reports are sufficiently detailed; or

(2) The meeting request does not meet the requirements of this section. DOE will provide the reasons for that finding and a description of how the project proponent may, if applicable, address any deficiencies in the meeting request or resource reports so that DOE may reconsider its determination.

(d) Not later than 30 calendar days after the date that DOE provides notice to the project proponent under paragraph (c) of this section that the close-out meeting request has been accepted, DOE shall convene the close-out meeting with the project proponent and all relevant Federal entities. All relevant non-Federal entities participating in the IIP Process shall also be invited.

(e) The IIP Process close-out meeting concludes the IIP Process. During the close-out meeting:

(1) The participants shall discuss the project proponent's updates to the siting process to date, including stakeholder outreach activities, resultant stakeholder input, and project proponent response to stakeholder input; and

(2) DOE shall present the final project-specific schedule.

(f) Not later than 15 calendar days after the close-out meeting, DOE shall:

(1) Prepare a draft close-out meeting summary; and

(2) Convey the draft summary to the project proponent, relevant Federal entities, and any non-Federal entities that participated in the meeting.

(g) The project proponent and entities that received the draft close-out meeting summary under paragraph (f) of this section will have 15 calendar days following receipt of the draft to review the draft and provide corrections to DOE.

(h) Not later than 15 calendar days following the close of the 15-day review period under paragraph (g) of this section, DOE shall:

(1) Prepare a final close-out meeting summary by incorporating received corrections, as appropriate;

(2) Add the final summary to the consolidated administrative docket described by § 900.10;

(3) Provide an electronic copy of the summary to all relevant Federal entities, relevant non-Federal entities, and the project proponent; and

(4) In the event that the project is not identified as a covered project pursuant to § 900.5(e), notify the Federal Permitting Improvement Steering Council (FPISC) Executive Director that the project ought to be included on the FPISC Dashboard as a transparency project.

(i) DOE and any NEPA co-lead agency shall issue a Notice of Intent to publish an environmental impact statement, consistent with the final project-specific schedule.

#### **§ 900.10 Consolidated administrative docket.**

(a) DOE shall maintain a consolidated docket of:

(1) All information that DOE distributes to or receives from the project proponent, relevant Federal entities, and relevant non-Federal entities related to the Integrated Interagency Pre-Application (IIP) Process, including:

(i) The IIP initiation request, review meeting request, and close-out meeting request required by §§ 900.5, 900.8, and 900.9;

(ii) The IIP Process final meeting summaries required by §§ 900.5, 900.8 and 900.9;

(iii) The IIP Process final resources reports developed under § 900.6;

(iv) The final project-specific schedule developed under §§ 900.7 and 900.8;

(v) Other documents submitted by the project proponent as part of the IIP Process or provided to the project proponent as part of the IIP Process, including but not limited to maps, publicly available data, and other supporting documentation; and

(vi) Communications between any Federal or non-Federal entity and the project proponent regarding the IIP Process; and

(2) All information assembled and used by relevant Federal entities as the basis for Federal authorizations and related reviews following completion of the IIP Process.

(b) Federal entities should include DOE in all communications with the project proponent related to the IIP Process for the qualifying project.

(c) DOE shall make the consolidated docket available, as appropriate, to the NEPA co-lead agency selected under § 900.11; any Federal or non-Federal entity responsible for issuing an authorization for the qualifying project; and any consulting parties per section 106 of the NHPA, consistent with 36 CFR part 800. DOE shall exclude or redact privileged documents, as appropriate.

(d) Where necessary and appropriate, DOE may require a project proponent to contract with a qualified record-management consultant to compile a contemporaneous docket on behalf of all participating agencies. Any such contractor shall operate at the direction of DOE, and DOE shall retain responsibility and authority over the content of the docket.

#### **§ 900.11 NEPA lead agency and selection of NEPA co-lead agency.**

(a) For a qualifying project that is accepted for the Integrated Interagency Pre-Application (IIP) Process under § 900.5, DOE shall serve as the lead agency to prepare an environmental impact statement (EIS) to serve the needs of all relevant entities. A NEPA

co-lead agency to prepare the EIS may also be designated pursuant to this section, no later than by the IIP review meeting.

(b) The NEPA co-lead agency, if any, shall be the Federal entity with the most significant interest in the management of Federal lands or waters that would be traversed or affected by the qualifying project. DOE shall make this determination in consultation with all Federal entities that manage Federal lands or waters traversed or affected by the qualifying project. For projects that would traverse lands managed by both the USDA and the DOI, DOE will request that USDA and DOI determine the appropriate NEPA co-lead agency, if any.

#### **§ 900.12 Environmental review.**

(a) After the Integrated Interagency Pre-Application (IIP) Process close-out meeting, and after receipt of a relevant application in accordance with the project-specific schedule, DOE and any NEPA co-lead agency selected under § 900.11 shall prepare an environmental impact statement (EIS) for the qualifying project designed to serve the needs of all relevant Federal entities.

(b) When preparing the EIS, DOE and any NEPA co-lead agency shall:

(1) Consider the materials developed throughout the IIP Process; and

(2) Consult with relevant Federal entities and relevant non-Federal entities.

(c) DOE, in consultation with any NEPA co-lead agency, will be responsible for:

(1) Identifying, contracting with, directing, supervising, and arranging for the payment of contractors, as appropriate, to draft the EIS; and

(2) Publishing all completed environmental review documents.

(d) Each Federal entity or non-Federal entity that is responsible for issuing a separate Federal authorization for the qualifying project shall:

(1) Identify all information and analysis needed to make the authorization decision; and

(2) Identify all alternatives that need to be included, including a preferred alternative, with respect to the authorization.

(e) DOE and any NEPA co-lead agency, in consultation with relevant Federal entities, shall identify the full scope of alternatives for analysis, including the no action alternative.

(f) To the maximum extent permitted under law, relevant Federal entities shall use the EIS as the basis for all Federal authorization decisions on the qualifying project. Those entities shall execute their own records of decision.

(g) For all qualifying projects, DOE and the applicable Federal entity or entities shall serve as co-lead agencies for consultation under the Endangered Species Act, per 50 CFR 402.07, and compliance with section 106 of the National Historic Preservation Act, per 36 CFR 800.2(a)(2).

#### **§ 900.13 Severability.**

The provisions of this part are separate and severable from one another. Should a court of competent jurisdiction hold any provision(s) of this part to be stayed or invalid, such action shall not affect any other provision of this part.

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