



## DEPARTMENT OF ENERGY

### Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors

**AGENCY:** Grid Deployment Office, Department of Energy.

**ACTION:** Notice of intent (NOI); request for information (RFI).

**SUMMARY:** Pursuant to the Federal Power Act (“FPA”), the U.S. Department of Energy (“DOE” or the “Department”) Grid Deployment Office (“GDO”) is issuing this Notice of Intent (“NOI”) to establish a process to designate “route-specific” National Interest Electric Transmission Corridors (“NIETCs,” pronounced \NIT-sees\). Through this process, DOE intends to invite interested entities to propose for designation as a NIETC a potential route where one or more potential transmission projects could be located within a geographic area where the Department has identified transmission need(s) (*i.e.*, present or expected electric transmission capacity constraints or congestion that adversely affects consumers) and where the Department has made other statutory findings. DOE intends to develop final guidelines and procedures for interested entities to propose that DOE designate a NIETC. In this NOI, DOE identifies certain key program design elements that it believes should form the basis of an applicant-driven, route-specific process to designate NIETCs. In the accompanying RFI, DOE seeks comments from the public and interested parties on these identified program elements and any additional program elements that should be included to assist in developing final guidelines, procedures, and evaluation criteria for the applicant-driven, route-specific NIETC designation process.

**DATES:** Written comments and information are requested on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested parties may submit comments through the Federal eRulemaking Portal at [www.regulations.gov](https://www.regulations.gov). For detailed instructions on submitting comments and additional

information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* The docket for this activity, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at [www.regulations.gov](http://www.regulations.gov). The docket web page contains instructions on how to access all documents, including public comments, in the docket.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information may be sent to: [NIETC@hq.doe.gov](mailto:NIETC@hq.doe.gov). Questions about the NOI and RFI may be addressed to Molly Roy at (240) 805-4298.

## **SUPPLEMENTARY INFORMATION:**

### **I. Executive Summary**

Pursuant to section 216 of the Federal Power Act (“FPA”) (16 U.S.C. 824p), the U.S. Department of Energy (“DOE” or the “Department”) Grid Deployment Office (“GDO”) is issuing this Notice of Intent (“NOI”) to establish a process to designate “route-specific” National Interest Electric Transmission Corridors (“NIETCs,” pronounced \NIT-sees\). Through this process, DOE intends to invite interested entities to propose for designation as a NIETC a potential route where one or more potential transmission projects could be located within a geographic area where the Department has identified transmission need(s) (*i.e.*, present or expected electric transmission capacity constraints or congestion that adversely affects consumers) and where the Department has made other statutory findings. Interested entities will be required to provide information about the potential route necessary to fulfill the statutory criteria for designation, as well as certain environmental information about the potential route to facilitate DOE’s ability to efficiently complete its responsibilities under the National Environmental Policy Act (“NEPA”). DOE is also issuing a Request for Information (“RFI”)

with this NOI to gather input to inform the development of future application guidance and procedures for entities seeking to propose a route as a NIETC, as well as the development of information DOE will request in order to evaluate proposals. DOE plans to issue final application guidance concurrent with the finalization of the National Transmission Needs Study (“Needs Study”), anticipated to be released in late summer of 2023.

DOE anticipates that, generally, routes proposed for potential designation as a NIETC may be associated with specific transmission projects under active development, meaning that a potential applicant has progressed beyond the preliminary concept and has begun actively routing the project and engaging in community and landowner outreach, land surveys, or initiation of environmental compliance work. As such, DOE intends to designate NIETCs that are “route-specific,” meaning they encompass narrow areas that are under consideration for the location of specific potential project(s), and which are sufficient for the construction, maintenance, and safe operation thereof in accordance with any applicable regulatory requirements. Designation of a NIETC does not constitute selection of or a preference for a specific transmission project for financial, siting, or industry planning purposes; selection for these other purposes will continue to occur through established planning and regulatory processes.<sup>1</sup>

DOE is considering this process for designating NIETCs in recognition of the fact that such designations would occur in areas experiencing the greatest need for immediate transmission development and would unlock new financing and regulatory tools to spur investment in those areas. The recently enacted Infrastructure Investment and Jobs Act (“IIJA”) and Inflation Reduction Act (“IRA”) contain new public-private partnership and loan authorities that DOE can use to spur construction of transmission projects in NIETCs. In addition, section 216(b) of the FPA, as amended by the IIJA, allows the Federal Energy Regulatory Commission

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<sup>1</sup> In the future, DOE may, under its authority in the Federal Power Act, also evaluate routes for NIETC designation that are not necessarily associated with any particular project under development, provided that such a route would facilitate the development of future transmission projects in the national interest.

(“FERC”) to issue permits to site transmission facilities within NIETCs when certain statutory conditions are met.

NIETCs may encompass areas where multiple transmission projects could be located, providing an opportunity to coordinate environmental reviews and improve the efficiency and timeliness of permitting of these projects. DOE will, as appropriate, consult from an early stage with Federal, Tribal, State, and local authorities responsible for transmission siting and/or permitting on potential NIETC designation to develop appropriate and efficient timelines for decision-making. Where projects in NIETCs indicate an intention to seek siting permits from FERC under section 216(b) of the FPA, DOE intends to coordinate with FERC to the maximum extent practicable to avoid redundancy and promote efficiency in environmental reviews.

DOE intends to develop final guidelines and procedures for interested entities to propose that DOE designate a NIETC. In this NOI, DOE identifies certain key program design elements that it believes should form the basis of an applicant-driven, route-specific process to designate NIETCs. In the accompanying RFI, DOE seeks comments from the public and interested parties on these identified program elements and any additional program elements that should be included to assist in developing final guidelines, procedures, and evaluation criteria for the applicant-driven, route-specific NIETC designation process.

## **II. Background**

A reliable and resilient electric transmission system is essential to the Nation's economic, energy, and national security. Additional transmission capacity is necessary to meet the challenges of more frequent extreme weather and other disruptive events, provide access to diverse sources of clean electricity, and meet new electricity demands driven by electrification of end-use sectors like transportation and industry.

The Administration has set national goals to reduce U.S. greenhouse gas emissions at least 50 percent below 2005 levels in 2030 and to reach net zero emissions by 2050. These goals

include a transition to a 100% clean electric power sector by 2035,<sup>2</sup> which would require an increase in transmission system capacity estimated to total between 1.3 to 2.9 times the amount of existing transmission capacity.<sup>3</sup> Recent independent analysis has also found that transmission systems may need to expand by 60 percent by 2030, and may need to triple by 2050, to deliver clean electricity to consumers.<sup>4</sup> The proliferation of State and local clean energy standards and goals and private-sector clean energy purchase commitments<sup>5</sup> further underscores the Nation's need for additional transmission infrastructure.<sup>6</sup> The incorporation of clean energy resources facilitated by additional transmission development will also expand energy resource diversity, promote resilience and reliability of the Nation's electricity grid, and lower costs to consumers by adding new low cost electricity supply.<sup>7</sup>

Finally, the recently enacted IIJA and IRA together make significant investments in clean energy manufacturing and generation, and the electrification of homes, businesses, and vehicles. The benefit of those investments will not be realized fully unless the United States can quickly expand enabling electric transmission infrastructure.

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<sup>2</sup> See Executive Order 14008 of Jan. 27, 2021, Tackling the Climate Crisis at Home and Abroad, 86 FR 7619 (Feb. 1, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>; Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies (Apr. 22, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

<sup>3</sup> See Paul Denholm, et al., *Examining Supply-Side Options to Achieve 100% Clean Electricity by 2035*, (Aug. 2022), available at: [www.nrel.gov/docs/fy22osti/81644.pdf](http://www.nrel.gov/docs/fy22osti/81644.pdf).

<sup>4</sup> Eric Larson, et al., *Net-Zero America: Potential Pathways, Infrastructure, and Impacts*, (Dec. 15, 2020), available at: [https://netzeroamerica.princeton.edu/img/Princeton%20NZA%20FINAL%20REPORT%20SUMMARY%20\(29Oct2021\).pdf](https://netzeroamerica.princeton.edu/img/Princeton%20NZA%20FINAL%20REPORT%20SUMMARY%20(29Oct2021).pdf).

<sup>5</sup> For example, in November 2022, the Clean Energy Buyers Alliance reported that “[c]orporate energy customers have played an influential role in the clean energy transition by accelerating over 57 gigawatts of clean energy in the U.S. alone.” *Corporate and Government Collaboration for Clean Energy Investment Moves from Commitment to Action: Up to \$100 Billion in Clean Energy Investment Potential across the World* Bureau of Energy Resources, Washington DC, (Nov. 2022) available at <https://www.state.gov/corporate-and-government-collaboration-for-clean-energy-investment-moves-from-commitment-to-action-up-to-100-billion-in-clean-energy-investment-potential-across-the-world/>.

<sup>6</sup> See Database of State Incentives for Renewables & Efficiency (DSIRE), *Renewable & Clean Energy Standards*, (Nov. 2022), available at: <https://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2022/11/RPS-CES-Nov2022.pdf>.

<sup>7</sup> See 87 FR 2769, “Building a Better Grid Initiative to Upgrade and Expand the Nation's Electric Transmission Grid To Support Resilience, Reliability, and Decarbonization” (January 19, 2022), <https://www.federalregister.gov/documents/2022/01/19/2022-00883/building-a-better-grid-initiative-to-upgrade-and-expand-the-nations-electric-transmission-grid-to>.

Designation of NIETCs is one of many tools that DOE has available to facilitate timely development of transmission infrastructure to meet these needs. As discussed in more detail below, designation of NIETCs can assist in focusing commercial facilitation, signal opportunities for beneficial development to transmission planning entities, and unlock siting and permitting tools for transmission projects in identified areas where present or expected future congestion is negatively impacting consumers.

#### **A. Identification of Transmission Needs Through the National Transmission Needs Study**

Congress has emphasized the need to strengthen transmission infrastructure throughout the Nation and has tasked DOE with identifying transmission needs and facilitating the planning and deployment of transmission infrastructure to meet those needs.<sup>8</sup> Directly relevant to the establishment of NIETCs, section 216(a) of the FPA directs DOE to conduct a study of electric transmission constraints and congestion on a triennial basis and, on the basis of that study and other information, designate geographic areas as NIETCs.

DOE is in the process of fulfilling the threshold statutory study requirement through the completion of the Needs Study. Consistent with the authority provided to DOE by section 216(a) of the FPA as amended by the IIJA, the Needs Study will catalog both historical and anticipated electric transmission needs, defined as the existence of present or expected electric transmission capacity constraints or congestion in a geographic area. The Needs Study will identify high-priority national transmission needs—specifically, opportunities for linking areas with new transmission facilities or upgraded existing facilities, including non-wire alternatives, to improve reliability and resilience of the power system; alleviate transmission congestion on an annual basis; alleviate transmission congestion during real-time operations; alleviate power transfer

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<sup>8</sup> See, e.g., 42 U.S.C. 15926(a) (requiring the designation of energy right-of-way corridors across Federal lands for electric transmission and other energy projects); 16 U.S.C. 824p(h) (establishing procedures to ensure timely and efficient review of proposed transmission projects by Federal agencies); and 42 U.S.C. 16421 (giving additional authority for Western Area Power Administration and Southwestern Power Administration to participate with other entities in the development of transmission).

capacity limits between neighboring regions; deliver cost-effective generation to high-priced demand; or meet projected future generation, electricity demand, or reliability requirements.

Pursuant to sections 216(a)(1) and (3) of the FPA, DOE has initiated and continues to consult with affected States, Indian Tribes, and appropriate regional entities in preparing the Needs Study. In February 2023, DOE released a draft of the Needs Study for public comment with a comment deadline of April 20, 2023.<sup>9</sup>

## **B. Purpose of Designating NIETCs**

Designation of a NIETC is a prerequisite to the ability of DOE and FERC to use certain statutory tools to advance the development of transmission facilities necessary to relieve current and expected capacity constraints and congestion and spur the buildout of a reliable and resilient national transmission system that facilitates the achievement of national and subnational greenhouse gas emissions reduction goals and reduces the cost of delivered power for consumers.

First, both the IIJA and IRA appropriated funds that can be used by DOE to help overcome commercial hurdles to the development of transmission facilities within NIETCs. Section 40106 of the IIJA<sup>10</sup> enacted the Transmission Facilitation Program, appropriating \$2.5 billion to DOE to provide commercial facilitation to support the construction of high capacity new, replacement, or upgraded transmission lines. Under this provision, DOE is authorized to enter into public-private partnerships to co-develop transmission projects located within NIETCs. Further, section 50151 of the IRA<sup>11</sup> established a Transmission Facility Financing program under which DOE can offer loan support to transmission facilities designated by the Secretary to be necessary in the national interest pursuant to section 216(a) of the FPA, and appropriated \$2 billion to pay for the cost (*i.e.*, the “credit subsidy”) of issuing such loans.

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<sup>9</sup> <https://www.energy.gov/gdo/national-transmission-needs-study>.

<sup>10</sup> Pub. L. 117-58 (Nov. 11, 2021).

<sup>11</sup> Pub. L. 117-169 (Aug. 16, 2022).

In addition, under section 216(b) of the FPA, as amended by the IIJA, designation of a NIETC permits an applicant developing a transmission line to seek a permit from the Federal Energy Regulatory Commission (“FERC”) for the construction or modification of electric transmission facilities within a designated NIETC, provided that certain other statutory conditions have been met.<sup>12</sup> Recently, FERC issued a Notice of Proposed Rulemaking proposing updated regulations that would implement this permitting authority, including regulations governing the environmental, cultural, and environmental justice resource information that applicants for a FERC-issued construction permit in a NIETC must submit.<sup>13</sup>

### **C. Statutory Requirements for Designation of NIETCs**

The results of the Needs Study are a key input into the designation of NIETCs. Section 216(a)(2) of the FPA directs DOE to issue a report, based on the findings of the Needs Study or other information related to electric transmission capacity constraints or congestion, which may designate one or more NIETCs. Specifically, the Secretary may “designate as a national interest electric transmission corridor any geographic area that—(i) is experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers; or (ii) is expected to experience such energy transmission capacity constraints or congestion.”<sup>14</sup> In addition, section 216(a)(4) of the FPA, as amended by the IIJA, allows the Secretary to consider several additional factors in determining whether to designate a NIETC. Specifically, the Secretary may consider whether:

- (A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;
- (B) (i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

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<sup>12</sup> See 16 U.S.C. 824p(b).

<sup>13</sup> Applications for Permits to Site Interstate Electric Transmission Facilities, 181 FERC ¶ 61,205 (2022) (Notice of Proposed Rulemaking).

<sup>14</sup> 16 U.S.C. 824p(a)(2).



- (ii) a diversification of supply is warranted;
- (C) the energy independence or energy security of the United States would be served by the designation;
- (D) the designation would be in the interest of national energy policy;
- (E) the designation would enhance national defense and homeland security;
- (F) the designation would enhance the ability of facilities that generate or transmit firm or intermittent energy to connect to the electric grid;
- (G) the designation—
  - (i) maximizes existing rights-of-way; and
  - (ii) avoids and minimizes, to the maximum extent practicable, and offsets to the extent appropriate and practicable, sensitive environmental areas and cultural heritage sites; and
- (H) the designation would result in a reduction in the cost to purchase electric energy for consumers.

DOE is required to provide an opportunity for comment, and potentially for consultation as part of required environmental and cultural resource review processes, to affected States, Indian Tribes, and regional grid entities when determining the designation of a NIETC. DOE intends to engage from an early stage with Tribal, State, and local authorities responsible for transmission siting and/or permitting on the potential corridors for designation, as well as Communities of Interest.<sup>15</sup> When specific corridors under consideration present potential impacts to Tribal Nations, DOE will follow its policy established in Order 144.1<sup>16</sup> to pursue meaningful government-to-government consultation. When engaging with Communities of

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<sup>15</sup> Community of Interest means any community that has been historically marginalized, including, but not limited to, disadvantaged communities, fossil energy communities, rural communities, minority communities, indigenous peoples, or other geographically proximate communities that could be affected by a NIETC.

<sup>16</sup> Department of Energy American Indian Tribal Government Interactions and Policy — DOE Directives, Guidance, and Delegations.

Interest, DOE will follow the most recent Administration guidance on the Justice40 Initiative<sup>17</sup> and energy and environmental justice as applicable.

#### **D. National Environmental Policy Act (“NEPA”) and Environmental and Cultural Resource Responsibilities**

In a 2011 decision, *California Wilderness v. DOE*,<sup>18</sup> the federal Court of Appeals for the Ninth Circuit held that, pursuant to NEPA, DOE's designation of a NIETC—regardless of the lack of any siting decision made in that corridor—constitutes a major Federal action that may significantly affect the quality of the human environment such that documentation of environmental compliance is required.<sup>19</sup> As a result, to designate any NIETC following completion of the Needs Study, whether on the proposal of an applicant or on DOE's own motion, DOE must initiate processes necessary to meet its obligations pursuant to NEPA, section 106 of the National Historic Preservation Act, and any other obligations pursuant to relevant environmental laws (*e.g.*, section 7 of the Endangered Species Act).<sup>20</sup>

Accordingly, DOE must follow procedures under 10 CFR part 1021 to comply with section 102(2) of NEPA and the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508). This part supplements, and is used in conjunction with, the CEQ regulations.

#### **E. Related Authorities of FERC and Other Federal Agencies**

As explained above, one effect of a NIETC designation is to delineate areas within which, under certain circumstances, FERC may ultimately grant permits for the construction or modification of electric transmission facilities pursuant to section 216(b) of the FPA. On November 16, 2006, FERC issued Order No. 689, which adopted regulations establishing filing

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<sup>17</sup> M-23-09 (whitehouse.gov)

<sup>18</sup> 631 F.3d 1072 (2011).

<sup>19</sup> 42 U.S.C. 4332(2)(C).

<sup>20</sup> See *The Wilderness Society, et al v. U.S. Department of Energy*, No. 08-71074 (9th Cir. 2011).

requirements and procedures for entities seeking permits under section 216(b) of the FPA.<sup>21</sup> FERC also added a new section to its NEPA regulations, 18 CFR 380.16, which describes the specific environmental information that must be included in applications for permits to site transmission facilities under section 216(b). Section 380.16 currently requires each applicant to submit an environmental report that includes eleven resource reports.<sup>22</sup> As noted previously, FERC recently issued a Notice of Proposed Rulemaking proposing changes to these regulations which, if finalized, would, among other things, add new required resource reports.<sup>23</sup>

In addition, several agencies have worked to establish multi-function (including transmission) energy corridors on Federal lands in 11 western States (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming) under section 368 of the Energy Policy Act (EPA) of 2005 (EPA 2005).<sup>24</sup> Specifically, Section 368 directs several agencies, including DOE, to designate these multi-use corridors on Federal lands.<sup>25</sup> Section 368 also directs the agencies to, when designating such corridors, account for the need for upgraded and new infrastructure and to take actions to improve reliability, relieve congestion, and enhance the capability of the national grid to deliver energy.<sup>26</sup> On April 20, 2022, the Bureau of Land Management (BLM), the United States Forest Service, and DOE released the Final Regional Review Report for the West-wide Energy Corridors, which designated 5,000 miles of energy corridors (commonly referred to as “Section 368 energy corridors” or “West-wide energy corridors”) for potential placement of electricity transmission

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<sup>21</sup> Regulations for Filing Applications for Permits to Site Interstate Elec. Transmission Facilities, Order No. 689, 71 FR 69440 (Dec. 1, 2006), 117 FERC ¶ 61,202 (2006) (Order No. 689 Final Rule), reh’g denied, 119 FERC ¶ 61,154 (2007) (Order No. 689 Rehearing Order).

<sup>22</sup> The eleven reports are detailed in the online Code of Federal Regulations here: <https://www.ecfr.gov/current/title-18/chapter-I/subchapter-W/part-380/section-380.16>. Reports range from: 1) General Project Description; 2) Water Use and Quality; 3) Fish, Wildlife, and Vegetation; 4) Cultural Resources; 5) Socioeconomics; 6) Geological Resources; 7) Soils; 8) Land Use, Recreation, and Aesthetics; 9) Alternatives; 10) Reliability and Safety; and 11) Design and Engineering.

<sup>23</sup> Applications for Permits to Site Interstate Electric Transmission Facilities, 181 FERC ¶ 61,205 (2022) (Notice of Proposed Rulemaking).

<sup>24</sup> 42 U.S.C. 15926.

<sup>25</sup> 42 U.S.C. 15926(a) and DOE/EIS-0406.

<sup>26</sup> 42 U.S.C. 15926(d).

and distribution infrastructure, among other energy transport projects. As preferred locations for energy transport projects on Federally administered public lands, these corridors are intended to facilitate long-distance movement of transmission and distribution of high-voltage electric power.<sup>27</sup> Finally, title 41 of the Fixing America’s Surface Transportation Act (FAST-41) (Pub. L. No. 114-94, 42 U.S.C. 4370m *et seq.*), establishes a new governance structure, set of procedures, and funding authorities to improve the Federal environmental review and authorization process for “covered” infrastructure projects. FAST-41 is administered by the Federal Permitting Improvement Steering Council (Permitting Council), which is comprised of the Permitting Council Chair, the Deputy Secretaries “or equivalent” of 13 Federal permitting agencies (including DOE), as well as the CEQ Chair and OMB Director. A sponsor of a project in an NIETC also may apply to become a FAST-41 covered project, which is entitled to the permitting timetable management, interagency coordination, transparency, and the other benefits of that statute. To apply for FAST-41 coverage, project sponsors should submit notice of the initiation of a proposed FAST-41 covered project (FIN) to the Permitting Council Executive Director at (*Fast.Fortyone@FPISC.gov*) and the appropriate facilitating agency.

### **III. Notice of Intent**

#### **A. Key Elements of Applicant-Driven, Route-Specific Designation Application Process**

As first announced in the Building a Better Grid Initiative NOI and discussed previously, DOE intends to implement its authority to designate NIETCs on an applicant-driven, route-specific basis. DOE will issue future guidance establishing the process through which interested parties can propose designation of a NIETC, and the information they will be required to provide. In this NOI, DOE identifies certain key elements that DOE expects will be part of this application process, and in the RFI that follows, seeks comments on these and any other key

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<sup>27</sup> Visit the West-wide Energy Corridor Information Center website <https://www.corridoreis.anl.gov/> to maps and learn about potential revisions, deletions, and additions to the network.

program elements to inform the development of guidance for applications for NIETC designations.

**i. Eligible Applicants**

DOE expects Applicants for a potential NIETC designation to be transmission developers with a project under development in the proposed route. However, no particular stage of development is required for an Applicant to seek potential designation. DOE is also considering opening the pool of potential applicants to additional entities, which could include Tribal authorities, States, non-transmission-owning utilities (including transmission-dependent utilities), local governments, generation developers, or other entities with an interest in seeking designation of a NIETC.

**ii. Scope of “Route-Specific” NIETCs**

As discussed above, DOE intends to invite Applicants to propose routes where one or more potential transmission projects could be located within a geographic area where DOE has identified transmission need(s) (*i.e.*, present or expected electric transmission capacity constraints or congestion that adversely affects consumers), either through the Needs Study or through other evaluations provided by the Applicant. DOE anticipates that Applicants submitting potential routes for designation will be required to demonstrate that their proposed route balances the need to ensure that the potential route is defined with sufficient specificity to allow for meaningful evaluation of the potential energy and environmental impacts of one or more transmission projects along that route, while also sufficient in size and scope to construct, maintain, and safely operate one or more transmission projects in accordance with applicable regulatory requirements and reliability standards and accommodate routine route changes that often occur when siting and permitting infrastructure.

**iii. Required Application Information**

DOE intends to require Applicants to include in their proposal for NIETC designation information about the potential route that is necessary to fulfill the statutory requirements for

NIETC designation detailed in section I.C of this notice, as well as certain environmental information about the potential route to facilitate DOE's ability to efficiently complete its responsibilities under NEPA. Specifically, DOE preliminarily expects to require Applicants to submit the following information:

- (i) The geographic boundaries of potential route-specific corridor(s), and the rationale for those boundaries, including how they balance the need for specificity in the route with the need to ensure the scope and size are sufficient for operational purposes and to accommodate typical route changes;
- (ii) A description of how the potential NIETC would address existing or expected future electric energy transmission capacity constraints or congestion that adversely affects consumers, including but not limited to areas of constraints or congestion identified in the Needs Study;
- (iii) A description of how new or upgraded transmission capacity within the potential corridor would impact the criteria listed in FPA section 216(a)(4) that DOE may consider when making a designation, including information describing the impact such new or upgraded transmission capacity would have on: economic growth and vitality in the corridor or end markets served; energy independence, national defense, and national security; the achievement of national energy policy goals, including the development of low and zero carbon generation capacity resources; the ability to interconnect new firm or intermittent energy resources, and; reductions in electric energy costs for consumers;
- (iv) Environmental information necessary to meet the requirements of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) (NEPA). If a proposed NIETC designation is based on a project that is under sufficient development such that the following information is available in specifics, those specifics should be provided. For proposed NIETC designations that are more conceptual, the information

provided should be as specific as possible. The Affected Environmental Resources and Impacts Summary is limited to a maximum length of twenty (20), single-spaced pages, not including associated maps, and must include concise descriptions, based on existing, relevant, and reasonably-available information, of the known existing environment, and major site conditions in project area, including:

- a. An overview of topographical and resource features that are relevant to the siting of electric transmission lines present;
- b. Summary of known land uses, including Federal lands, Tribal lands, and State public lands of various types (*e.g.*, parks and monuments), associated land ownership, where appropriate, and any land use restrictions;
- c. Summary of known or potential adverse effects to cultural and historic resources;
- d. Summary of known or potential conflicts with or adverse impacts on military activities;
- e. Summary of known or potential impacts on the U.S. aviation system, including FAA restricted airspace;
- f. Summary of known or potential impacts on the U.S. marine transportation system, including impacts on waterways under jurisdiction of the U.S. Coast Guard;
- g. Summary of known information about Federal- and State-protected avian, aquatic, and terrestrial species, and critical habitat or otherwise protected habitat, that may be present, as well as other biological resources information that is necessary for an environmental review;

- h. Summary of the aquatic habitats (to include estuarine environments, and water bodies, including wetlands, as well as any known river crossings and potential constraints caused by impacts to navigable waters of the United States considered for the qualifying project);
  - i. Summary of known information about the presence of Communities of Interest as defined by DOE<sup>28</sup> that could be affected by the NIETC;
  - j. Identification of existing or proposed qualifying project facilities or operations in the project area;
  - k. Summary of the proposed use of previously disturbed lands, existing, agency-designated corridors, including but not limited to corridors designated under section 503 of the Federal Land Policy and Management Act and section 368 of the Energy Policy Act of 2005, transportation rights-of-way, and the feasibility for co-location of the qualifying project with existing facilities or location in existing corridors and transportation rights-of-way;
  - l. Summary of potential avoidance, minimization, and conservation measures; and
  - m. Maps and Geospatial Information and Studies in support of the information provided in the summary descriptions for the known existing environmental, cultural, and historic resources in the project area under paragraph in this section must be included. Project proponents must provide maps as electronic data files that may be readily accessed by Federal entities and Non-Federal entities.
- (v) A discussion of existing or ongoing environmental review and documentation activities and participants within the potential route-specific NIETC. This

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<sup>28</sup> See footnote 15 for definition.



includes an indication of the extent to which the potential NIETC could be made to align with existing rights-of-way, including utility rights-of-way, rail rights-of-way, highway rights-of-way, and multi-function energy corridors established on Federal lands under section 368 of EPLA 2005;<sup>29</sup>

- (vi) A summary of engagements to date and future outreach planned with Communities of Interest;
- (vii) To the extent the applicant is proposing a route for NIETC designation in association with a specific project, the status of the project's development, including:
  - a. Status of regulatory approvals;
  - b. Discussion of project inclusion in any local or regional transmission plans;
  - c. If the applicant has an intent to seek a federal permit under section 216(b), status of the applicant's initiation of or participation in the FERC pre-filing process;
  - d. The extent to which interconnection points have been identified, secured, and assessed;
  - e. A summary of engagements to date with potentially impacted landowners, including a summary of any acquired or expanded property rights or other agreements in place or in development;
  - f. Discussion of any co-location with existing infrastructure, rights-of-way, and corridors;
- (viii) A discussion of whether planned or anticipated transmission project(s) within the potential NIETC would use innovative transmission technologies or combinations of technologies that would impact the size and scope of the proposed route (*e.g.*,

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<sup>29</sup> 42 U.S.C. 15926.

advanced conductor technologies that would allow for more capacity in a smaller corridor); and

- (ix) A discussion of the impact that potential transmission project(s) within the proposed NIETC would have on encouraging (1) collective bargaining and free and fair opportunities for workers to organize, (2) expanding quality job opportunities and training, (3) advancing diversity, equity, inclusion, and accessibility (DEIA), (4) achieving the DOE Justice40 Initiative policy priorities,<sup>30</sup> (5) maximizing the use of products and materials made in the United States, and (6) maintaining or improving energy security.

#### **iv. Evaluation and Designation Process and Decision**

Section 216(a)(2) requires the Secretary’s decision to designate a NIETC to be issued in a Designation of National Interest Electric Transmission Corridors Report (“Designation Report”). DOE anticipates that, to reach a decision on an Applicant’s proposal for designation of a NIETC and prepare a Designation Report, it will:

- Consider the results of the final 2023 National Transmission Needs Study;
- Evaluate proposals for consistency with the statutory requirements for corridor designation as described in section 216(a)(2) of the FPA;
- Provide an opportunity for comment by, as well as conduct required consultations with, Federal and Tribal Nations; State, local, and regional grid entities; and the general public, including transmission owners and users, grid operators, and others potentially impacted by the proposed designation;
- Evaluate the transmission needs that would be addressed by new or upgraded transmission capacity within the potential NIETC, and how those needs compare or

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<sup>30</sup> The eight DOE Justice40 Initiative policy priorities were identified by the DOE Office of Economic Impact and Diversity to guide DOE’s implementation of Justice40. <https://www.energy.gov/diversity/justice40-initiative>.

relate to the needs identified in the Need Study and other additional factors as outlined section 216(a)(4) of the FPA, as amended by the IJA;

- Evaluate the Applicant's demonstration of environmental impacts of such corridor designations under NEPA; and
- Evaluate the other considerations presented by the Applicant, including the considerations listed in section 216(a)(4) of the FPA.

Based on these considerations and evaluations, DOE anticipates that it would then issue a decision whether to designate a NIETC as proposed or not. With respect to NEPA reviews, to promote efficiency and timeliness DOE intends to coordinate to the maximum extent practicable with FERC in cases where an Applicant also intends to seek permits from FERC under section 216(b) of the FPA. As noted in the accompanying RFI, this may include requiring Applicants for designation of a NIETC to provide, to the extent practicable, environmental information at the same scope and level of detail and in the same general form as what FERC would require pursuant to its responsibilities. Documentation under NEPA would constitute the complete federal decision for the corridor designation with respect to environmental and cultural resources made and its rationale. DOE intends that any Designation Report issued would describe the considerations and factors weighed in making the decision.

#### **IV. Request for Information**

DOE seeks comments from all interested stakeholders regarding all of the proposed elements of DOE's anticipated approach to implementing an applicant-driven, route-specific NIETC designation process described in the NOI above.

Further, in keeping with the Administration's goals, and as an agency whose mission is to help strengthen our country's energy prosperity, the Department of Energy strongly supports investments that create and retain good-paying jobs with the free and fair choice to join a union, the incorporation of strong labor standards, and high-road workforce development, especially registered apprenticeship and quality pre-apprenticeship. Respondents to this RFI are

encouraged to include information about how the NIETC designation process can best support these goals.

In addition, DOE seeks comments on the following specific questions:

1. Please comment on the approach to NIETC designation discussed in the NOI. What are the potential positive and negative impacts of such an approach? How could this process, especially how applications for designation are structured, be altered or improved?
2. Please comment on the information DOE intends to request as part of an application in **Section II.A.iii** – are elements of these requests and/or supporting rationale overly burdensome on respondents?
3. Is there other information or types of information not listed in **Section II.A.iii** that should be requested to inform the evaluation and designation of NIETCs?
4. For any of the information listed in **Section II.A.iii** or suggested in response to the question above, what metrics and methods are available for evaluating how that information meets the statutory requirements for a NIETC described in **Section I.C**?
5. When considering the merits of corridor designation applications, how should DOE evaluate and weight the impact that a proposed corridor and any associated potential project(s) may have on:
  - a. Alleviating congestion or transmission capacity constraints and/or responding to concerns identified in the Needs Study,
  - b. Grid reliability and resilience,
  - c. Reducing greenhouse gas emissions,
  - d. Generating host community benefits,
  - e. Encouraging strong labor standards and the growth of union jobs and expanding career-track workforce development in various regions of the country,
  - f. Improving energy equity and achieving environmental justice goals,
  - g. Maximizing the use of products and materials made in the United States, and

h. Maintaining or improving energy security?

How should DOE evaluate eligible projects that include benefits that may vary across any of the above set of preferred impacts? To what extent should DOE consider other related outcomes like cumulative impacts from a potential corridor? What information should DOE seek to inform such considerations?

What metrics and methods are available for conducting such evaluations?

6. Are there other potential Applicants beyond those listed in **Section II.A.i** that should be considered when developing final guidance, or whose specific needs should be considered when developing this process?
7. Should DOE accept proposals or recommendations for NIETCs on an annual basis, on some other defined frequency, or on a rolling basis? How long should defined request periods be open?
8. Should DOE explicitly seek NIETC corridor proposals that facilitate the development of certain kinds of transmission projects or that meet specific identified transmission needs (*e.g.*, interregional transmission projects)?
9. Should DOE create separate tracks for those applicants who are interested in backstop siting and financing versus those interested in only access to DOE commercial facilitation and finance tools? In your response, please address how the environmental review and other review processes—including with FERC, other federal agencies, and state regulatory bodies—might differ, the relative timing and urgency for siting corridors versus financing corridors, differences in when in the project development cycle an applicant may seek a financing or siting corridor, and conversion between corridor types.
10. To the extent practicable, DOE anticipates leading the coordination of NEPA reviews with other agencies to support their NEPA documentation and to streamline their responsibilities related to facility permitting as well as coordinating with any other Federal agency required to participate in NIETC designations. To support and facilitate

environmental review, DOE anticipates requiring that proposed “route-specific corridors” include or are supported by, to the extent practicable, existing environmental data and analyses that any federal agency may require to complete its environmental review. In particular, where projects in NIETCs indicate an intention to seek siting permits from FERC under section 216(b) of the FPA, DOE anticipates that it will coordinate with FERC to avoid redundancy and promote efficiency in environmental reviews. Accordingly, DOE intends to request a scope and level of detail similar to what FERC would require pursuant to its responsibilities.

- a. Please comment on the role of FERC in the corridor designation process. How can DOE and FERC coordinate to avoid redundancy and promote efficiency in environmental reviews regarding the DOE corridor designation and any potential FERC permit applications? Please be as specific as possible, including but not limited to how the timing of the corridor designations and permit applications restricts or facilitates coordination, and practicable approaches to implementation.
  - b. Is there additional information that DOE should request in its NIETC application beyond the information listed in **Section II.A.iii**? Is additional information beyond the information listed in **Section II.A.iii**, necessary to develop a record consistent with that which FERC would require to meet its responsibilities under section 216(b) and NEPA?
11. Are there other forms of outreach and/or consultation that should be included in this process to ensure adequate participation of and notice to Tribal authorities, State, local, the public, and appropriate regional authorities? For example, should regional planning entities or grid operators be included in outreach or consultation?
12. Are there post-designation procedures not discussed in this request that should be included?

This is solely a request for information and is not a grant announcement. DOE is not accepting applications to this RFI, nor will DOE reimburse any of respondents' costs in preparing a response. DOE may or may not elect to issue a grant announcement in the future based on or related to the content and responses to this RFI. There is no guarantee that a grant announcement will be issued as a result of this RFI. Responding to this RFI does not provide any advantage or disadvantage to potential applicants if DOE chooses to issue a grant announcement regarding the subject matter. Any information obtained as a result of this RFI is intended to be used by the Government on a non-attribution basis for planning and strategy development; this RFI does not constitute a formal announcement for applications or abstracts. Your response to this notice will be treated as information only. DOE will review and consider all responses in its formulation of program strategies for the identified materials of interest that are the subject of this request. DOE will not provide reimbursement for costs incurred in responding to this RFI. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind DOE to any further actions related to these topics.

#### **Evaluation and Administration by Federal and Non-Federal Personnel**

Federal employees are subject to the non-disclosure requirements of a criminal statute, the Trade Secrets Act, 18 U.S.C. 1905. The Government may seek the advice of qualified non-Federal personnel. The Government may also use non-Federal personnel to conduct routine, nondiscretionary administrative activities. The respondents, by submitting their response, consent to DOE providing their response to non-Federal parties. Non-Federal parties given access to responses must be subject to an appropriate obligation of confidentiality prior to being given the access. Submissions may be reviewed by support contractors and private consultants.

#### **Request for Information Response Guidelines**

Responses to the RFI must be provided in writing and submitted electronically to [www.regulations.gov](http://www.regulations.gov) no later than 5pm EST on [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For ease of replying and to aid categorization of your responses, **please copy and paste the RFI questions, including the question numbering, and use them as a template for your response.** Respondents may answer as many or as few questions as they wish.

DOE will not respond to individual submissions. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed. *Submitting comments via www.regulations.gov.* The [www.regulations.gov](http://www.regulations.gov) web page will require you to provide your name and contact information. 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 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. If this instruction is followed, 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](http://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](http://www.regulations.gov) cannot be claimed as CBI. Comments received through the website 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.

### *Confidential Business Information*

Because information received in response to this RFI may be used to structure future programs and grants and/or otherwise be made available to the public, respondents are strongly advised NOT to include any information in their responses that might be considered business sensitive, proprietary, or otherwise confidential. If, however, a respondent chooses to submit business sensitive, proprietary, or otherwise confidential information, it must be clearly and conspicuously marked as such in the response. Responses containing confidential, proprietary, or privileged information must be conspicuously marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Federal Government is not liable for the disclosure or use of unmarked information and may use or disclose such information for any purpose.

Consistent with 10 CFR 1004.11, any person submitting information that they believe to be confidential and exempt by law from public disclosure should submit via email to *NIETC@hq.doe.gov* two well marked copies: one copy of the document marked “Confidential Commercial and Financial Information” 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. DOE will make its own determination about the confidential status of the information and treat it according to its determination. The copy containing confidential

commercial and financial information must include a cover sheet marked as follows: identifying the specific pages containing confidential, proprietary, or privileged information: “Notice of Restriction on Disclosure and Use of Data: Pages [list applicable pages] of this response may contain confidential, commercial, or financial information that is exempt from public disclosure.” The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source. In addition, (1) the header and footer of every page that contains confidential, proprietary, or privileged information must be marked as follows: “Contains Confidential, Commercial, or Financial Information Exempt from Public Disclosure” and (2) every line and paragraph containing proprietary, privileged, or trade secret information must be clearly marked with [[double brackets]] or highlighting.

**Signing Authority:**

This document of the Department of Energy was signed on May 10, 2023, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. The document with the original signature and date is maintained by the 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 May 10, 2023.

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