[6450–01–P]

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: Final rule.

SUMMARY: The Department of Energy (DOE) is amending 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 establishing an integrated and comprehensive Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program); making participation in the Integrated Interagency Pre-Application (IIP) Process a pre-condition for assistance under the CITAP Program; re-establishing the IIP Process as an iterative and collaborative process between the proponent of a proposed electric transmission project and Federal and State agencies to develop information needed for Federal authorizations; requiring the project proponent to engage in robust engagement with the public, communities of interest, and Indian Tribes during the IIP Process; aligning and harmonizing the IIP Process and implementation of the FPA with the Fixing America's Surface Transportation Act; and ensuring that DOE may carry out its statutory obligation to prepare a single environmental review document sufficient for the purposes of all Federal authorizations necessary to site a proposed project.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

I. Executive Summary

In this final rule, the Department of Energy (DOE) is amending its regulations under section 216(h) of the Federal Power Act (16 U.S.C. 824p(h)) (FPA) to establish a Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program) under which DOE will coordinate and expedite Federal authorizations and environmental reviews required to site proposed electric transmission facilities, which may include reviews pursuant to the National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended, 42 U.S.C. 4321 *et seq.*) (NEPA), the National Historic Preservation Act (Pub. L. 89-665, as amended, 54 U.S.C. 30010 *et seq.*) (NHPA), the Endangered Species Act of 1973 (Pub. L. 93-205, as amended, 16 U.S.C. 1531 *et seq.*) (ESA), and evaluations necessary for authorizations under the Federal Land Policy and Management Act (Pub. L. 94-579, as amended, 43 U.S.C. 1701 *et seq.*). DOE coordination under this final rule will increase the efficiency and effectiveness of the Federal authorization and review process for proposed electric transmission facilities by establishing pre-application procedures designed to collect the information needed to perform efficient and timely Federal authorization and environmental reviews, reducing duplication of effort through preparation of a single environmental review document as the basis for all Federal decisions, and setting binding schedules for the completion of all Federal authorizations and environmental reviews. In doing so, this final rule aims to reduce the time it takes to site and permit the electric transmission infrastructure needed to ensure the delivery of reliable, resilient and low-cost electricity to American homes and businesses.

Actions to enable more rapid deployment of electric transmission are more important than ever. As DOE documented in its 2023 National Transmission Needs Study, additional transmission capacity is needed in nearly every region of the country to improve the reliability and resilience of electric service, alleviate high costs caused by transmission congestion and constraints that prevents low-cost energy from reaching customers, and access new low-cost low

carbon energy supplies to serve increasing electricity demands.[1] Over the past decade additional transmission capacity has been added at half the rate of the previous three decades, at a time when electricity demand is increasing and new diverse sources of electricity generation are needed to serve that demand and meet Federal, State, and consumer goals to reduce greenhouse gas emissions from the electricity sector.[2] Accelerating the current pace of transmission infrastructure investment and deployment is needed to meet these objectives and will generate multiple benefits to the public, including improved reliability and resilience, lower electricity costs, additional economic activity, and reduced greenhouse gas emissions. By enabling rapid development of transmission capacity, the CITAP Program will help increase access to a diversity of generation sources, reduce transmission congestion and power-sector emissions, and deliver reliable, affordable power that future consumers will need when and where they need it.

On August 23, 2023, in accordance with section 216(h) of the FPA and a May 2023 Memorandum of Understanding (MOU) among nine Federal agencies committing to expedite the siting, permitting, and construction of electricity transmission infrastructure through more effective implementation of section 216(h) of the FPA, DOE issued a notice of proposed rulemaking (NOPR), to establish the CITAP Program. (88 FR 57011).[3] Under the CITAP Program, the entity or individual heading the project ("project proponent") will work with DOE and other Federal agencies to gather materials necessary to inform the completion of authorizations and environmental reviews. These materials include thirteen reports the project proponent will prepare that describe the proposed project and its potential impacts on resources

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[1] United States Department of Energy, National Transmission Needs Study (Feb. 2023), available at: *https://www.energy.gov/sites/default/files/2023-02/022423-DRAFTNeedsStudyforPublicComment.pdf*.

[2] 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.*

[3] The nine 2023 MOU signatory agencies are USDA, DOC, DOD, DOE, DOI, EPA, Federal Permitting Steering Improvement Steering Council (Permitting Council), 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.*

including land, water, plant and animal life ("resource reports"); a summary of the proposed project that will include details on which Federal authorizations or permits may be necessary and the anticipated timeline to completion of acquiring the described authorizations and permits; and proposed project participation and public engagement plans, which will outline opportunities for the public to participate in project authorization decisions and ensure sufficient engagement with both communities of interest and relevant stakeholders. This process of collaborative information gathering is referred to as the "Integrated Interagency Pre-Application Process" or "IIP Process."

Under the CITAP Program, DOE will set intermediate milestones and ultimate deadlines for the review of relevant authorizations and environmental reviews that provide for their completion within two years and establish DOE as the lead agency for the preparation of a single environmental review document, in compliance with NEPA, that supports the decisions of all relevant Federal entities.[4] This final rule confirms the CITAP Program and the restructured and improved IIP Process as described in the NOPR and adopts revisions to the NOPR proposals in response to comments regarding issues such as the Federal evaluation timelines, approaches to environmental reviews, and levels of details required for the Program.

The IIP Process is a project-proponent-driven process. Accordingly, the time to complete the IIP Process and begin the time bound, two-year Federal authorization and environmental review period depends on the preparation and responsiveness of the project proponent. This final rule establishes a series of checkpoints in the IIP Process (the three anchor meetings described below) and requirements for the pre-application materials that project proponents must develop to proceed through the Process (principally, resource reports and public participation and

[4] Section 900.2 of the final rule 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 proposed electric transmission project, that is responsible for issuing a Federal authorization for the proposed project, that has relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the proposed project, or that provides funding for the proposed 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.

engagement plans, which are to be developed with guidance from Federal entities). The timeline for completing the pre-application process and proceeding through these checkpoints will depend, in large part, on the readiness and responsiveness of project proponents. As discussed further below, DOE has revised the NOPR proposals in this final rule to reduce the time reserved for DOE to review and respond to the requested information within the IIP Process to just over six months. Coupled with the two-year timeline that DOE and signatories to the 2023 Memorandum of Understanding Regarding Facilitating Federal Authorizations for Electric Transmission Facilities (2023 MOU) agreed to for review of applications and related environmental review, DOE expects that the CITAP Program will substantially reduce the time necessary for permitting of transmission facilities.

In response to the NOPR, DOE received 50 comments during the public comment period, as well as stakeholder input during the public webinar and additional briefing provided by the Grid Deployment Office in DOE that will be administering the CITAP Program. In this final rule, DOE is making several changes to the regulatory text proposed in the NOPR in response to public comments.

DOE received 27 comments in support of the CITAP Program, and several specifically supporting the IIP Process, the Federal decision-making timeline, and the requirement for the thirteen resource reports. Commenters specifically lauded the resource reports for their early and meaningful public engagement components, their effectiveness in coordinating decision-making across different Federal agencies, and their essential role in allowing the subsequent authorization and environmental review processes to be completed within two years. Commenters also affirmed the need for DOE to serve as the Lead Agency for NEPA review, section 106 of the NHPA, and section 7 of the ESA for projects in the CITAP Program to ensure that its objective of making transmission permitting processing more effective and efficient is realized.

The received comments were also instrumental in identifying opportunities to streamline the IIP Process further to ensure that these objectives are met. The IIP Process proposed in the NOPR would have provided, at a maximum, 240 days for DOE evaluation and determinations of completeness and readiness to move to the next steps in the process. In response to comments requesting more efficiency, in this final rule that timeline has been reduced by 55 days by streamlining notification and convening timelines to now total 185 days at a maximum. Additional reductions to documentation timelines, which do not impact decision making, total 45 days, reducing all IIP Process activity by 100 days. As noted previously, however, the total timeline to complete the IIP Process will vary in each individual case based on the project proponent's preparation and responsiveness and the project's readiness to proceed to Federal authorization and environmental reviews. Project proponents will move most quickly through the IIP Process and Federal authorization and environment review processes by ensuring their projects are ready to proceed and by ensuring they are responsive to DOE and Federal agency requests for information.

Section VI of this document discusses several other major issues raised by commenters and provides DOE's responses.

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) (EPAct) established a

national policy to enhance coordination and communication among Federal agencies with authority to site electric transmission facilities. Section 1221(a) of EPAct added a new section 216 to Part II of the FPA, which sets forth provisions relevant to the siting of interstate electric transmission facilities. Section 216(h) of the FPA, "Coordination of Federal Authorizations for Transmission Facilities," requires DOE to coordinate all Federal authorizations and related environmental reviews needed for siting interstate electric transmission projects, including NEPA reviews, permits, special use authorizations, certifications, opinions, or other approvals required under Federal law.

Among other things, it authorizes DOE to act as the lead agency for Federal coordination and reviews and 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)(2)-(3). Relatedly, section 216(h) requires the Secretary to provide an "expeditious" pre-application mechanism for prospective project proponents; 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; and provides a mechanism through which a project proponent or any State where the facility would be located may appeal to the President for review, if an agency fails to act within those deadlines or denies an application. 16 U.S.C. 824p(h)(4), (h)(6). The statute also directs the Secretary to prepare, in consultation with the affected agencies, a single environmental review document to be used as the basis for all decisions on the proposed project under Federal law, and to determine, for each Federal land use authorization that must be issued, whether the duration of such authorization is commensurate with the facility's anticipated use. 16 U.S.C. 824p(h)(5)(A); (h)(8)(A).

As discussed in the proposed rule, in May 2023 DOE entered into an implementing MOU with eight other agencies to unlock these benefits. The 2023 MOU expanded upon prior efforts to ensure pre-construction coordination and provides updated direction to Federal agencies in

expediting the siting, permitting, and construction of electric transmission facilities. DOE subsequently published a NOPR in August 2023 to update and expand on its existing pre-application mechanism provided in regulations at 10 CFR part 900. Through this rule, DOE amends its section 216(h) implementing regulations to more effectively implement this authority and better coordinate review of Federal authorizations for proposed interstate electric transmission facilities.

For the reasons explained in the following sections, in this final rule, DOE adopts its proposal in the NOPR, with modifications discussed below.

III. Summary of the Final Rule

This final rule is needed for DOE 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.

DOE's previous implementing regulations structured the IIP Process around two anchor meetings: the Initial and Close-Out meetings. To inform Federal agency coordination, project proponents were required to submit a project summary, an affected environmental resources and impacts summary, a summary of early identification of project issues, and data including maps and geospatial information. Additionally, the regulations included a process for identifying the NEPA lead agency and for establishing a preliminary NEPA review schedule. These regulations did not establish DOE as the lead agency for NEPA review, nor address important environmental and resource reviews under NHPA or ESA. Notably, these regulations did not establish a process through which DOE would set binding milestones for environmental reviews and Federal permitting and authorization decisions.

In this final rule, DOE first establishes a comprehensive and integrated CITAP Program. The CITAP Program is the vehicle through which DOE will implement its authority as defined in Section 216(h) of the FPA, beginning with the IIP Process through the DOE-led

environmental review and including DOE's coordination of the schedule for the Federal decisions on permits and authorizations.

Under the CITAP Program, DOE: (i) provides for an effective IIP Process to facilitate timely submission of materials necessary to inform Federal authorizations and related environmental reviews required under Federal law; (ii) sets intermediate milestones and ultimate deadlines for the review of such authorizations and environmental reviews; and (iii) serves as the lead agency for the preparation of a single environmental review document in compliance with NEPA, designed to serve the needs of all relevant Federal entities and effectively inform their corresponding Federal authorization decisions. These elements of the CITAP Program are described in more detail throughout this rule.

Second, pursuant to the FPA, DOE makes the IIP Process a mandatory precondition for participation in the CITAP Program. A project proponent's participation in the IIP Process is necessary for the success of the other elements of the CITAP Program and for the Secretary's satisfaction of the statutory obligations imposed by section 216(h) and 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 fulfill its role as lead agency under section 216(h) -- including the establishment of binding deadlines – for projects that do not complete the IIP Process. DOE does not require the participation of any Federal or non-Federal entity in the IIP Process; rather Federal entities have agreed to participate through the 2023 MOU and non-Federal entities may participate at their discretion. As discussed further below, DOE concludes that the benefits of participating in the IIP Process, and the resulting access to the CITAP Program, justify the costs to project proponents. The CITAP Program will substantially accelerate the process by which transmission projects are permitted and developed, and the benefits of the expected reduction in permitting timelines are likely to significantly exceed the cost of participating in the IIP Process.

Third, this final rule improves 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. The IIP Process is intended to ensure that necessary information is provided to the 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 and to allow both the project proponent and the Federal entities to avoid time- and resource-consuming pitfalls that would otherwise appear during the application process. Accordingly, DOE requires that project proponents submit resource reports and public participation and engagement plans, developed with guidance from Federal entities, and participate in a series of iterative meetings to ensure that Federal entities have ample opportunities to provide this guidance. The resource reports are intended to develop data and materials that will facilitate Federal entities' review of the project proponent's applications under the applicable Federal statutes. The early engagement facilitated by the submission of public participation and engagement plans will inform a project proponent's development of a proposed project. This early engagement begins before an application is submitted to the Federal Government and provides opportunities for Tribes and communities to express their views early in the process and to share their concerns directly with project proponents. However, the IIP Process does not relieve the relevant Federal entities of their legal obligation to comply with applicable requirements to consult with Tribes and engage with communities. This rule provides that the total time for DOE reviews and responses in the IIP Process is 185 days.[5] Based on that timeline for DOE decision-making, DOE expects that a prepared and responsive project proponent could complete the IIP Process within a year.

[5] This excludes meeting information summaries, which DOE does not categorize as review and response time that could impact a project timeline, because preparation of required information for subsequent IIP Process steps can happen in parallel.

Fourth, pursuant to Congress's express directive in section 216(h)(4), DOE introduces the standard schedule and project-specific schedules, through which DOE will establish binding intermediate milestones and ultimate deadlines for Federal authorizations and related environmental reviews. The standard schedule identifies the steps generally needed to complete decisions on all Federal environmental reviews and authorizations for a proposed electric transmission project, including 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 (NOI) to prepare an environmental review document. This document serves as a template for the development of project-specific schedules. During the IIP Process, DOE and relevant Federal entities will prepare a project-specific schedule, informed by the standard schedule, that establishes prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, a proposed electric transmission project, accounting for relevant factors particular to the specific proposed project, including the need for early and meaningful consultation with potentially affected Indian Tribes and engagement with stakeholders.

Fifth, DOE simplifies 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 will maintain that docket, which will be available to the public upon request except as restricted due to confidentiality or protected information processes. Access to, and restrictions of access to, the docket will be addressed at the time of project-specific implementation.

Sixth, DOE amends its regulations to provide that DOE will serve as the lead NEPA agency and that, in collaboration with any NEPA joint lead agency[6] 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 environmental review document to serve as the NEPA document for all required Federal authorizations. DOE will also serve as lead for consultation under section 106 of the NHPA and section 7 of the ESA for projects in the CITAP Program, unless the relevant Federal entities designate otherwise. 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. Relatedly, the rule provides that DOE and the relevant Federal entities shall issue, except where inappropriate or inefficient, a joint decision document.

Finally, DOE provides that the primary scope of the CITAP Program is on-shore high-voltage or regionally or nationally significant transmission projects that are expected to require preparation of an environmental impact statement (EIS) and establishes procedures through which projects outside of that primary scope can seek a determination of qualifying-project status from the Grid Deployment Office on a case-by-case basis.

IV. Tribal Sovereignty

DOE affirms the sovereignty of Federally recognized Indian Tribes and confirms that this final rule makes no changes to Federal agencies' government-to-government responsibilities. Tribal sovereignty refers to Federally recognized Indian Tribes' original, inherent authority to govern themselves, their lands, and their resources. Because of their unique status as sovereigns, Federally recognized Tribes have a direct, government-to-government relationship with the Federal government. The United States has a general, ongoing trust relationship with Indian

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[6] As discussed in section V.D of this document, DOE is replacing the term "NEPA co-lead agency" from the proposed regulatory text with "NEPA joint lead agency" in this final rule. The change is non-substantive. For clarity and readability, DOE uses the term "NEPA joint lead agency" throughout the preamble in place of "NEPA co-lead agency" even when discussing a comment or document that originally referred to a "NEPA co-lead agency."

Tribes as well as with the Native Hawaiian Community. Neither section 216(h) nor this final rule in any way alters that relationship.

Tribal and Native Hawaiian consultation is a process for communication between the Federal government and Indian Tribes and the Native Hawaiian Community that is grounded in the government-to-government or the government-to-sovereign relationship, respectively. Tribal and Native Hawaiian consultation may be required as part of compliance with section 106 of the NHPA, or may arise from other Federal authorities such as Executive Order 13007 or the Presidential Memorandum on Uniform Standards for Tribal Consultation (2022). Agencies often consult with Indian Tribes and the Native Hawaiian Community in conjunction with fulfilling their obligations under NEPA. Consistent with these requirements and authorities, during implementation of the CITAP Program, DOE commits to undertake Tribal and Native Hawaiian consultation as appropriate. Also as appropriate, DOE commits to designate Indian Tribes with special expertise regarding a qualifying project, including knowledge about sacred sites that the project could affect, that are eligible, to become cooperating agencies under NEPA, and to consult with Indian Tribes and Native Hawaiian Organizations as required by the NHPA in the Section 106 process. Finally, DOE clarifies that the IIP Process, resource reports, and other submissions are not intended to, nor will they, satisfy DOE's or other Federal agencies' legal obligations and responsibilities under the relevant statutes, such as NEPA, NHPA, and ESA. The Federal agencies remain legally responsible for their compliance with the applicable statutes.

V. Terminology and Clarification Changes

In this final rule, DOE has made a number of changes to ensure consistent use of terminology across part 900.

A. "project area" v. "study corridor" v. "route"

The proposed rule used several terms related to areas. In this final rule, DOE has ensured that the usage of these terms is consistent. DOE clarifies here their meaning and use. For the area containing the study corridors selected by the project proponent for in-depth consideration and

the immediate surroundings of the end points of the proposed electric transmission facility, DOE uses the term "project area." For a location within a project area where multiple transmission line designs may be contemplated, DOE used the term "study corridor"; within the project area, there may be multiple study corridors. Within a given study corridor, DOE refers to "potential routes" or "route segments"; within the study corridor, there may be multiple potential routes or route segments.

Notably, DOE revises the definition of project area from what was proposed by replacing "containing all study corridors" with "containing the study corridors selected by the project proponent for in-depth consideration" to clarify the scope of this term. Additionally, to clarify the role of study corridors, DOE added to the study corridors definition that "study corridor does not necessarily coincide with 'permit area,' 'area of potential effect,' 'action area,' or other defined terms that are specific to types of regulatory review."

The proposed rule used multiple terms to refer to a route of an electric transmission line that is considered during the IIP Process, including "proposed route" and "potential route." This final rule replaces these synonymous terms with "potential route."

B. "potential project" v. "qualifying project" v. "transmission facility"

The proposed rule used several terms to refer to an electric transmission facility that is proposed to be sited and constructed, including "transmission facility" and "electric transmission facility." This final rule replaces these terms with "proposed electric transmission facility," which is shortened to "proposed facility" when the identity of the facility is clear from the context.

Similarly, the proposed rule included a variety of phrases to refer to an electric transmission project, including "qualifying project," "electric transmission project," "proposed qualifying project," "proposed undertaking" and "project." This final rule replaces these terms with "proposed electric transmission project," which is shortened to "proposed project" when the identity of the project is clear from the context. While the revision replaces the defined term

"qualifying project" in a number of instances, the revision has no substantive effect, because any proposed electric transmission project that is accepted into the IIP Process must involve a proposed electric transmission facility that is a qualifying project.

C. "plants" v. "vegetation"

The proposed rule used several terms to describe plant life, such as "plant life," "plants" and "vegetation." DOE has revised this final rule to consistently use the term "plants," except where the rule uses an established term of art such as "vegetation management" or for consistency with Resource Report naming across agencies.

D. "NEPA co-lead agency" vs "NEPA joint lead agency"

The proposed rule used the term "NEPA co-lead agency" to refer to a Federal entity that may be designated under §900.11 to share the responsibilities of DOE as lead agency in preparing an environmental review document. DOE has revised the final rule to replace that term with "NEPA joint lead agency" to better conform with the terminology used in NEPA, as amended by Section 321 of the Fiscal Responsibility Act of 2023 (Pub. L. 118-5). The change is non-substantive and only reflects a difference in terminology.

VI. Discussion of Comments

A. General

In response to the NOPR, DOE received 50 sets of comments from the following persons and groups:

Advanced Energy United (AEU), Alan Leiserson, American Clean Power Association (ACP), American Council on Renewable Energy (ACORE), American Electric Power Service Corporation (AEP), Americans for a Clean Energy Grid (ACEG), Arizona Game and Fish Department (AZGFD), Arizona State Historic Preservation Office (Arizona SHPO), California Energy Commission and California Public Utilities Commission (CEC/CPUC), Center for Biological Diversity (CBD), Clean Air Task Force (CATF), Clean Energy Buyers Association (CEBA), ClearPath, Colorado Governor's Office, Conrad Ko, Conservation and Renewable

Energy Coalition (CARE - comprised of the National Wildlife Federation, The National Audubon Society, Environmental Law and Policy Center, and The Nature Conservancy), Delaware Division of Historical and Cultural Affairs (Delaware SHPO), EarthGrid PBC, Edison Electric Institute (EEI), Environmental Defense Fund (EDF), Gallatin Power Partners, LLC (Gallatin Power), Grid United LLC (Grid United), Idaho Governor's Office of Energy and Mineral Resources , Idaho Power, James Birdwell, Kentucky SHPO, Kris Pastoriza, Land Trust Alliance (LTA), Large Public Power Council, Los Angeles Department of Water and Power (LADWP), mkron mkron, National Association of Manufacturers, National Association of Tribal Historic Preservation Officers (NATHPO), New Mexico Department of Cultural Affairs Historic Preservation Division (NM SHPO), New York Transmission Owners (NYTO), New York University School of Law Institute for Policy Integrity (Policy Integrity), Niskanen Center, Oceti Sakowin Power Authority (OSPA), Pew Charitable Trusts, PJM Interconnection, LLC (PJM), Public Interest Organizations (PIOs, comprised of Earthjustice, Natural Resources Defense Council, NW Energy Coalition, Southern Environmental Law Center, Sustainable FERC Project, and WeACT for Environmental Justice) (PIO), Santa Rosa Rancheria Tachi Yokut Tribe, Scott Cooley, Solar Energy Industries Association (SEIA), State of Colorado Governor's Office, State of Idaho Energy Office, Stoel Rives, LLP, StopPATH WV, Todd Simmons, VEIR, Inc, and an anonymous commenter.

Of the 50 comments, 27 expressed general support for the proposed rule and many supported specific aspects, including the IIP Process, the Federal decision-making timelines, and the requirement for the thirteen resource reports.[7] Commenters specifically lauded the resource

[7] Advanced Energy United; American Clean Power Association; American Council on Renewable Energy; American Electric Power Service Corporation; American Electric Power Service Corporation; Americans for a Clean Energy Grid; Arizona Game and Fish Department; California Energy Commission joint with California Public Utilities Commission; Clean Air Task Force; Clean Energy Buyers Association; Colorado Energy Office; Conrad Ko; Delaware State Historic Preservation Office; Edison Electric Institute; Environmental Defense Funds; Gallatin Power Partners, LLC; Grid United, LLC; New York Transmission Owners; Niskanen Center; PJM Interconnection, L.L.C.; Public Interest Organizations; Scott Cooley; Solar Energy Industries Association; State of Idaho; Stoel Rives; The Pew Charitable Trusts; and Todd Simmons.

reports for their early and meaningful public engagement components, their effectiveness in coordinating decision-making across different Federal agencies, and their essential role in streamlining environmental permitting processes to two years.

Six commenters, NATHPO, Santa Rosa Rancheria Tachi Yokut Tribe, StopPath WV, James Birdwell, ClearPath, and mkron mkron were not supportive of the rulemaking. The comments and DOE's responses are discussed in detail in the subsequent subsections.

B. Purpose and Scope of Rule

DOE's Proposal

In the NOPR, DOE proposed to establish the CITAP Program; made the IIP Process a mandatory precondition to participate in the CITAP Program; described the procedures and timing of the IIP Process; provided a process to set deadlines and milestones for projects; designated DOE as the lead NEPA agency for the purposes of preparing a single environmental impact statement; provided for earlier coordination of and consultation between relevant Federal entities, relevant non-Federal entities, and others pursuant to section 106 of the NHPA; designated DOE as a co-lead agency for the section 106 process; and clarified applicability to qualifying projects. Finally, DOE proposed to include a provision stating that participation in the IIP Process does not alter any requirements to obtain necessary Federal authorizations for electric transmission facilities nor does it alter any responsibilities of the relevant Federal entities for environmental review or consultation under applicable law.

Summary of Public Comments

DOE received several comments regarding DOE's authority to establish the CITAP Program, the ability of the proposed CITAP Program to meet the goals established by Congress in EPAct 2005, and the scope of the proposed CITAP Program.

Regarding DOE's authority to establish the CITAP Program, EDF, PIOs, and CATF observed that the CITAP Program is consistent with the statutory language of section 216(h) of the FPA and with the 2023 MOU. Pew Charitable Trusts expressed their support for several key

elements of the proposed rule, including the creation of a new framework for coordinated Federal authorizations.

PIOs commented that DOE's proposed rule appropriately effectuates the congressional intent underlying section 216(h) of the FPA, and that DOE has sufficiently explained its proposed changes in the rule text by demonstrating awareness of changing its policies and providing sound reasons for doing so. PIOs also noted that although agencies do not need to demonstrate that the reasons for the new policies are better than the reasons for the old policies, they believed DOE has done so in the proposed rule. On the other hand, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe requested that DOE withdraw the proposed rule. NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe found the proposed rule "opaque" and stated that they were unable to determine if the rule represented a threat to Tribal Nations' cultural resources and sacred places. Additionally, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe objected to the rule on the grounds that it contained "numerous fundamental flaws," but only provided two examples, one concerning the Communities of Interest report and one concerning the Tribal Interests report. Specifically, regarding Communities of Interest, the commenters expressed concern not with the proposed rule text, but with a comment from DOE staff which the commenters believed indicated this resource report would fulfill NHPA "Section 106 responsibilities for determining the impact of projects on Tribal Nations' cultural resources and sacred places." Regarding Resource Report 13, the commenters expressed concerns with a comment from DOE staff which the commenters believe indicated, contrary to the proposed rule text, that this resource report would not include "the effect of projects on Tribal Nations' cultural resources." These concerns are discussed in further detail and addressed in sections VI.J and VI.L.xiii of this document. Finally, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe argued that DOE did not effectively engage with Tribal Historic Preservation Officers (THPOs) while drafting the proposed rule.

Regarding the ability of the proposed CITAP Program to meet the stated goals of coordinating Federal authorizations and completing environmental review within a 2-year schedule, PIOs stated they believe the proposed rule will improve efficiency in Federal permitting for transmission projects that are urgently needed to address the climate crisis, improve reliability, and reduce congestion, and that the rule will accelerate the development of infrastructure that will provide the foundation for a clean and equitable energy grid. Pew Charitable Trusts stated that it believes that the proposed rule offers an appropriately streamlined approach to coordinating and facilitating transmission project authorizations. Pew Charitable Trusts further noted that previous studies of various types of infrastructure projects and environmental reviews suggest that an open, transparent, and comprehensive review process can work to the benefit of the public and developers. Pew Charitable Trusts supported that the schedule can be altered by DOE depending on the complexity of the review and other factors. ACEG recommended adding "prompt and binding" to describe the milestones and deadlines DOE will set in the schedule for Federal decision-making. The State of Idaho agreed that Federal efforts to reduce the time required for transmission project developers to receive decisions on Federal authorizations are needed and agreed that such actions should be encouraged. However, it also cautioned that those efforts should be implemented in a way that avoids diminishing the benefits of such reform by the addition of new permitting processes or requirements. In contrast, StopPATH WV asked why the NOPR was written in a way that presumes project approval, expressed concern that it was not clear how this rulemaking would speed up timelines, and asserted that if agencies could not change the project or deny it, then this would be a bureaucratic waste of time. Kris Pastoriza requested clarification on how the CITAP Program would change the jurisdiction of the Federal Energy Regulatory Commission (FERC).

Regarding DOE's role as a lead agency for environmental review and preparation of a single EIS, DOE received several comments in support of the role and the consistency of this designation with existing regulations and legislation. EDF commented that the rule is consistent

with Section 107 of the Fiscal Responsibility Act of 2023, which amended NEPA to require the designation of a lead agency to coordinate and schedule environmental review, as well as the related amendments to NEPA implementing regulations proposed by the Council for Environmental Quality. AEP, SEIA, Pew Charitable Trusts, EEI, and CEBA each commented in support of DOE serving as the lead agency for developing a single environmental review document. SEIA noted that currently a lack of coordination among agencies causes unpredictability and inefficiency in the environmental review process and effective coordination will provide a more predictable and efficient process, a reduction in unnecessary delays and costs, and heightened allowance for more robust environmental reviews. ACEG recommended replacing the phrase "environmental impact statement" with "NEPA document" because that phrasing more closely matches the statutory language in section 216(h)(5)(A) and because it accounts for the breadth of reviews organized under the CITAP Program. EEI recommended that DOE must also rely on the expertise of Federal agencies to ensure certainty and minimize risk of post record decision litigation.

Regarding the authority of the Director of the Grid Deployment Office to waive requirements, PIOs recommended establishing specific, transparent criteria by which the Director of the Grid Deployment Office can waive the review requirements for a proposed project that are deemed unnecessary, duplicative, or impracticable and further argued for the establishment of an appeal process for said waivers. PIOs further provided that if DOE declines to implement criteria and an appeals process that this final rule should eliminate the waiver provision.

DOE Response

In this final rule, DOE retains the proposal in the NOPR to establish the CITAP Program, which requires the IIP Process for CITAP Program participation, sets binding schedules for Federal decision making, and through which DOE will serve as lead agency for environmental

review and document preparation. In response to comments, DOE makes minor changes to this final rule for clarification but retains the full intent and scope of the proposed rule.

With respect to NATHPO's comment regarding outreach, DOE believes that it engaged with appropriate entities regarding the rulemaking. DOE met with the Advisory Council for Historic Preservation in developing the language of the proposed rule and specifically with respect to addressing potential impacts on cultural resources and consistency of the CITAP Program with the requirements of the NHPA. Further, DOE developed the NOPR with substantive engagement from other Federal entities through the interagency review process. DOE then provided a 45-day public comment period during which DOE noticed and provided a public webinar open to anyone to attend, and organized briefings with interested groups to introduce the proposed rule and listen to comments, to which NATHPO, THPOs, and State Historical Preservation Officers (SHPOs) were invited. In this final rule, DOE has made changes to provide additional clarity in the rule text and resolve ambiguity when possible. In particular, DOE clarifies certain issues relating to Tribal sovereignty, cultural resources, and the section 106 process in response to specific concerns raised by NATHPO, Santa Rosa Rancheria Tachi Yokut Tribe, and other commenters.

In response to the State of Idaho’s concerns and Kris Pastoriza’s question regarding DOE implementing its coordinating authority, this final rule neither establishes new permitting requirements nor alters FERC's siting authority over transmission lines. Rather, DOE will be coordinating agencies’ exercise of their existing authorities. This final rule maintains the NOPR provision that the IIP Process does not alter any requirements to obtain necessary Federal or non-Federal authorizations for electric transmission facilities. Similarly, DOE disagrees with the assertion that the proposed rule presumes project approval. The CITAP Program as described in the proposed rule and confirmed in this final rule coordinates and sets a schedule for Federal decision-making for qualified projects; it does not presume or require the outcome of such Federal decisions. Regarding DOE’s schedule setting role in the CITAP Program, DOE agrees

with ACEG's recommendation to align the language of this final rule with the authorizing statute and includes "prompt and binding" in the description of milestones in this final rule.

Regarding DOE serving as lead agency for environmental review and development of a single EIS designed to serve the needs of all relevant Federal agencies and inform all Federal authorization decisions on the proposed qualifying project, DOE acknowledges that it will rely on other Federal agencies' expertise and believes the CITAP Program and IIP Process confirmed in this final rule will ensure this occurs. DOE agrees with ACEG's recommendation to align the language with the authorizing statute and changes "EIS" to "environmental review document" throughout this final rule.

DOE makes no changes to the proposal to allow the Director of the Grid Deployment Office to waive requirements of the CITAP Program, nor does DOE adopt specific criteria for such waivers. The purpose of the CITAP Program and IIP Process is to allow DOE to perform a coordinating function for electric transmission facilities seeking Federal authorizations. Giving the Director the discretion to waive requirements of the CITAP Program helps ensure that this coordination function promotes efficiency and reduces duplication, as Congress intended in FPA section 216(h). In addition, it is important to note that a waiver granted by the Director under the CITAP Program would not waive Federal requirements for authorizations or permits. For these reasons, DOE is not persuaded that a lack of specific criteria for waivers in this final rule will substantively harm any entity or party.

C. Qualifying Projects

DOE's Proposal

Section 216(h) of the FPA authorizes DOE to perform its coordinating function for all transmission facilities seeking Federal authorizations. In the NOPR, DOE proposed to prioritize the subset of these facilities that benefit the most from DOE's coordinating role and provide the most benefits to the American public from expeditious environmental review.

In the NOPR, DOE proposed to define the subset of proposed electric transmission facilities for which to perform its coordinating function—called "qualifying projects"—by defining two types of qualification: qualification by attribute and qualification by request. For qualification by attribute (set out in paragraph (1) of the proposed definition of "qualifying project"), DOE proposed in the NOPR to categorize a proposed electric transmission facility as a "qualifying project" based on the presence of certain enumerated attributes: it must be high-voltage (defined as 230 kV or above) *or* "regionally or nationally significant"; it will be used for the transmission of electric energy in interstate or international commerce for sale at wholesale; it will need one or more Federal authorizations expected to require preparation of an environmental impact statement (EIS) pursuant to NEPA; it will not require authorization under section 8(p) of the Outer Continental Shelf Lands Act; the developer will not require a construction or modification permit from FERC pursuant to section 216(b) of the FPA; and the proposed transmission facility will not be wholly located within the Electric Reliability Council of Texas interconnection.

DOE proposed that, if a proposed electric transmission facility did not qualify for the CITAP Program by attribute it could still qualify by request, as provided by paragraph (2) of the proposed definition of qualifying project and under the process set out in proposed § 900.3 of the NOPR. Under that process, DOE proposed that the project proponent file a request for coordination under the CITAP Program with the Director of the Grid Deployment Office. Then, the Director of the Grid Deployment Office, in consultation with the relevant Federal entities, determine, within 30 calendar days of receipt of the request, whether the proposed electric transmission facility is a "qualifying project." In the NOPR, DOE proposed that proposed electric transmission facilities requiring a permit from FERC could be qualifying projects if the request came from the FERC Chair. DOE also proposed that projects proposed for authorization under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*)

independent of any generation project may be qualifying projects at the discretion of MOU signatory agencies.

DOE proposed to exclude from both types of qualification, and from the CITAP Program altogether, any project proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act in conjunction with a generation project and any project for which the proposed transmission facility is wholly located within the Electric Reliability Council of Texas interconnection.

Summary of Public Comments

DOE received several comments on the proposed definition of "qualifying project." Starting with the qualification by attribute in paragraph (1) of the definition, DOE received several comments on the specific proposed attributes. Both AEP and Niskanen Center supported the proposed high-voltage threshold of 230 kV or above. On the other hand, CEC/CPUC opposed limiting eligibility based on a voltage threshold and instead suggest expanding eligibility to proposed electric transmission facilities at any voltage level.

With regard to DOE's proposal for qualification by attribute to require that a proposed electric transmission facility that does not satisfy the voltage threshold must be "regionally or nationally significant," both Niskanen Center and ClearPath asserted that this alternative criterion is ambiguous. ClearPath recommended removing the alternative criterion altogether and only allowing for high-voltage transmission lines (i.e., those that satisfy the 230 kV or above threshold) to be "qualifying projects." Niskanen Center recommended instead that DOE adopt factors that it will consider when determining whether a proposed transmission facility is "regionally or nationally significant." Specifically, Niskanen Center suggested these factors: "(i) a reduction in the congestion costs for generating and delivering energy; (ii) a mitigation of weather and variable generation uncertainty; (iii) an enhanced diversity of supply; (iv) any reduced or avoided carbon emissions from the increased use of clean energy; and (v) an increased market liquidity and competition."

Moving to the other attributes, CEC/CPUC asked DOE to clarify how it will determine whether all or part of a proposed electric transmission facility will be "used for the transmission of electric energy in interstate or international commerce for sale at wholesale." Further, CEC/CPUC recommended that DOE expand the attribute list to include a proposed electric transmission facility that will be used in intrastate commerce because, according to CEC/CPUC, intrastate transmission lines can traverse lands managed by several Federal agencies, such that DOE coordination under the CITAP Program would provide benefits to these projects as well. In the alternative, CEC/CPUC asked that DOE clarify how a proposed intrastate transmission facility, such as an onshore, intrastate transmission facility built to support offshore wind development, that traverses Federal lands, could be a "qualifying project."

On the proposed attribute that the proposed electric transmission facility would need one or more Federal authorizations that require preparation of an EIS pursuant to NEPA, AEP supported the proposal whereas Niskanen Center and PIOs recommended expanding the proposal to include proposed electric transmission facilities for which preparation of either an environmental assessment (EA) or an EIS is anticipated. PIOs also encouraged DOE to define which proposed electric transmission facilities are "expected" to require preparation of an EIS and which are expected to require preparation of an EA. In support of the recommendation to expand eligibility to include proposed electric transmission facilities for which preparation of an EA is expected (in addition to those for which preparation of an EIS is expected), PIOs argued that FERC regulations only require preparation of an EA for proposed electric transmission facilities sited within an existing right-of-way. If DOE adopts the proposal without PIOs' recommended expansion, PIOs explained that such proposed electric transmission facilities may be excluded from the CITAP Program, resulting in the CITAP Program not providing its full purported benefits. Similar to Niskanen Center and PIOs, CEC/CPUC recommended that DOE expand the definition of "qualifying project" such that any proposed electric transmission facility

for which multiple Federal agency approvals will be required are eligible, regardless of what type of document is required under NEPA.

On qualification by request—*i.e.*, when a project proponent seeks qualifying-project status through a request to the Director of the Grid Deployment Office—several commenters expressed concern about DOE's level of discretion in the proposal. EEI requested examples of the types of proposed electric transmission facilities that may be deemed "qualifying projects" by request. PIOs argued that the proposal appears to be wholly discretionary, making it difficult for project proponents, relevant regulators, and members of the public to understand what proposed electric transmission facilities may be eligible to participate in the CITAP Program. PIOs suggested that DOE establish criteria for how DOE will evaluate requests, which would assist project proponents in making well-grounded requests for participation in the CITAP Program. According to PIOs, these criteria should be: if the proposed electric transmission facility will benefit from DOE's coordination in terms of expeditious authorizations; if DOE's coordination will provide benefits that exceed the costs; and, if Federal and non-Federal regulators have sufficient resources to dedicate to the project's participation in the CITAP Program. PIOs also suggested that DOE require project proponents to explain what portions of their proposed electric transmission facility do not meet the "qualifying project" definition (*i.e.*, the attributes) and how the CITAP Program will facilitate Federal authorizations for the project or be otherwise beneficial. Further, PIOs recommended that DOE adopt a requirement that the Director of the Grid Deployment Office explain in writing the determination of whether a project is deemed a "qualifying project" by request. PIOs also recommended that if DOE rejects a request to participate in the CITAP Program, project proponents should be allowed to appeal the decision to the Secretary of Energy. Similarly, ACP commented that the proposed rule lacked clarity regarding what can qualify as an "other project" and recommended that DOE provide further detail on the aspects which it will consider when making this determination.

As proposed, qualification by request included a limitation in § 900.3(d): for a proposed electric transmission facility seeking a permit from FERC pursuant to section 216(b) of the Federal Power Act, DOE may only consider a request for coordination if the requestor is FERC acting through its chair. ACORE recommended that DOE provide more detailed guidance for this category of proposed electric transmission facilities and for DOE to authorize relevant project proponents to submit a petition requesting such a request from the FERC Chair. Likewise, CEBA urged DOE to clarify the relationship between the section 216(b) and section 216(h) processes and to explain how the FERC Chair can request that a proposed electric transmission facility be eligible to participate in the CITAP Program under section 216(h). Both qualification by attribute and qualification by request included limitations related to offshore transmission facilities. For qualification by attribute, one listed attribute provided that the proposed electric transmission facility would not require authorization under section 8(p) of the Outer Continental Shelf Lands Act. Likewise, for qualification by request, DOE proposed to exclude electric transmission facilities proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act in conjunction with a generation project. However, projects proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act could be allowed at the discretion of the MOU signatory agencies (as defined in the proposed rule) if the proposed offshore transmission facility is independent of any generation project.

A number of commenters expressed concerns regarding DOE's treatment of proposed offshore transmission facilities. Broadly, ACP, ACORE, and PIOs contended that DOE must explain why the limitations on offshore transmission facilities are included and how the CITAP Program will apply to offshore transmission facilities in practice. ACP and ACORE suggested that DOE establish a process to allow potential State-proposed transmission facilities to participate in the CITAP Program before a project developer is selected and include a process to enable the Bureau of Ocean Energy Management or a State to engage or request that a project participate in the CITAP Program.

More specific to DOE's proposal, NYTOs opposed the offshore transmission facility-related attribute, asserting that its inclusion prevents proposed offshore transmission facilities from benefiting from the CITAP Program for project sections located closer to shore as well as for project sections that fall under the scope of the Outer Continental Shelf Lands Act. PIOs suggested removing the limitations in qualification by request and instead allowing for proposed offshore transmission facilities to take advantage of the CITAP Program without the approval of the MOU signatories. At a minimum, PIOs suggested removing the limitation that proposed offshore transmission facilities tied to generation projects cannot participate in the CITAP Program. Moreover, both PIOs and ACORE requested that DOE revise its proposal from requiring agreement from all MOU signatories and instead only requiring agreement from relevant MOU signatories participating in the environmental review or authorization.

Finally, other commenters proposed revisions to DOE's proposed definition of "qualifying project" based on advanced transmission technologies and undergrounding. VEIR recommended that DOE include superconductors in its definition of "qualifying projects" because, according to VEIR, a superconductor can transfer more power at lower voltages than qualifying high-voltage transmission lines. EarthGrid asserted that underground transmission projects should be considered as a distinct category. And CBD suggested that DOE require that a proposed electric transmission facility be strictly necessary and that non-transmission alternatives could not adequately address the issue addressed by the proposed electric transmission facility before allowing the project to participate in the CITAP Program.

DOE Response

In this final rule, DOE retains the proposal in the NOPR to provide two types of qualification (qualification by attribute and qualification by request) for proposed electric transmission facilities to be "qualifying projects." In response to commenters, DOE is making the following revisions to the details of those two types of qualification.

First, consistent with commenters' suggestions, DOE has adopted factors that DOE may consider when determining that a proposed electric transmission facility is a qualifying project. For qualification by attribute, this final rule includes factors that DOE may consider when assessing if a proposed electric transmission facility is regionally or nationally significant. Similarly, for qualification by request, this final rule includes factors that DOE may consider when assessing if a proposed electric transmission facility is a qualifying project. Second, this final rule removes the requirement that projects seeking a permit from FERC under FPA section 216(b) may only be accepted into the CITAP Program if requested by FERC acting through its chair and states that the coordination between FERC and DOE on projects seeking permits under FPA section 216(b) will be consistent with the relevant delegation order governing DOE's coordination authority under FPA section 216(h), which may change from time to time. Third, this final rule also states that if DOE does not determine that a project is qualifying project, DOE will provide the reasons for its finding in writing.

DOE believes that the definition of "qualifying project" adopted in this final rule appropriately balances the value of focusing DOE's resources on those proposed electric transmission facilities for which Federal coordination will be most impactful with the aims of the broad grant of authority to DOE under FPA section 216(h). By initially limiting the definition of "qualifying project" to those proposed electric transmission facilities that qualify by attribute, i.e., those that are high-voltage or regionally or nationally significant and that possess the other listed attributes, DOE is targeting for Federal coordination those complex proposed electric transmission facilities that will reap the greatest benefits from the CITAP Program. DOE believes that these proposed electric transmission facilities are also likely to provide substantial benefits to consumers in the form of congestion relief, emissions reductions, and increased reliability and resilience, among other benefits, to ensure reliable, affordable power can be delivered to consumers when and where they need it. Qualification by request provides DOE with additional flexibility to consider whether projects that do not meet the targeted attributes

may be appropriate for participation in the CITAP Program as well, consistent with DOE's authority under section 216(h) to coordinate for all transmission facilities seeking Federal authorizations.

As for specific aspects of the NOPR proposal, starting with qualification by attribute and the voltage threshold therein (i.e., proposed electric transmission facilities must be 230 kV or above), DOE declines to adopt the suggestion by CEC/CPUC to expand eligibility to proposed transmission facilities at any voltage level. Such an expansion, although permissible by the statute, would not be the most effective use of DOE's authority because it would likely result in DOE providing coordination for proposed transmission facilities that would benefit less from the program. For example, DOE could be obligated to provide coordination for less complex proposed electric transmission facilities for which there is a low risk of protracted Federal authorization and review timelines and thereby have fewer resources to dedicate to those transmission facilities with more complex permitting requirements and/or more Federal authorizations and thus more risk of protracted review timelines in the absence of DOE coordination. Nonetheless, DOE acknowledges that voltage alone does not determine complexity nor whether the proposed transmission facility may benefit from participation in the CITAP Program. That is why this final rule provides multiple avenues for lower-voltage proposed transmission facilities to be "qualifying projects," whether because they are "regionally or nationally significant" or because they are determined to be qualifying projects by request to the Director of the Grid Deployment Office, on a case-by-case basis. In addition, satisfying the high-voltage threshold alone does not make a proposed transmission facility a "qualifying project;" it still must demonstrate the attributes listed in this final rule.

As for the alternative criterion under qualification by attribute—whether the proposed transmission facility is "regionally or nationally significant"—DOE declines to remove this criterion but agrees that the proposal was ambiguous and therefore adopts clarifying revisions in this final rule. DOE believes that this alternative to the voltage threshold is important to ensure

that lower-voltage transmission facilities that may benefit from participation in the CITAP Program have an avenue to be "qualifying projects," as explained in the prior paragraph. Nevertheless, DOE appreciates commenters' requests for greater transparency and thus adopts factors to guide DOE's determination whether a proposed transmission facility is "regionally or nationally significant."

In particular, DOE adopts regulations in this final rule that provide that, in determining whether a proposed transmission facility is "regionally or nationally significant," DOE will consider whether a proposed transmission facility will reduce congestion costs, mitigate uncertainty, and enhance supply diversity. These factors are consistent with the overarching goals of focusing the CITAP Program on proposed transmission facilities for which DOE's coordination will be most impactful. The adopted regulations provide that DOE may consider other factors as well. This discretion is important to ensure that DOE has flexibility to best use its resources to provide Federal coordination where consistent with the goals of the CITAP Program and available resources. As explained in DOE's 2023 Needs Study, transmission infrastructure improvements can benefit consumers by improving grid reliability, resource adequacy, and resilience of the power system, as well as reducing congestion and losses and enabling access to clean, diverse energy supply. While transmission that addresses unnecessarily high costs to consumers may be regionally or nationally significant, so too may be transmission that reduces the vulnerability of the electric system to disruptive events, which risk high costs and service interruptions. The benefits of transmission also extend beyond the power system—to increased employment, tax revenues, and other economic development benefits. These benefits are all relevant to DOE's determination of whether a transmission line is "regionally or nationally significant."

Although Niskanen Center suggested two additional factors for DOE to list as part of its determination as to whether a proposed electric transmission facility is "regionally or nationally significant" beyond those adopted herein (specifically focused on reduced or avoided carbon

emissions and increased market liquidity and competition from the proposed electric transmission facility), DOE declines to adopt additional factors. For one, project proponents are unlikely to have substantial information at the stage of development recommended for initiation of the IIP Process for DOE to evaluate vis-à-vis these recommended factors. If such information is available, though, DOE may nevertheless consider it because, as explained above, DOE is maintaining discretion to consider other factors as part of its assessment of whether a proposed transmission facility is "regionally or national significant."

As for the proposed attribute concerning whether all or part of a proposed transmission facility will be "used for the transmission of electric energy in interstate or international commerce for sale at wholesale," DOE declines to provide further clarification in this final rule because this determination will be made based on the facts and circumstances of the proposed electric transmission facility seeking DOE coordination at the time of application. DOE expects that this determination will be informed by relevant precedent interpreting similar language in other provisions of the FPA, though DOE is not bound by that precedent in interpreting its own regulatory language.

DOE declines to expand the listed attributes of a qualifying proposed electric transmission facility to also include intrastate transmission facilities. As previously explained , DOE's intent in defining a subset of electric transmission facilities for which DOE will conduct Federal coordination is to focus on where the CITAP Program is likely to be most impactful. While intrastate transmission facilities can have significant benefits, they are generally less likely to be the types of facilities that DOE expects will reap the greatest benefits from DOE's coordination or that would provide the greatest benefits to consumers as a result of more efficient permitting of critical transmission infrastructure. Nonetheless, DOE does not prohibit proponents of intrastate transmission facilities (*e.g.*, high-voltage intrastate transmission facilities that may require multiple Federal authorizations) from seeking qualification by request.

Regarding the proposed attribute that a proposed electric transmission facility would need one or more Federal authorizations that require preparation of an EIS pursuant to NEPA, DOE declines to make the changes suggested by Niskanen Center, PIOs, and CEC/CPUC. As explained above, DOE is aiming to identify as "qualifying projects" those proposed electric transmission facilities for which DOE coordination under the CITAP Program is likely to be most impactful and to yield the greatest benefits for consumers. DOE believes that focusing on proposed electric transmission facilities for which preparation of an EIS is expected is an appropriate factor for narrowing the list of potential electric transmission facilities for DOE coordination because an EIS is typically needed for more complex projects. Preparation of an EIS is also a longer, more involved process and one that poses a greater risk of delays absent interagency coordination. Note that, although qualification by attribute is limited to those for which an EIS is likely required, qualification by request does not have this limitation, such that a project proponent is permitted to request DOE coordination even if an EIS is not expected and seek a determination from the Director of the Grid Deployment Office on eligibility for the CITAP Program. As for the request that DOE define which proposed transmission facilities are expected to require an EIS, DOE declines to do so in this final rule. DOE and its fellow agencies will apply NEPA and its implementing regulations and will follow applicable regulations pursuant to NEPA, as will other relevant Federal agencies, to determine whether an EIS needs to be prepared, and those same regulations will inform any expectations as to whether an EIS is likely to be required.

Regarding qualification by request, DOE agrees with commenters that criteria regarding the types of proposed electric transmission facilities that may be deemed "qualifying projects" under this process would be beneficial to project proponents, and ultimately to DOE in identifying the subset of projects that best suit the CITAP Program's goals. Consequently, DOE adopts criteria in this final rule that the Director of the Grid Deployment Office may consider when evaluating a request to determine whether a proposed electric transmission facility is a

"qualifying project." DOE will consider whether a proposed electric transmission facility will benefit from coordination under the CITAP program, reduce congestion costs, mitigate uncertainty, and enhance supply diversity. These factors are consistent with the overarching goals of focusing the CITAP Program on proposed electric transmission facilities for which DOE's coordination will be most impactful, to the ultimate benefit of consumers via reduced congestion and enhanced reliability and resilience, among other benefits. DOE believes the remaining discretion for DOE to determine which proposed electric transmission facilities are "qualifying projects" is consistent with the statutory framework that permits DOE to coordinate the Federal authorizations necessary for any transmission facility and the aim of the section 216(h) itself, notably the timely permitting of transmission projects.

DOE agrees that it should explain its determinations of whether qualification by request is granted in writing and consequently establishes a requirement for such an explanation in this final rule.

DOE makes no revisions in response to the suggestion that an appeals process be incorporated into the rule text for non-qualifying projects. DOE notes that any project not accepted under qualification by attribute may seek qualification by request of the Director of the Grid Deployment Office, and that this final rule does not disallow projects from resubmitting materials.

Turning to the proposed limitation to qualification by request for a proposed electric transmission facility seeking a permit from FERC pursuant to section 216(b) of the FPA, which stated that DOE may only consider a request for coordination if the requestor is FERC acting through its chair, DOE revises its proposal in this final rule to clarify that the request for Federal coordination for proposed transmission facilities seeking a permit from FERC under section 216(b) must be consistent with Delegation Order No. 1-DEL-FERC-2006 or any similar, subsequent delegation to FERC, which depend on the mutual and continuing agreement of both agencies. With respect to CEBA and ACORE's requests for more detail on the procedures for the

FERC Chair to request that a proposed electric transmission facility be eligible to participate in the CITAP Program, such procedures will depend on the state of any delegations of DOE's authority under FPA section 216(h); therefore, DOE finds that clarifying these procedures is best done through guidance outside the rulemaking process. Similarly, with respect to ACORE's request to be able to submit a petition for the FERC Chair to request DOE to consider a request for assistance under the proposed section, the removal of that section in this final rule obviates the need for such a process to be established by DOE and the establishment of any processes at FERC are outside the scope of this rulemaking.

With respect to the treatment of offshore transmission facilities, commenters expressed concerns with the limitations related to offshore transmission facilities and sought further explanation, at a minimum. DOE adopts the proposal to exclude transmission facilities proposed to be authorized under section 8(p) of the Outer Continental Shelf Lands Act in conjunction with a generation project. DOE and the 2023 MOU signatories determined that offshore transmission facilities connected to generation projects should not be eligible for participation in the CITAP Program because the authorizations of, and permits for, these transmission facilities are typically included in the authorizations and permits for the connected generation projects. Coordinating Federal authorizations for generation projects, and reducing timelines for joint transmission-generation projects with interdependent permitting requirements, are beyond the scope of the 2023 MOU and the CITAP Program. This limitation allows DOE to focus its resources on addressing known challenges for transmission facility permitting.

With respect offshore transmission facilities whose Federal authorizations and project development are independent of generation development, DOE is finalizing an approach consistent with the 2023 MOU. For qualification by attribute, DOE declines to remove the requirement that the proposed electric transmission facility will not require authorization under section 8(p) of the Outer Continental Shelf Lands Act. Excluding offshore transmission from the qualification by attribute will facilitate a more efficient allocation of resources. Shared offshore

transmission is a nascent industry with unique and unsettled permitting issues. Considering proposed offshore transmission facilities as potentially eligible for the CITAP Program in consultation with the MOU signatories, which is provided under qualification by request, will allow DOE to adopt a more tailored and responsive approach to this new industry.

In order for offshore transmission facilities to be eligible for the CITAP Program via qualification by request, DOE proposed, and adopts here, the requirement that the MOU signatories must agree to DOE coordination for offshore transmission facilities for the reasons explained in the prior paragraph. DOE declines to only require agreement from those MOU signatories that are authorizing Federal agencies. DOE is unpersuaded that a single, non-authorizing agency would unilaterally hold up a proposed offshore transmission facility's eligibility for the CITAP Program, such that those agencies should not be allowed to participate in the eligibility decision making. Instead, DOE believes that continuing the coordination demonstrated by the MOU is consistent with the spirit of the CITAP Program and important for keeping all relevant agencies involved in ongoing development of offshore transmission permitting.

DOE also declines to establish a process to allow potential State-awarded transmission facilities to participate and to enable the Bureau of Ocean Energy Management or a State to request that a project participate, as ACP and ACORE suggested. At this time, DOE is focusing the CITAP Program on addressing well-documented and understood Federal authorization issues via improved coordination for a subset of proposed electric transmission facilities for which DOE coordination is likely to be most impactful. DOE is not persuaded that creating a process for entities other than the project proponent to request participation for a proposed project in the CITAP Program is necessary to provide the benefits of the program to a project. DOE may consider revising its approach to offshore transmission facilities in future rulemakings pursuant to FPA section 216(h).

Concerning commenters' proposed revisions to the definition of "qualifying project" based on advanced transmission technologies or undergrounding, DOE declines to adopt such revisions. As explained throughout this section, DOE's approach is targeted towards proposed transmission facilities that are likely facing the types of permitting challenges for which FPA section 216(h) and the CITAP Program were created. Commenters provide no evidence to suggest that superconductor permitting or undergrounding are unique as to warrant special recognition within the definition of "qualifying project." This is not to say that a proponent of a transmission facility that contains these features cannot also be a "qualifying project" under DOE's adopted definition.

Finally, DOE declines to adopt CBD's suggestion that DOE impose a necessity test for proposed electric transmission facilities compared to non-transmission alternatives as a gateway to participation in the CITAP Program. Congress directed DOE to coordinate the authorizations necessary for the siting of transmission lines. DOE understands that to mean that Congress believes transmission lines are necessary and that Congress did not intend to supplant existing transmission planning processes. Through the CITAP Program, DOE will coordinate authorizations for transmission lines, which remain subject to the statutes relevant to their authorization, including NEPA. Through these statutes and their associated environmental review processes that DOE will coordinate, reasonable alternatives will be considered by the appropriate Federal agency as appropriate, which may or may not include non-transmission alternatives.

D. Purpose and Scope of the IIP Process

DOE's Proposal

Under the proposed rule, the IIP Process is intended for qualifying project proponents who have sufficiently advanced their project such that they have identified potential study corridors and/or potential routes and the proposed locations of any intermediate substations. DOE proposed to establish the IIP Process as a mandatory prerequisite for coordination under the

CITAP Program and require the submission of thirteen project proponent resource reports that will serve as inputs, as appropriate, into the relevant Federal analyses and facilitate early identification of project issues. Within these resource reports, DOE proposed to require reasonably foreseeable information in three of them: in the General Project Summary, DOE proposed to require reasonably foreseeable plans for future expansion of facilities and specific generation resources that are known or reasonably foreseen to be developed or interconnected; in the air quality and noise effects report, DOE proposed to require estimates on reasonably foreseeable emissions construction, operation, and maintenance, and reasonably foreseeable changes in greenhouse gas emissions and indirect emissions; and in the Reliability, Resilience, and Safety report, DOE proposed to require a description of the reasonably foreseeable impacts from a failure of the proposed facility.

DOE also proposed to also establish the IIP Process as an iterative process anchored by three meetings, which function as milestones in the process: the initial meeting, review meeting, and close-out meeting. DOE proposed in the NOPR to require the project proponent to submit an initiation request containing certain information to DOE to initiate the IIP Process, including a summary of the qualifying project not to exceed 10 single-spaced pages and a project participation plan not to exceed 10 single-spaced pages. DOE also proposed to require the proponent to submit meeting review requests containing certain information to DOE prior to each of the three meetings. DOE proposed that the project proponent submit incomplete information so long as an acceptable reason for the absence of the information and an acceptable timeline for filing it is provided, and it provided the Director with discretion to waive any requirement imposed on a project proponent if the Director determines that that the requirement is unnecessary, duplicative, or impracticable under the relevant circumstances.

The proposed rule explained that the IIP Process would ensure early interaction between the project proponent, relevant Federal entities, and relevant non-Federal entities, and that DOE would, to the maximum extent practicable and consistent with Federal law, coordinate the IIP

Process with any relevant non-Federal entities. DOE also proposed in the NOPR that the IIP Process did not preclude additional communications between the project proponent and relevant Federal entities outside the IIP Process meetings.

Additionally, the NOPR proposed to provide a process 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 established the mechanisms through which the IIP Process complied with 10 CFR 1004.11 and 1004.13.

In the NOPR, DOE specifically sought comment on the page limitations and on the resource report requirements to avoid, to the maximum extent practicable, duplication in these requirements.

Summary of Public Comments

DOE received several comments that addressed the purpose and scope of the IIP Process including comments on the IIP Process as a prerequisite for DOE coordination; the level of detail required during the IIP Process and in resource reports, including page limits and reasonably foreseeable impacts; the role of the three anchor meetings; participation of Federal and non-Federal entities; and protection of confidential information and/or CEII. Comments to specific resource report requirements are addressed in section VI.L of this document on an individual report basis.

DOE received many comments in support of the proposed IIP Process. Grid United, PIOs, State of Colorado Governor's Office, EEI, ACP, ACORE, PJM, and CEBA expressed support for the revitalized IIP Process proposed in the NOPR. PIOs stated that the IIP Process will help Federal agencies coordinate information exchange that is necessary to fulfill their individual statutory mandates, avoid duplication of cost and effort for project proponents, and reduce the potential for unexpected delays later in the permitting process. PIOs also agreed with DOE that, by increasing the pace of transmission development through the IIP Process, the proposed rule will confer significant public benefits. The State of Colorado Governor's Office

recognized that the IIP Process would provide developers a uniform mechanism for projects to identify siting constraints and opportunities, engage with Indian Tribes, local communities, and other stakeholders, and to gather information that would serve as inputs, as appropriate, into Federal authorization decisions. EEI and ACP recognized the potential benefits to be gained from the IIP Process and encouraged DOE to move swiftly to both finalize the proposed approach and commit to working closely with project proponents to ensure that the IIP Process produces the promised results. EEI stated its belief that by collaborating with electric companies, DOE can significantly increase the efficiency of the process and reduce the time needed for NEPA reviews while ensuring environmental integrity and project deployment.

ACP and ACORE both supported the mandatory nature of the IIP Process as a prerequisite to participation in the CITAP Program, provided that it serves its intended objective of enhancing coordination, reducing permitting timelines, and minimizing duplication. ACP and ACORE noted that the IIP Process's early environmental review could conserve resources for public and private participations. PJM noted that the requirement should help avoid the current multi-agency piecemeal approach.

DOE also received comments generally in support of the establishment of the resource reports. AEU and the CARE Coalition expressed support for the thirteen resource reports proposed by DOE. AEU commented that the resource reports provided a comprehensive and wide-ranging analysis of the project. CARE Coalition commented that the resource reports were sufficiently comprehensive and detailed to enable Federal agencies, State and Tribal authorities, stakeholders, and the public to adequately review the project. AZGFD explained that the heightened consideration for resources through submitting 13 resource reports early in the process enables coordination and prevents implementation delays. It also stated that in some cases, adequate assessment of resources could take multiple years and multiple revisions before Federal environmental review is complete.

However, while commenters were broadly supportive, some commenters suggested changes to the level of detail required during the IIP Process and resource reports, indicating these would add flexibility and avoid what they perceived as unnecessary or burdensome tasks. Pew Charitable Trusts, in response to potential opposition to the level of information required in the pre-application phase, cited previous studies that conclude that a transparent and thorough siting process can benefit both the public and developers. AEP emphasized that an IIP Process should only be mandatory if it (1) informs the NEPA process and (2) minimizes duplication by project proponents and Federal entities. AEP noted that the IIP Process should also conserve the resources of project developers by actively encouraging permitting authorities to rely on the IIP Process's early environmental review. AEP also urged DOE to coordinate with transmission developers to enhance efficiency and protect environmental objectives. ACP cautioned against a burdensome pre-application phase and encouraged DOE to demand a level of information that is appropriate for NEPA scoping and consistent with the project's development. ACEG agreed with these assertions, adding that the level of information required in the IIP Process should be appropriate to support the relevant Federal entities' reviews and consultations, including under NEPA, ESA, and NHPA. ACEG emphasized the importance of reasonable and flexible demands. Similarly, CEBA cautioned against an IIP Process that was too complicated or time consuming. ACORE noted that the timeline for the submission of information in the IIP Process should align with when developers have the needed information and recommended that DOE provide some flexibility in those instances when the full scope of the information required in the IIP reports is not yet available. The NYTOs also suggested DOE should ensure that its data requests and sufficiency determinations align with the reliable data and information standards now set forth in sections 102(E) and 106(b)(3) of NEPA. These NEPA standards emphasize the use of reliable data and explicitly provide in NEPA section 106(b)(3)(B) that in making a determination regarding the level of review under NEPA, an agency "is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned

choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable." Similarly, Grid United recommended that DOE should consider section 106(b)(3) of NEPA in determining the level of information that is sufficient for each IIP Process meeting. AEP cautioned against a CITAP or IIP Process that duplicates or exceeds State regulatory application requirements.

Several comments addressed the level of detail required in the resource reports and the burden this would represent to the project proponent. ACP expressed concerns with the level of time and effort required for the development and submission of DOE's proposed resource reports so early in the process, when their usefulness in NEPA's EIS review process is uncertain, and urged DOE to consider that there may be limited information available in the early stages of permitting. ACP requested that the mandatory "shall" language be changed to "should" or "to the extent practicable." ACEG, SEIA, and CEBA noted that DOE needs to strike a balance between requiring enough information to be helpful in streamlining the review but not making requirements so strict that project proponents are discouraged. ACEG stated that information required in the resource reports must be limited to the information available at the time of submission, as this is a preliminary stage and developers should not be discouraged from applying if they do not yet have all the information. ACEG recommended that the detail of each resource report must be commensurate with the level of available information at the time of the submission.

Relatedly, DOE received several comments regarding the requirements that project proponents account for reasonably foreseeable effects. PIOs commented in support of the proposed rule's requirement to assess climate impacts. PIOs explained that the proposed rule's requirements that resource reports account for generation resources that are reasonably foreseen to be developed or interconnected and for reasonably foreseeable changes in emissions will ensure a rigorous environmental analysis that properly accounts for the project's climate impacts and are well-founded in NEPA's plain text and implementing regulations, CEQ guidance, and

judicial precedent. Policy Integrity provided similar rationale and additionally indicated that providing such data would be "relatively easy" for proponents. Policy Integrity elaborated that FERC has historically required such estimates from transmission developers, that developers have previously submitted these data and analysis to both DOE and FERC, and that power system emissions estimates are accessible through readily available modeling software. Along similar lines, AEU commented that the resource reports are comprehensive and require a wide-ranging analysis of the project, and that the requirement to describe reasonably foreseeable generation resources is especially beneficial because it illustrates the project's value and benefits to the larger regional and interregional grid.

On the other hand, CATF suggested that instead of requiring project proponents to describe reasonably foreseeable generation resources, DOE should request this specific information only for generator interconnections designed to connect specific generation resources to the bulk power system. CATF explained that it may be difficult for certain qualifying projects to determine the scope of what generation resources are reasonably foreseeable. Accordingly, CATF recommended that DOE not require project proponents to determine associated generation resources where burdensome, speculative, and of limited value to decision makers, and revise the provision to include only "specific" generation resources. CATF cited to judicial decisions to support the proposition that an analysis of foreseeable generation is not required where the generation would likely have occurred even absent the project. ClearPath offered additional criticisms of the foreseeable generation requirement. ClearPath urged DOE not to exceed its jurisdiction to conduct environmental reviews by including additional requirements without consulting CEQ, and stated that DOE's requirements to consider indirect impacts of the project and identify effects from existing or reasonably foreseeable projects are beyond DOE's statutory authority and are contrary to CEQ Guidance. ClearPath recommended that DOE limit IIP Process requirements, and subsequent review in an EIS, to only an electric transmission line and its attendant facilities within Federal jurisdiction.

Finally, the NM SHPO inquired generally about foreseeable generation, and whether foreseeable development will be considered in the assessment of historic properties under NHPA section 106 and its implementing regulations.

DOE also received comments on the iterative nature of the IIP Process and the role and scope of the three anchor meetings. While ACP approved of the general structure of anchor meetings, ACP emphasized the importance of flexibility in order to accommodate proposed projects that already have conducted significant Federal and State outreach or have agency-specific reporting that may differ in approach and timing to the IIP. ACP also suggested that DOE clarify how potential route changes can be accommodated without restarting the process, and that the final rule provide specific criteria that DOE and relevant Federal entities would follow in their consideration of adding, deleting, or modifying these routes.

ACEG suggested that DOE amend the proposed rule to strike or significantly modify its "sufficiency" standard for scheduling meetings, which DOE proposed to be required for scheduling each of the three required anchor meeting requests. ACEG and NYTOs commented that DOE should only find a meeting request insufficient when the information provided in the meeting request is insufficient to support a productive meeting, *e.g.*, a review meeting request should only require sufficient information to hold a productive discussion on the initial resource reports. For an example, NYTOs stated that as an "initial review meeting" is intended to identify issues of concern, information gaps or data needs— the existence of information gaps or the need for additional data, itself, should not be an appropriate basis for declining to proceed with a review meeting. ACEG expressed concerns that the current approach could allow an application to be indefinitely "parked" by unreasonable or overly burdensome demands for more information for purposes of a sufficiency determination. Similarly, Idaho Power asked, recognizing that review under the IIP Process is iterative, what controls there are to avoid continued and repeated refinement of analysis. Idaho Power also asked if the resource report requirement change infers

the project proponent will have already identified potential resource concerns by consulting with relevant, Federal land managers.

DOE requested comments on page limits for certain submission in the NOPR and received seven responses. CBD and the CARE Coalition both expressed a general concern with page limits on environmental reviews, with CBD stating that arbitrary limits risk sacrificing detail, undermining public participation, and causing delays. The Kentucky SHPO stated that page limits may be applicable if resource reports will serve only as background information, but page limits may not comply with NHPA or applicable State statutes if documentation is intended to be utilized by the project proponent or Federal agency for section 106 consultation materials. AZGFD noted that the NOPR only mentions page limits in the documents Summary of the Qualifying Project and Project Participation Plan, required by § 900.5, and recommended that DOE not include page limits for resource reports. ACP expressed concern with imposing page limits on project summaries and participations plans required by § 900.5 and instead recommended that DOE allow for flexibility and allow for page-limit carve outs for appendices where appropriate. Gallatin Power stated that the page limits for the Summary of the Qualifying Project and Project Participation Plan are reasonable but noted that the scope of transmission projects will vary greatly and suggested that DOE allow project proponents to request additional pages if deemed necessary. The CEC/CPUC stated that the page limit for the Summary of the Qualifying Project is appropriate but the limit for the Project Participation Plan may be limiting. Similarly, EDF raised a concern that the ten-page limitation for a Project Participation Plan might constrain the level of detail needed to comprehensively and holistically assess the project's impact and may signal to project proponents that only a cursory assessment is needed.

DOE received one comment regarding the participation of relevant Federal entities. EEI noted that transmission projects that interconnect, parallel, or cross facilities owned or operated by Federal power marketing administrations, such as Bonneville Power Administration and the Western Area Power Administration, may also be qualifying projects under the CITAP Program

as proposed. EEI suggested that in such cases, the Federal power marketing administrations must be involved in some manner as relevant Federal entities, either as joint lead agency with DOE or otherwise, and should remain actively involved in the coordination process. EEI further noted that providing a coordination role for Federal power marketing administrations is consistent with section 216(h).

DOE received comments from ACEG, AEP, and PIOs that addressed participation of relevant non-Federal entities. AEP urged DOE to be mindful of the important and necessary roles State and local decisionmakers play in the proposed transmission project approval process. ACEG and PIOs generally supported the clear and increased role for non-Federal entities, including Indian Tribes, SHPOs, and THPOs, in the IIP Process but noted that the important role of these additional entities in the process can also complicate reviews. ACEG recommended that DOE ensure that these non-Federal entities not only have but also use their seat at the IIP Process table and have necessary resources to fully participate in the process. PIOs stated that such improved coordination will be essential to ensure that resource reports provide all the necessary analysis and information to enable project proponents to receive all relevant authorizations. ACEG also noted that one way DOE can facilitate this participation is by effectively implementing its grant funding opportunities for transmission siting and permitting participation.

Regarding confidential information and/or CEII, the CARE Coalition recommended that DOE specifically invite comments from Indian Tribes regarding best practices around outreach by project proponents and prioritize Tribal recommendations. The CARE Coalition also recommended that DOE create a list of best practices; add free, prior, and informed consent (FPIC) to that list; and add language stating agencies must apply FPIC to all interactions between agencies and Tribal governments. The CARE Coalition believes that these changes will ensure that agencies adhere to both the United Nations Declaration on the Rights of Indigenous Peoples and the Federal trust responsibility to Tribal governments. Relatedly, PIOs recommended that DOE adopt language from the Washington State Attorney General's Centennial Accord Plan,

Indigenous Knowledge requirements, and requirements from the 2022 Biden Memorandum on Uniform Consultation Standards. The CARE Coalition recommended that DOE add a separate provision requiring agencies to clearly articulate the levels of confidentiality afforded to the public and governmental engagement for the information shared therein. The CARE Coalition recommended that DOE ensure that sacred sites, locations, and Indigenous Knowledge are protected from public disclosure to the greatest extent practicable. The NM SHPO added that agency officials should address concerns about confidentiality with Tribes.

DOE received comments requesting clarification on how the proposed rule would affect transmission projects that are already in the permitting process from Stoel Rives LLP and Idaho Power and a comment from Gallatin Power regarding the interaction of the IIP Process with other permitting processes. Stoel Rives argued that these projects should also be eligible for DOE's improved and expedited approval process, under the CITAP Program or otherwise. Stoel Rives encouraged DOE to consider these projects in this final rule and provide a roadmap detailing how they can be integrated into the process. Gallatin Power raised a concern that under the current provisions, a project proponent will not be able to submit applications to relevant Federal agencies for necessary Federal authorizations until after the completion of the IIP Process. Gallatin Power contended that the submission of an authorization application and supporting materials allows for the developer to identify its interest in a right-of-way path impacting Federal land and be designated the "first-in-line" for review. Forcing the application submittal to later in the process could result in multiple developers attempting to complete the IIP Process, including the intensive resource reports, for the same lands at the same time. This would create substantial inefficiencies for both the project proponents and the agencies involved. Gallatin Power suggested that to avoid this, DOE should either continue to allow developers to submit applications to Federal agencies prior to initiating the IIP Process or institute a similar "first-in-line" approach based on when projects are proposed for the CITAP Program. Gallatin Power also proposed that the transmission projects that have already submitted applications for

authorizations to relevant Federal agencies should not be forced to redo their application process or have their applications invalidated until the IIP Process is completed. They argued that doing so would be highly disruptive to development efforts and counterproductive to DOE's goals.

DOE also received comments regarding studies that may be undertaken during the IIP Process. The CEC/CPUC encouraged early coordination and review of a project proponent's supporting study methods for the IIP Process because reviewing study methods and securing necessary approvals for field review, before a proponent has conducted its studies, could reduce later delays. Additionally, the CEC/CPUC encouraged DOE to help other Federal agencies set schedules for timely study authorizations and afford exemptions to allow project proponents to initiate the IIP/CITAP Process if other Federal agency authorizations are delayed. Idaho Power asked DOE to clarify if the level of study is assumed to be desktop/GIS-informed or if there an expectation that field surveys will be completed for all project alternatives. Idaho Power also asked if DOE would be the final arbiter of completeness for studies or if each relevant Federal land management agency would have the authority to request additional information. Gallatin Power commented that DOE should clarify when the project proponent will receive authorization from Federal agencies to complete field resource surveys. Gallatin Power further stated that a lack of structure could allow for the permitting timelines to remain the same since uncertainty would be shifted to before the start of the rule's proposed two-year NEPA deadline.

Five commenters provided responses to DOE's request regarding the duplicative aspects of the NOPR. ACP commented that project proponents should be permitted to incorporate by reference existing data, environmental reviews, and public engagement efforts to streamline the process. ACEG recommended that the specific language regarding incorporation by reference be clarified so that incorporation by reference is permissible for all data, not just material in other resource reports and provided some suggested edits to the provision. CEC/CPUC stated that duplicative aspects of reports should be eliminated to limit inconsistencies in review, providing as an example that the Cultural Resources resource report, the Tribal Resources resource report,

the Communities of Interest resource report, and the Socioeconomic resource report all overlap but may not be reviewed by the same agency subject matter experts, which may result in inconsistent evaluations.

ClearPath stated that the requirement for project proponents to list and describe all dwellings and related structures or other structures normally or intended to be inhabited by humans within a 0.5-mile-wide corridor centered on the proposed transmission line was duplicative of information regarding affected landowners required in General Project Description resource report and should be omitted.

ACP recommended that DOE not require the public disclosure of names of people project proponents spoke to in preparing the resource reports, as this is overly onerous and lack of detail in this section should not be a basis to legally challenge DOE's eventual determination.

DOE Response

In this final rule, DOE retains the purpose and scope of the IIP Process as proposed in the NOPR, including the three-anchor-meeting structure and information requirements for progressing through the process, with minor revisions. DOE revises this final rule for clarity and to reduce burdensome and duplicative requirements in response to comments, as described below. DOE revises the page limits in this final rule to allow for project proponents to request a waiver. DOE makes no other revisions in response to these comments but notes that revisions to resource reports and IIP Process meetings in response to other, specific comments received on those aspects are addressed in sections VI.N and G of this document.

DOE declines to act on those comments urging greater flexibility in the IIP Process and in the content of resource reports because it believes such measures are unnecessary. This final rule confirms the provisions in the NOPR that provide for sufficient flexibility: the three anchor meetings, which provide structured opportunities to discuss and establish expectations; the provision permitting the project proponent to submit resource reports missing discrete pieces of information so long as the project proponent provides an acceptable reason for the omission and

an acceptable timeline for curing the omission; and the provision granting the Director of the Grid Deployment Office with discretion to waive any requirement imposed on a project proponent if the Director of the Grid Deployment Office determines that that it is unnecessary, duplicative, or impracticable under the relevant circumstances. DOE finds that together these provisions provided the flexibility necessary to respond to a wide variety of circumstances.

Regarding comments from ACP, ACEG, ACORE, SEIA, and CEBA on the level of detail requested in resource reports and specifically the availability of information based on project maturity and compliance with NEPA regulations, DOE makes no revisions in response to these comments. First, DOE believes the level of detail in the resource reports is necessary for DOE to implement its authority under section 216(h), which includes both environmental review and the coordination of decision making with relevant Federal entities. Second, this final rule adopts the proposed provision that project proponents may address and justify omissions or incomplete information. DOE believes this provides sufficient flexibility to accommodate project differences without further revision. Regarding ACP's request to modify language from shall to "should" or "to the extent practicable", where DOE intends to impose a mandatory obligation, it uses appropriate language, including "shall."

Regarding the inclusion of reasonably foreseeable effects, DOE declines to make changes to the requirements that project proponents identify certain reasonably foreseeable effects. DOE's obligations under NEPA, as well as corresponding obligations under section 106 of the NHPA and the ESA, require the Department to consider the reasonably foreseeable effects of major Federal actions affecting the quality of the human environment, as noted in PIOs' comment. While the scope of any NEPA review will be determined at the close of the IIP Process and on a case-by-case basis, the information required for inclusion within the resource reports discussed in this section is likely to be relevant for preparation of environmental review documents necessary for authorizations subject to this rule. In order to assist DOE in fully considering this relevant information, DOE seeks input from project proponents to identify

reasonably foreseeable generation projects that may be caused by a Federal authorization. Even when DOE determines a particular generation resource to be outside the scope of review DOE may still need to identify the resource and explain its conclusion. The language of the rule tracks these statutory obligations, and is consistent with the Secretary of Energy's authority under section 216(h) to require the submission of all data considered necessary.

Regarding the iterative nature and level of information requested for the three anchor meetings, DOE makes minor changes in this final rule regarding the discussion of and criteria for modifying study corridors in response to comments. DOE restates that the IIP Process is designed to allow for flexibility throughout the process while maintaining sufficient review periods to ensure that the project proponent is taking the steps necessary to complete the required Federal authorization processes.

In response to ACP's concern on how route changes will be accommodated without restarting the IIP Process, DOE believes the iterative nature of the IIP Process provides mechanisms to account for route changes, including: meetings, the use of analysis areas for resource report assessments (discussed in section VI.K.ii of this document in detail), study corridors that may contain multiple routes, and the resubmission of resources reports, none of which require a restart to the IIP Process. Accordingly, DOE makes no changes in response. Regarding ACP's request for criteria on adding or deleting routes, DOE revises the rule for clarity. First, DOE relocates the list of criteria from the initial meeting to § 900.4, Purpose and Scope of the IIP Process, and clarifies in the text that these are the initial list of criteria the project proponent should consider when developing potential study corridors and potential routes for the IIP Process. The change encourages the project proponent to utilize the criteria in identifying routes and corridors throughout the IIP Process, rather than just after the initial meeting. Second, DOE removes "deleting" from the initial meeting discussion topic to clarify that the IIP Process does not include a Federal entity deleting any corridors or routes. This final rule retains the requirement for DOE and other agencies to identify other criteria for adding or

modifying potential routes and includes that the agencies should also identify criteria for potential study corridors as well. DOE makes no further revisions as these changes sufficiently clarify the criteria recommended and how they will be considered, and any additional criteria will be discussed on a project-by-project basis.

DOE makes no changes to the final rule in response to comments from ACEG and NYTO regarding establishing a standard for determining the sufficiency of materials required for each IIP Process meeting. DOE requests the information it deems necessary and sufficient for each meeting as described in the rule and has chosen not to provide a specific standard in order to maintain flexibility to evaluate submitted materials depending on the specific needs and circumstances of each project. As previously noted, IIP Process materials may be submitted with omissions provided that the omission is noted, a reason is given, and reasonable timeline for curing the omission is provided. Additionally, the final rule confirms the proposed provisions through which DOE will provide reasons for finding the submissions deficient and how such deficiencies may be addressed by the project proponent. DOE believes these provisions provide flexibility for a wide range of project circumstances.

Regarding concerns from Idaho Power and ACEG that projects could be "parked" in the IIP Process, DOE makes no revisions to the final rule. This final rule confirms the intended iterative nature of the IIP Process and the interests of DOE in engaging in communications that are not limited to the three anchor meetings. These provisions are intended to prevent the situation described by the commenters where a request is rejected due to information or knowledge gaps or continued study refinement, by providing a communication mechanism through which such gaps could be discussed in advance. Additionally, as previously explained, DOE provides sufficient flexibility to the IIP Process to accommodate unique circumstances.

Regarding Idaho Power's question as to whether project proponents are expected to engage with agencies prior to the IIP Process, DOE responds that project proponents may choose

to consult with relevant entities prior to IIP Process at their discretion, but are not required or expected to do so.

Regarding page limits, DOE believes that the limitation on the number of pages in the Summary of the Qualifying Project and the Project Participation Plan is generally useful and appropriate, but agrees with commenters that some complex projects may require additional pages to address pertinent information for the project and the project proponent's outreach. Accordingly, DOE revises this final rule to allow for project proponents to request waivers to the page limitations of the Summary of the Qualifying Project and the Project Participation Plan. As the proposed rule established no specific page limitations on the environmental review document or resource reports, DOE makes no additional revisions in response to comments on those documents but acknowledges that relevant statutory page limits for environmental review documents will be followed.

Regarding the participation of relevant Federal entities, DOE has made no changes in response to EEI's suggestion to include Federal power marketing administrations because DOE has determined that such a scenario is already allowed by the regulatory text in the definition of relevant Federal entity.

Regarding the participation of relevant non-Federal entities, DOE agrees that not all relevant non-Federal entities will have the resources available to participate in the IIP Process. DOE makes no changes to this final rule, however, because provisions for cost-recovery and contribution of funds, which may assist in those entities' participation, are already included in the IIP Process. The recommendation of coordination of grant funding is outside the scope of this rulemaking, which is limited to implementation of DOE's coordinating authority under section 216(h) of the FPA. DOE has made no changes in response to this comment. DOE encourages non-Federal entities with authority to make permitting decisions regarding proposed electric transmission projects (e.g., State siting authorities) to actively participate in the CITAP Program, and will continue to seek ways to support such participation as the Program is implemented.

Regarding confidentiality of information and recommendations from the CARE Coalition among others, DOE makes no changes to this final rule. DOE finds that existing statutory provisions referenced in the proposed rule and confirmed in this final rule provide a framework for the protection of certain sensitive information from public disclosure. DOE recognizes that Indian Tribes are entitled to decline to provide information potentially at issue in the resource reports and IIP Process, and notes that this final rule does not mandate that Indian Tribes provide any material or information to project proponents. DOE will work with Indian Tribes to access relevant material and incorporate it into relevant decision-making while protecting the confidential and sensitive nature of that information as necessary and legally permitted. Additionally, as noted in section IV of this document, DOE affirms the sovereignty of Federally recognized Indian Tribes and confirms that the rule makes no changes to Federal agencies' government-to-government responsibilities. DOE commits to undertake Tribal consultation as appropriate, including as required by applicable authorities such as Executive Order 13007 or the Presidential Memorandum on Uniform Standards for Tribal Consultation, and commits to designate Indian Tribes with special expertise regarding a qualifying project, including knowledge about sacred sites that the project could affect, that are eligible, to become cooperating agencies under NEPA. DOE declines to include in the final rule best practices around outreach by project proponents or to import existing requirements related to Tribal engagement into this rule. The form and scope of outreach may vary by project and DOE believes these issues are best addressed on a project-by-project basis or in guidance outside of this rule.

Regarding participation of projects already undergoing a permitting process, DOE notes that nothing in the definition of qualifying project excludes such projects from participation and that the flexibility provided for in the IIP Process will allow DOE to determine accommodations for such projects on a project-by-project basis. DOE disagrees with Gallatin Power's interpretation that the CITAP Program would disallow or invalidate permitting applications

previously submitted prior to initiation of the IIP Process or submitted during the IIP Process. DOE acknowledges that some applications for authorizations may already be submitted prior to initiation of the IIP Process or may be submitted during the IIP Process and accommodates for such scenarios in the rule. For example, this final rule confirms the NOPR provisions that the initiation request and the review meeting request require the project proponent to provide a list of anticipated and completed dates of applications for authorizations or permits. Further, the rule specifically provides in § 900.5(h)(2) that at the initial meeting 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. DOE finds that these provisions sufficiently provide that this final rule will not impede developers' strategies for seeking authorizations for their projects. Nowhere in the rule does DOE indicate that these applications will be invalidated or require resubmission, nor does DOE have authority to do so.

Regarding study methods and approvals as raised by CEC/CPUC, Idaho Power, and Gallatin Power, DOE revises this final rule to provide clarity on the extent to which analysis of alternatives is expected (discussed in more detail in section VI.L.xi of this document) and to specify that required or recommended surveys or studies will be discussed in the IIP Process during the initial and review meeting. DOE makes no further revisions to this final rule in response to these comments as study methods and authorization timelines are specific to project circumstances and DOE will address these on a project-by-project basis. DOE clarifies here that DOE leads the IIP Process and will determine the completeness of documents and studies for the purpose of progressing through the milestones, while relevant Federal entities maintain statutory authority for determining the completeness of information needed for their decision-making.

Regarding the duplicative nature of some resources reports, DOE makes minor revisions in response to these comments. DOE agrees that incorporation by reference should extend to publicly available sources, such as existing data and environmental reviews, but only if they exist in electronic form (to ensure relevant entities can reasonably access the material), and revises

this final rule to allow for such references. In response to the request to combine resource reports to assure consistent review, DOE makes no revisions in response to this comment as DOE believes the division of resource reports will provide specific information pertinent to that resource topic that is necessary for DOE to implement its coordination authority. Further DOE believes the coordination of reviews within the IIP Process with relevant Federal entities will provide consistency of evaluation, and notes that the review of project proponent resource reports does not replace or supplant Federal entities' responsibilities to evaluate necessary information for decision making on authorizations and permits under their purview. Regarding the request to remove duplication in reporting of affected landowners and dwellings proximate to the proposed route, DOE makes no revisions in this final rule. DOE does not agree that these are duplicative requests, as affected landowner describes a person or entity and dwelling describes a building.

In response to ACP's concern about the burden of providing detailed information on all persons contacted in development of the resource reports, DOE agrees that this provision represents an unnecessary burden on project proponents and removes it from this final rule.

E. Public Participation in the IIP Process

DOE's Proposal

The proposed rule included several provisions addressing public participation. In the NOPR, DOE proposed the project proponent submit, as part of the initiation request, a project participation plan. The proposed project participation plan included the project proponent's history of engagement with communities of interest and stakeholders, 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. Before the review and close-out meetings, DOE proposed that the project proponent provide an updated public engagement plan to reflect any activities during the IIP Process. Additionally, the proposed rule required the standard schedule to take into consideration the need for early and meaningful consultation with

Indian Tribes and engagement with stakeholders and communities of interest. Likewise, the project-specific schedule was required to account for early and meaningful consultation with Indian Tribes and engagement with stakeholders.

Summary of Public Comments

DOE received several comments addressing public participation during the IIP Process, including the requirement of project proponents to plan for and report on engagement with various groups, and recommendations for modifications, clarifications, expansions, and reductions of the proposed public engagement reporting requirements.

Many commenters supported DOE's requirement to have a project proponent submit project participation and engagement plans. ACP, AEU, ACEG, SEIA, Pew Charitable Trusts, CEBA, and PIOs all expressed support for the requirement, expressing that such engagement would build trust and allow prompt response to concerns. PIOs expressed that they believe DOE is correct to require project proponents to furnish "specific information on the proponent's engagement with communities of interest and with Indian Tribes" and that requiring a public participation plan is well-grounded in binding Federal authorities. Additionally, PIOs expressed appreciation to DOE for noting that project proponent outreach efforts are merely complementary and not substitutive for Federal agencies' own engagement with communities and Indian Tribes nor are they substitutive for formal requirements under NEPA or other laws that provide formal avenues for community input. ACP supported DOE's efforts to encourage early and consistent engagement by project proponents with affected communities, as this represents a best practice for identifying, mitigating, and avoiding risks of sometimes-contentious transmission project development.

DOE received several comments recommending changes to the role of public participation and the scope of participants. EDF stated that the project participation plan is too narrowly focused, as public input should be expansive and not limited to "project engineering and route planning." The CARE Coalition encouraged DOE to require that project participation

and public engagement plans include information about engagement with advocates for the public interest, such as advocates for wildlife protection, who may not be covered under the definition of "communities of interest." The CARE Coalition argued that the inclusion of these groups and individuals in the project participation and public engagement plans would help develop resource reports, reduce litigation risk, reduce delays, and reduce overall project costs. PIOs recommended that DOE require separate engagement plans for Indian Tribes and communities of interest.

Commenters requested more guidance on public engagement, including parameters, minimum requirements, metrics, and best practices. EDF commented that proposed rule does not require the project proponent to strictly define communities of interest and recommended that the communities considered should be based on CEQ's Climate and Economic Justice Screening Tool or a comparable tool. EDF further recommended refining the public engagement plan to include mandatory deadlines or frequency of outreach requirements, to specify when communities of interest will have an opportunity to raise concerns, and to list additional tools that would facilitate communication in order to improve the efficacy of the plan. EDF expressed concern that the project participation plan did not require project proponents to engage with communities before substantive plans were solidified or require that input from communities of interest is taken into account in the beginning stages of plan development. Similarly, Niskanen Center was concerned that the proposed rule did not have sufficient notification or consultation requirements regarding the proposed public engagement plan, such that a project proponent would actually have to engage early or meaningfully with impacted parties or communities of interest. Niskanen Center accordingly recommended adopting notice requirements with defined timing and linked to specific milestones such as the notice of an initiation request. The CARE Coalition recommended that DOE adopt a definition of "early and meaningful engagement" similar to EPA's definition of "meaningful involvement" in its Environmental Justice 2020 Glossary and stated that providing a definition will ensure that engagement with communities

does not simply consist of "check-the-box" exercises without meaningfully engaging with communities that are disproportionately and adversely affected by certain Federal activities. ACP suggested that DOE should provide additional clarity as to what specific steps are required for engagement, and what DOE considers as "successful" engagement, and AEU echoed this comment. ACP, AEU and ACEG requested that DOE expressly recognize that engagement with potentially affected parties does not necessarily mean that all parties will reach a consensus on all issues. The CARE Coalition suggested DOE require submission of an "Applicant Code of Conduct" with additional information collection and sharing requirements for engagement, which would bring the rule into better alignment with FERC's proposed backstop permitting rule. Similarly, PIOs suggested that DOE require project proponents to adhere to a rigorous ethical code of conduct. Additionally, EDF suggested that the proposed rule might benefit from the expertise of DOE's Office of Economic Impact and Diversity.

The CARE Coalition, CBD, and CEBA suggested including best practices for public engagement and providing guidelines for project proponents as to what activities are considered engagement.

Commenters also expressed concern about the extent and approach to public engagement. AEP cautioned against a CITAP Program or IIP Process that duplicates or exceeds the RTO stakeholder process or required State and local permitting functions that ensure robust community and landowner engagement and outreach. ClearPath expressed opposition to requirements in the project participation plan and public engagement plan that create duplicative engagement requirements and institute different standards of engagement for different population segments. ClearPath specifically took issue with the different standards for "communities of interest" and "stakeholders" in the plans and suggested that the distinction was counterproductive to development of transmission projects and possibly unconstitutional. ClearPath also recommended amending the requirement that a project participation plan must include "[a] description of . . . any entities and organizations interested in the proposed undertaking."

ClearPath stated that it was impossible to describe *any* interested entities and organizations because DOE did not provide a threshold for what actions constitute a demonstration of interest. ClearPath recommended reevaluating whether this requirement was feasible and overly burdensome. StopPATH WV expressed its view that the project participation plan described in the NOPR is one-sided given that the developer and agencies have primary decision-making power and suggested that the name should be changed.

DOE received three comments regarding the role of community benefits plans. Alan Leiserson commented that the public engagement plans should require that the project proponent propose a community benefit plan and consider affected communities' suggestions for it. EDF also proposed that CITAP project participation plans and public engagement plans be required to include information on any potential community benefits agreements and the process that would be used to work with communities of interest in developing such agreements. EDF reasoned that information about any community benefit agreement or plan would support the CITAP review process and allow for coordinated review of the compliance of those plans with any other legal requirements. ACP supported DOE's efforts to encourage early and consistent engagement by project sponsors with affected communities. ACP expressed that DOE should consider environmental mitigation and community benefits developed under this community engagement process as project mitigation and/or design features in NEPA reviews.

PIOs, CARE Coalition, CBD, and Policy Integrity recommended that DOE incorporate additional opportunities for public participation in the IIP Process. PIOs stated that communities and organizations with relevant expertise should be allowed to participate in the three required meetings. CARE Coalition and PIOs suggested that DOE add an opportunity for public comment on project proponents' compliance with their participation plans and provide a mechanism for affected communities to make concerns known if proponents interact with the communities in a manner that is aggressive, coercive, dishonest, or otherwise unethical or if stakeholders disagree with project proponents over the scope or nature of a project's impacts. Similarly, CBD

suggested including junctures at which the public could provide input into the resource reports and public participation plan. Policy Integrity also recommended that DOE modify the proposed IIP Process to allow for early public comments, arguing that early community feedback and expert opinion could reveal pitfalls in a project in the pre-application stage. Without this step, Policy Integrity expressed concern that the public would have no voice until after the participating agencies have deliberated and potentially come to a consensus on certain issues in the pre-application stage. For example, Policy Integrity noted that agencies may deem project proponents' Alternatives Report as complete once they ratify it during the IIP Process, without any consideration for public input. Additionally, Policy Integrity argued that its proposed revision would bring the IIP Process into closer alignment with the pre-filing process for natural gas infrastructure at FERC, which accepts formal public comment, and suggested the consolidated administrative docket be allowed to provide public feedback.

DOE Response

In this final rule, DOE retains the proposals in the NOPR to require a project participation plan and a public engagement plan, and the provisions in the NOPR addressing engagement with communities of interest, Indian Tribes, potentially affected landowners, and stakeholders. In response to these comments, DOE makes minor changes to this final rule to clarify the scope of topics on which project proponents should seek public engagement, for the reasons discussed below. Revisions to the definitions of communities of interest, potentially affected landowners, stakeholders, and to the resource reports are addressed in sections VI.J and VI.K of this document in response to other comments.

Regarding the role of public participation and the scope of participants, DOE makes minor changes in response to these comments. DOE clarifies that the project participation plan may include—but is not limited to—engagement related to project engineering and route planning and strikes "project engineering and route planning" from this final rule to reflect this. DOE makes no changes in response to the request to require engagement with advocates for the

public interest because DOE believes further expanding the required engagement creates an undue burden on project proponents without substantial benefit to communities of interest. Furthermore, DOE understands that these advocates may, and often do, act as representatives on behalf of communities of interest and are therefore likely to be engaged through those relationships. DOE is unpersuaded that two public engagement plans, one for communities of interest and another for Tribal engagement, are necessary and believes that the proposed resource report requirements for communities of interest and Tribal interests allow for sufficient differentiation on the topics for DOE's consideration.

Regarding requests for minimum standards, deadlines, frequency, specific steps, use of tools for identifying communities of interest, and notice requirements, from CARE Coalition, CBD, CEBA, EDF, and Niskanen Center, DOE makes no revisions in this final rule in response to these comments. DOE believes the provisions for public engagement in the proposed rule and confirmed here establish sufficiently clear expectations for project proponent activities while maintaining flexibility for the project proponent to shape engagement consistent with the project circumstances and development. These provisions as proposed and now finalized sufficiently support the goals of the CITAP Program by encouraging engagement on the part of the project proponent to identify concerns early and to allow for the project proponent to consider adjustments in a timely and responsive manner. Additionally, these provisions are complementary and additional to Federal agencies' own engagement with communities and Indian Tribes and the requirements under NEPA or other laws that provide formal avenues for public input including notice and consultation requirements. DOE is not persuaded that additional requirements are necessary or appropriate for the IIP Process.

Regarding codes of conduct, DOE has determined that defining a singular code within the regulatory text is unnecessary at this time. In its role coordinating the IIP Process and the CITAP Program, DOE will work closely with project proponents, relevant Federal entities, communities, and other stakeholders. In that role, DOE will endeavor to ensure that project proponents engage

in good faith with all participants. In contrast to FERC, DOE does not have specific statutory authority regarding eminent domain and thus alignment with all aspects of FERC's proposed rulemaking pursuant to engagement practices is not appropriate but may be addressed on a project-by-project basis where relevant. With experience, DOE may find it appropriate to provide code-of-conduct or ethical guidance and may rely on the resources provided by commenters. DOE also clarifies, in response to EDF's concern, that offices across the agency, including the Office of Energy Justice and Equity (formerly Economic Impact and Diversity), were consulted in the development of the rule.

DOE declines to define "successful," as requested by ACP, or "early and meaningful" engagement as requested by the CARE Coalition, because DOE believes the required information on engagement (including what groups and individuals were engaged, how they were identified, topics that were raised, and the project proponent's responses) provides sufficient clarity and additional definitions are unnecessary. DOE declines to include the statement requested by ACP, AEU and ACEG that engagement with potentially affected parties does not necessarily mean that all parties will reach a consensus on all issues because DOE is not persuaded that the proposed rule indicates that all parties will reach a consensus on all issues and therefore finds such a statement unnecessary.

DOE believes that best practices are best provided in guidance rather than regulatory text to allow for flexibility and evolution of such practices and makes no changes in this final rule in response to the comments by CARE Coalition, CBD, and CEBA. In the future, DOE may issue guidance for community-led engagement, measuring engagement, identifying communities of interest, and ethical and meaningful engagement, which may include or reference the sources provided by commenters as necessary for implementation of the CITAP Program.

In response to ClearPath's concern about different standards of engagement, DOE reiterates that the various requirements, including the resource reports and public engagement plan, are tailored to fulfill various, not mutually exclusive, purposes to facilitate transmission

authorizations pursuant to the CITAP Program, and are not intended to, nor do they, establish a hierarchy of treatment and consideration of impacts across population segments.

In response to StopPath WV's objection to the project participation plan, DOE declines to change the name of the project participation plan because DOE is not persuaded that the phrase implies any decision-making authority.

Regarding the role of community benefits and community benefits plans, DOE makes no changes to this final rule. DOE believes that the public participation provisions proposed and confirmed here are sufficient to allow project proponents to engage with communities in the development of plans or agreements and for compliance to be evaluated in the CITAP Program where relevant for Federal permitting or authorization decisions. DOE does not agree that additional requirements are needed, as the comments suggest that the situations described are not universal but rather depend on the project, and therefore are best addressed on a project-by-project basis.

Regarding recommendations for inclusion of expert groups in the IIP Process meetings and providing avenues for public comments, DOE makes no changes in this final rule in response to these comments. First, as noted previously, DOE believes the provisions in the proposed rule and confirmed here are sufficient to support the goals of the CITAP Program. DOE has structured the three IIP Process meetings to serve as milestones for coordination between the project proponent and the relevant Federal and non-Federal entities to ensure DOE can meet its obligations under FPA section 216(h) and DOE does not intend to use these meetings to solicit feedback from communities of interest or receive expert input from other organizations. The public participation plan is designed with the intent to identify issues well ahead of the IIP Process meetings for this reason, as the meetings themselves are not intended to serve as avenues for broader input. Second, as noted by DOE throughout the rule and supported by commenters, the CITAP Program public participation requirements are complementary and additional to Federal agencies' own engagement with communities and Indian Tribes and the

requirements under NEPA or other laws that provide formal avenues for public input and public comment, including on project impacts.

DOE disagrees with Policy Integrity's interpretation that agencies will make decisions on Federal authorizations during the IIP Process. Federal agency decisions remain subject to distinct decision-making processes with requirements under NEPA and other laws that provide formal avenues for public input. Furthermore, with respect to Policy Integrity's specific concern regarding project proponent's Alternatives resource report, as discussed in further detail below, *see* section VI.K.xi of this document, the project proponent's Alternatives resource report must discuss alternatives identified and considered by the project proponent. However, while a project proponent's study corridors, potential routes, and range of potential routes are relevant information, they do not displace the overall alternatives development process that must take place in consultation with relevant Federal and non-Federal entities, stakeholders, and the public. That process remains subject to public comment pursuant to NEPA and other laws.

F. Timing of IIP Process and NOI Issuance

DOE's Proposal

The proposed rule included several provisions addressing the IIP Process timeline. In the NOPR, DOE proposed to, within 15 calendar days of receiving an IIP Process initiation request, notify relevant Federal entities and relevant non-Federal entities of the initiation request along with a determination that the recipient is either a relevant Federal entity or a relevant non-Federal entity and whether the project proponent should participate in the IIP Process. Also, DOE proposed to, within 30 calendar days of receiving the request, notify the project proponent and all relevant Federal entities and relevant non-Federal entities whether the initiation request meets the applicable requirements. If the request is found to meet the applicable requirements, DOE proposed, in consultation with the identified relevant Federal entities, to convene the IIP Process initial meeting within 30 days of providing notice to the project proponent.

In the NOPR, DOE proposed to, within 15 calendar days after the initial meeting with the project proponent and relevant entities, prepare and deliver a draft initial meeting summary to the project proponent, relevant federal entities, and any non-Federal entities that participated in the meeting. The proposed rule provided a period of 15 calendar days after receipt of the draft initial meeting summary for relevant entities to review and provide corrections to DOE.

In the NOPR, DOE proposed, within 15 calendar days of the close of the 15-day review period, to prepare a final meeting summary that incorporates received corrections, as appropriate, and incorporate the final summary into the consolidated administrative docket.

DOE proposed in the NOPR to, within 60 calendar days after receiving a project proponent's review meeting request, notify the project proponent and all relevant Federal entities and relevant non-Federal entities that the review meeting request has been accepted. In the NOPR, DOE proposed, within 30 calendar days after DOE provides notice that the review meeting request has been accepted, to convene the review meeting with the project proponent and relevant Federal agencies.

DOE proposed in the NOPR to, within 15 calendar days after the review meeting, prepare and deliver a draft review meeting summary to the project proponent, relevant Federal entities, and any non-Federal entities that participated in the meeting. In the NOPR, DOE proposed to provide a period of 15 calendar days after receipt of the draft review meeting summary for relevant entities to review and provide corrections to DOE.

DOE proposed in the NOPR to, within 15 calendar days of the close of the 15-day review period, prepare a final review meeting summary that incorporates received corrections, as appropriate, and to incorporate the final summary into the consolidated administrative docket.

In the NOPR, DOE proposed to, within 60 calendar days after receipt of the close-out meeting request, notify the project proponent and all relevant Federal entities and relevant non-Federal entities that the close-out meeting request has been accepted. DOE also proposed to, within 30 calendar days of DOE notifying the project proponent that the close-out meeting

request has been accepted, convene the close-out meeting with the project proponent and all relevant Federal entities.

DOE proposed in the NOPR to, within 15 calendar days after the close-out meeting, prepare and deliver a draft close-out meeting summary to the project proponent, relevant federal entities, and any non-Federal entities that participated in the meeting. In the NOPR, DOE provided a period of 15 calendar days after receipt of the draft close-out meeting summary for relevant entities to review and provide corrections to DOE.

In the NOPR, DOE proposed to, within 15 calendar days of the close of the 15-day review period, prepare a final close-out meeting summary that incorporates received corrections, as appropriate, and to incorporate the final summary into the consolidated administrative docket.

Summary of Public Comments

DOE received comments from PIOs, SEIA, ClearPath, and AEU that expressed general support for DOE's proposed IIP Process timelines.

Several commenters suggested specific changes to the IIP Process timelines proposed in the NOPR. Grid United and ACP recommended reducing the time between receipt of an initiation request and the date of the initial meeting to no more than 30 calendar days. NYTOs recommended that DOE adopt a 60-day maximum period between receipt of a review meeting request and the convening of the review meeting because a significant amount of the information would have already been reviewed as part of the initial meeting.

ACEG suggested that DOE reduce the 45-day summary and report process after each of the three anchor meetings (initial meeting, the review meeting, and the close-out meeting) and further suggested that DOE require a real-time wrap-up at the end of each meeting during which DOE would provide a meeting summary and participating entities would immediately make any needed corrections. ACEG also recommended that DOE reduce the number of days between the initiation request and initial meeting to 15 days, and reduce the number of days between the close out meeting request and that meeting to 30 days. Grid United also suggested shortening the

meeting summary process by emphasizing close-out and action item discussions at the meeting and designating a 15-day period, thereafter, for finalizing the meeting report.

Several commenters requested more information on the total timeline for the IIP Process and the CITAP Program. ACP recommended that the IIP Process include a general timetable to ensure that it does not add unnecessary costs or delays. Similarly, ACEG and CEBA recommended that the rule establish a presumptive one-year limit for completion of the IIP Process. ACORE commented that it supports ACEG's recommendation that DOE commit that any transmission project will be fully authorized in under three years and not longer than five years (from initiation of the pre-application process through issuance of all required Federal authorizations, including any required notice to proceed). CEBA argued that, ideally, the IIP Process and application process, including all environmental review procedures, would be completed within three years. CEBA added that DOE should work with the project developer on a joint schedule that may better accommodate the unique nature of the proposed project. Similarly, ClearPath suggested that the IIP Process timeline in the rule could serve as a baseline and that DOE should allow a project proponent to submit a proposed IIP Process schedule. EDF noted that the IIP Process could take more than one year given the lack of specific deadlines for specific IIP Process steps. EDF stated that there are IIP Process requirements such as the project participation plan that require significant effort and time to develop and that this development time is not captured in the IIP Process schedule. EDF recommended that DOE consider specifying a time period for when a developer must resubmit its review meeting request and close-out meeting request if either request does not meet the specified requirements.

CEBA noted that the burden of completing the IIP Process in a timely manner is highly dependent on the level of effort and resources brought to bear by the project proponent and suggested that DOE should anticipate and recognize a broad diversity of project proposals and afford maximum flexibility for the developer. CEBA further encouraged DOE to ensure that the IIP Process does not become too complicated and time consuming, which could undermine the

objective reflected in recent law to shorten the Federal authorization process. Gallatin Power stated that a lack of structure could allow for the permitting timelines to remain the same because timeline uncertainty would be shifted to before the start of the rule's proposed two-year NEPA deadline.

PJM noted that although the NOPR describes the CITAP Program deadlines as "binding," the May 2023 MOU contemplates a process to modify the project-specific deadlines. PJM believes that due to this and the fact that the extensive, mandatory IIP Process is not factored into the two-year timeline, the actual review and approval process will most likely take longer than two years. Hence, PJM requested that DOE carefully reexamine that the proposed revisions will actually aid in accelerating the current process in a way that will ensure that, at a minimum, the CITAP Program is able, in all but the most unusual of cases, to be completed within the two-year time frame or less.

Four commenters, NYTOs, Grid United, ACEG, and ClearPath, expressed concern over the lack of a deadline for DOE to issue the NOI. Grid United recommended that the presumptive deadline should be 90 days after the close-out meeting. The NYTOs recommended a presumptive deadline of 45 days after either the close-out meeting or the project proponent's completion of applicable filing procedures for each involved Federal agency. ACEG suggested that DOE require the NOI to be issued within 90 days of the project proponent filing all applications and resource reports. ACP recommended that DOE ensure that as little time as possible elapses between submittal of an application for an EIS Scoping NOI, and the subsequent publication in the Federal Register.

DOE Response

This final rule makes several revisions to the DOE decision-making timelines that reduce the total time for DOE reviews and responses in the IIP Process by 55 days and the total time for all IIP Process steps by 100 days. DOE also revises this final rule to establish a deadline for DOE and any NEPA joint lead agency to issue an NOI to prepare an environmental review document

for the proposed project. That deadline is established as within 90 days of the later of the IIP Process close-out meeting or the receipt of a complete application for a Federal authorization for which NEPA review will be required. DOE makes no revisions to establish timelines for project proponents or to set a timeline for the IIP Process or overall CITAP Program. DOE recognizes that some of the IIP Process is within the government's control, and, where reasonable, for those pieces of the process this final rule adopts shorter timelines. For other pieces of the process, however, the pace is dictated by the project proponent (or factors outside anyone's control, like inclement weather). For those pieces, DOE has not set timelines.

Regarding reducing time between meeting requests and meeting convenings, DOE makes several revisions. DOE agrees that the deadlines for determining the sufficiency of the initiation request and convening the initial meeting can be moved forward to streamline evaluation and coordination. To simplify the initiation request review and reduce the timeline, in this final rule DOE is combining the deadline for providing notice to Federal and non-Federal entities under § 900.5(f) of the NOPR with the deadline for providing notice of the sufficiency determination. Further, this final rule reduces the timeline for making a sufficiency determination on the initiation request from 30 calendar days after receiving the initiation request to 20 calendar days. Finally, DOE revises the timeline for convening the initial meeting from 30 calendar days after providing notice of the sufficiency determination to 15 calendar days. In sum, the revisions reduce the maximum time period between receiving the initiation request and the initial meeting from 60 calendar days to 35 calendar days.

DOE also agrees that the other IIP Process meetings can be convened in less time. Accordingly, the final rule revises the timeline for convening the review meeting and close-out meeting from within 30 calendar days of sufficiency determination to within 15 calendar days. Regarding NYTO's comment that the time between a review meeting request and the review meeting could be reduced, in this final rule DOE shortens the period from 90 days to 75 days by convening the review meeting within 15 days rather than 30 days. However, DOE maintains the

review period for the meeting request at a maximum of 60 days because DOE and the relevant Federal and relevant non-Federal entities will be reviewing both the meeting request and the draft submission of the 13 resource reports, which will be substantial and will benefit from careful review. The review meeting timeline may be significantly reduced if the project proponent chooses to submit resource reports in advance, and communicates with DOE, as provided for in the IIP Process.

DOE declines to adopt an immediate meeting summary review process as suggested by ACEG and Grid United because the content of each of the meetings is likely to be substantial, with multiple subject matter experts likely to attend from the relevant Federal entities and relevant non-Federal entities. DOE does not agree that immediate summaries will adequately capture an initial draft of the meeting outcomes. DOE also wishes to clarify that the meeting summary timelines do not add to the total time of the IIP Process because they are not precursors to any subsequent milestones. That is, while DOE is preparing summaries of each meeting, preparation or revisions to the resource reports or other materials needed for subsequent IIP Process steps can and should continue. Nonetheless, DOE does agree that these timelines should be reduced. Consequently, this final rule changes the deadline for DOE to deliver a meeting summary from 15 calendar days after the meeting to 10 calendar days after the meeting, for all three of the IIP Process meetings. Similarly, this final rule shortens the deadline for a project proponent and other entities to review the meeting summary from 15 calendar days after receiving the summary to 10 calendar days after receiving the summary. Finally, the deadline for DOE to provide the final meeting summary is changed from 15 calendar days after the period for corrections to 10 calendar days after the period for corrections. DOE notes that since these deadlines are expressed as calendar days, not work days, DOE is declining additional reductions to ensure the expectations can be met. In sum, the revisions reduce the maximum time period between the conclusion of an IIP Process meeting and the finalization of the meeting summary from 45 calendar days to 30 calendar days.

In response to comments requesting a general timetable or presumptive timeline for the IIP Process or the CITAP Program, DOE makes no changes in this final rule. In the proposed rule and confirmed here, DOE provides decision-making timelines for DOE's responsibilities in the IIP Process, leaving the timing of project proponent actions to trigger the next milestone flexible to account for differences in projects. When factoring the changes described above, the maximum total time for DOE reviews and responses in the IIP Process in this final rule is 185 days. Based on that timeline for DOE decision-making, DOE expects that a prepared and responsive project proponent could readily complete the IIP Process within a year.

DOE does not agree that this final rule should set a total time for the IIP Process or CITAP Program. DOE has chosen to set expeditious timelines for the actions it and its fellow agencies can control. But the time required for each IIP process will ultimately depend on the needs and capabilities of the project proponent. Some projects will be able to move quickly and complete the process well within a year, while others may need more time. Even the best-prepared project proponents may need time to accommodate re-routing or design changes that result from unforeseen developments in the land acquisition process, the interconnection process, or other activities that they pursue in parallel to the IIP Process and that are not entirely within their control. DOE makes no revisions to establish timelines for project proponents to resubmit materials in response to EDF's request to accommodate project proponents with different capabilities. DOE is also declining to make revisions in response to ClearPath's or CEBA's recommendations to allow for individualized IIP Process schedules; again, the overall schedule for the IIP Process will ultimately be determined by the project proponent. Regarding PJM's comment that the IIP Process is not accounted for in the two-year schedule described in the 2023 MOU, DOE confirms that this is accurate and reflects the agreement in the 2023 MOU. DOE clarifies that the two-year timeline begins with the publication of an NOI to prepare an environmental review document; the IIP Process is intended to precede the publication of the NOI. As discussed in this section and section VI.H addressing the standard schedule and project-

specific schedules, DOE has reviewed the timelines set out in this rule and modified certain timelines in the IIP Process to further streamline where appropriate.

In response to comments requesting a timeline for NOI issuance, DOE revises this final rule to state that DOE will issue an NOI within 90 days of the later of the IIP Process close-out meeting or the receipt of a complete application for a Federal authorization for which NEPA review will be required. This 90-day timeline aligns with recommended performance schedules established by the Federal Permitting Improvement Steering Council (FPISC). DOE does not adopt the recommendation to time the issuance of the NOI on the receipt of all applications, because some applications may require more information or project development before filing. For instance, both the FPISC-recommended performance schedules[8] and DOE's draft standard schedule indicate that applications for Clean Water Act (33 U.S.C. 1251 *et seq.*) (CWA) or Rivers and Harbors Act (33 U.S.C. 401 *et seq.*) permit applications may be filed after the NOI is issued.[9]

G. IIP Process Initiation Request

DOE's Proposal

To participate in the CITAP Program, DOE proposed to require a project proponent to submit an IIP Process initiation request to DOE that included a summary of the qualifying project; associated maps, geospatial information, and studies (provided in electronic format); a project participation plan; and 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)).

Summary of Public Comments

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[8] "Recommended Performance Schedules." *Permitting Dashboard: Federal Infrastructure Projects*, FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL, Nov. 2023, *www.permits.performance.gov/sites/permits.dot.gov/files/2023-11/RPS_November%202023.pdf*.

[9] "Draft Standard Schedule." *Grid Deployment Office*, United States Department of Energy, Aug. 2023, *www.energy.gov/sites/default/files/2023-08/CITAP-Standard-Schedule-Draft.pdf*.

DOE received two comments on the contents of the initiation request for the IIP Process. LTA recommended that DOE add sufficient and satisfactory title work for the real property through which an electric transmission facility will pass to the list of required materials for an initiation request in order to identify conserved lands. ACEG stated that additional clarity is needed on how the CITAP program will align with FAST-41 and stated that a project proponent might not be able to state whether the project is covered under FAST-41 in the IIP Process initiation request. ACEG also stated it is unclear how DOE will coordinate with FPISC if the project is covered under the CITAP Program and FAST-41.

DOE Response

In this final rule DOE maintains the required initiation request materials proposed in the NOPR with no revisions.

In response to the request to add title work to the requirements, DOE does not make this revision because DOE believes this would be overly burdensome on the project proponent at the initiation stage of the IIP Process, when a project proponent may not have a finalized route.

In response to the request for more information on alignment with FAST-41, DOE first provides clarification on the provision in the proposed rule. In the proposed rule, DOE would request the status of a project under FAST-41 at the time of the initiation request. But this provision would not ask the project proponent to speculate as to whether the project may be covered in the future. DOE believes the project proponent will be able to state if the project has applied for coverage under FAST-41 and if a coverage determination has been made at the time of the initiation request, and therefore DOE makes no changes in this final rule. Additionally, DOE provides no revisions regarding coordination with the Permitting Council because, as noted by the commenter, a project's FAST-41 status may change during the CITAP Program and therefore DOE expects that coordination between the Permitting Council and DOE will vary on a project-by-project basis. Examples of such coordination are described in the 2023 MOU, and

DOE designed the CITAP Program timelines to work in harmony with the Permitting Council processes accordingly.

H. Standard and Project-Specific Schedules

DOE's Proposal

In the NOPR, DOE proposed to establish intermediate milestones and ultimate deadlines for Federal authorizations and related environmental reviews through the introduction of standard and project-specific schedules in accordance with the terms of FPA section 216(h)(4) and of the 2023 MOU. Specifically, DOE proposed to periodically publish a standard schedule identifying the steps needed to complete decisions on all Federal environmental reviews and authorizations for a qualifying project along with the recommended timing for each step. In addition, DOE proposed to establish project-specific schedules for each project participating in the IIP Process, to set binding deadlines by which Federal authorizations and related environmental reviews for a particular project must be completed. DOE proposed to base the project-specific schedule on the standard schedule, to develop it in consultation with the project proponent and other Federal agencies, and to finalize it at the conclusion of the IIP Process.

Summary of Public Comments

DOE received several comments regarding the standard schedule and the development of project-specific schedules. Two commenters supported these provisions. The State of Colorado Governor's Office stated its belief that the standard schedule and the project-specific schedule will provide added flexibility to each project and expressed hope that doing so will minimize the time of the approval process. ClearPath expressed its support for the development of the standard schedule to serve as a baseline for developing project-specific schedules.

Three commenters raised concerns that the two-year timeline in the standard schedule and presumed for the project-specific schedules was too long, and a fourth commenter, PJM, commented in favor of the two-year timeline, but expressed concerns that it may still not adequately expedite the Federal permitting process. OSPA stated that the proposed two-year EIS

process is still too long. Alan Leiserson recommended that the standard schedule deadline should be set at one year, or as soon thereafter as practicable, to be consistent with section 216(h). AEP recommended setting one-year timelines for environmental assessments and two years for environmental impact statements. PJM proposed that DOE clarify in the proposed revisions that while developing the binding, project-specific milestones the relevant agencies will endeavor to shorten the two-year timeline based on the proposed project's scope and location in conjunction with the relevant statutory requirements.

On the other hand, two commenters raised concerns that the two-year timeline was too short. CBD cautioned against setting any timelines for environmental reviews because it could cause agencies to cut corners and result in increased opposition to proposed projects. Similarly, AZGFD expressed concerns that expediting the approval process to facilitate rapid transmission infrastructure development may have unforeseen impacts on wildlife resources. AZGFD argued that although establishing a standard schedule would help in streamlining the process, some projects might require additional time for completion of the NEPA analysis and identification of appropriate conservation measures. AZGFD encouraged DOE to have provisions for independent process-specific timeframes, rather than a standard schedule, to allow adequate time for evaluation and assessment of potential impacts. AZGFD requested DOE to provide clear guidelines on establishment of review times for cooperating or participating agencies with statutory authority or special expertise related to proposed actions. AZGFD further mentioned that it is unclear whether the proposed two-year timeframe applies to the IIP Process, the NEPA process, or the combined process.

Three commenters suggested the project proponent provide more input into the development of the project-specific schedule. ClearPath recommended that DOE allow project proponents to propose a project-specific schedule. Similarly, ACEG and Grid United proposed that the project proponent have the opportunity to provide DOE and the relevant entities with a draft project-specific schedule before the initial meeting, which would be discussed at the initial

meeting. Grid United also suggested requiring ongoing consultation between the project proponent, DOE, and the relevant agencies as part of finalizing the project-specific schedule. PJM suggested that DOE include a provision for revisiting the CITAP Program at least every two years to gauge whether the process is meeting its intended goals.

DOE Response

In this final rule, DOE retains without revision the proposal in the NOPR to publish a standard schedule for completing environmental review and decision making for Federal authorizations for qualifying projects within two-years and to develop a proposed schedule with the NEPA joint lead agency and the relevant Federal entities on a project-specific basis during the IIP Process.

Regarding requests to reduce the two-year time frame to complete environmental reviews, DOE makes no changes to this final rule because DOE maintains its conviction that, as a general matter, for transmission projects of the type that meet the qualifying project definition, a two-year timeframe is the shortest practicable length of time necessary to consider applications for authorizations under relevant Federal laws and complete the necessary environmental reviews. Accordingly, DOE concludes that a two-year timeline is likely to be consistent with DOE's statutory obligations under FPA section 216(h). However, DOE notes that the rule does not preclude DOE, in consultation with relevant agencies, from setting project-specific timelines that are shorter than the two-year timeline, should such a timeline be practicable.

Regarding concerns that the two-year timeframe is too short and could reduce the quality of environmental review or impact wildlife resources, DOE makes no changes to final rule because the CITAP Program does not alter any Federal environmental review standards or responsibilities towards wildlife resources. Additionally, this two-year timeline is consistent with the timelines established by the Fiscal Responsibility Act of 2023. Further, DOE notes that the standard schedule is a general framework for environmental review and authorizations, but that the proposed and now this final rule require that DOE develop a schedule specific to each project

that addresses the unique permitting and review requirements for that project. In addition, as explained in the proposed rule, DOE anticipates that the IIP Process will inform the environmental review process, such that a two-year timeline is reasonable. DOE believes this structure sufficiently addresses AZGFD's concerns.

Regarding the request to establish a standard schedule for EAs, DOE makes no changes to this final rule because the CITAP Program focuses DOE resources on projects expecting to complete an EIS, and adjustments, including to schedules, for any project requiring an EA will be addressed on a project-specific basis. Accordingly, DOE finds it unnecessary to establish a timeline for EAs in the text of this final rule but notes that the rule does not prevent DOE from publishing a standard schedule for EAs if the agency finds it necessary.

Regarding the suggestions that DOE allow the project proponent to propose a project-specific schedule or provide additional opportunities for the project proponent to discuss the project-specific schedule with DOE and the relevant Federal entities, DOE notes that nothing in the rule prevents the project proponent from proposing a schedule but DOE maintains the statutory authority to set and maintain the schedule. Additionally, as proposed and finalized here, DOE requires the project proponent to submit information on the intended or desired timelines for various Federal applications as part of each meeting request during the IIP Process. DOE is required to present a proposed project-specific schedule at the review meeting and a final project-specific schedule at the close-out meeting. Project proponents are encouraged to communicate with DOE and relevant entities throughout the IIP Process. Project proponents are welcome to submit any information they believe will help DOE create the project-specific schedule, including a draft schedule, through any of these mechanisms. DOE believes these requirements provide sufficient opportunity for the project proponent to give input on the schedule and therefore makes no changes to the rule in response to these comments.

In response to PJM's suggestion that DOE revisit the CITAP Program every two years, DOE makes no revisions in this final rule. DOE will evaluate the CITAP Program as appropriate,

which may be based on time, the number of projects DOE has coordinated in the process, or other relevant factors.

I. Selection of NEPA Lead and Joint Lead Agencies and Environmental Review

DOE's Proposal

Section 216(h)(2) of the FPA authorizes DOE to act as the lead agency to coordinate Federal authorizations and related environmental reviews required to site an interstate electric transmission facility. DOE proposed in the NOPR that DOE serve as the NEPA lead agency to prepare an EIS to serve the needs of all relevant entities. In the NOPR, DOE proposed that a NEPA joint lead agency may be designated no later than the IIP Process review meeting. The NEPA joint lead agency, if any, would be the Federal entity with the most significant interest in the management of the Federal lands or waters that would be traversed or affected by the qualifying project, and DOE would make this determination in consultation with all Federal entities that manage Federal lands or waters affected. The proposed rule also provided that for all qualifying projects, DOE and the relevant Federal entity or entities would serve as co-lead agencies for consultation under the ESA and for compliance with section 106 of the NHPA.

After the IIP Process close-out meeting and once an application has been received in accordance with the project-specific schedule, the proposed rule would require DOE and the NEPA joint lead agency to prepare an EIS for the qualifying project, which is meant to serve the needs of all relevant Federal entities. The proposed rule would also require DOE and the NEPA joint lead agency to consider the materials developed throughout the IIP Process; consult with relevant Federal entities and relevant non-Federal entities; draft the EIS, working with contractors, as appropriate; publish all completed environmental review documents; and identify the full scope of alternatives for analysis in consultation with the relevant Federal entities.

Finally, the proposed rule would also require the Federal entities or non-Federal entities that are responsible for issuing a Federal authorization for the qualifying project to identify all information and analysis needed to make the authorization decision, identify all alternatives that

need to be included, and to use the EIS as the basis for their Federal authorization decision on the qualifying project to the extent permitted by law.

Summary of Public Comments

DOE received several comments addressing NEPA lead and joint lead designation and the environmental review DOE will undertake following the IIP Process.

Regarding the proposal to establish DOE as the NEPA lead agency, PJM and the State of Colorado Governor's Office expressed support. The State of Colorado Governor's Office noted that DOE as the lead NEPA agency could effectively lead an iterative, interagency process to ensure applications for Federal authorizations are ready for review and can meet the specified timelines. It also noted that having one agency leading the NEPA process reduces duplication of work and improves efficiency.

DOE received comments from CBD, PIOs, and Gallatin Power regarding the process for designation of a joint lead agency. CBD expressed concern that DOE would not have the expertise to evaluate impacts of transmission projects on ecosystems, species, and the environment, and recommended that the rules should require the designation of a land use agency as the NEPA joint lead agency. Gallatin Power commented that DOE should designate a joint lead agency that has experience permitting transmission projects during the promulgation of the rule and should implement a practice of identifying a joint lead agency prior to an IIP Initial Meeting instead of after the completion of the IIP Process. Gallatin Power argues that these joint lead agency designations will allow DOE to rely on Federal agencies with substantial experience in permitting and enable DOE to expedite approvals through the adoption of invaluable insights and best practices. PIOs challenged the proposed rule's assumption that only one agency can serve as a joint lead agency on the basis that the assumption is a departure from the statute and CEQ regulations both of which allow multiple agencies to serve as "joint lead agencies." PIOs encouraged DOE to consider whether allowing multiple joint lead agencies could better comport

with NEPA and CEQ regulations and better realize the proposed rule's goal of improving efficiency in Federal analysis and decision-making.

Three commenters suggested that the CITAP Program issue a joint record of decision for projects. CATF, PIOs, and SEIA recommended that DOE should ensure that the CITAP Program is in alignment with the congressional direction and best practices for NEPA. They recommended that DOE provide that, where feasible, agency decisions should be issued together in a joint record of decision, or provide greater clarity as to why DOE declines to require a joint record of decision. These commenters noted that requiring a joint record of decision aligns with recent revisions to NEPA and CEQ's NEPA regulations and promotes efficiency and coordination. They also suggested that a joint record of decision effectuates Congressional direction that the basis for all decisions under Federal law use DOE's environmental review and reduces confusion about how to seek judicial review.

Multiple commenters submitted comments on the scope of environmental reviews and considerations. AEP agreed that DOE should carry out its statutory obligation to prepare a single EIS sufficient for the purposes of all Federal authorizations necessary to site a qualifying project. AEP further added that, to the extent practicable, the EIS should also include any relevant information to satisfy state permitting requirements to avoid duplication of reporting requirements. PIOs noted that the rule's inclusion of a requirement to assess climate impacts is well-founded in NEPA's plain text, its implementing regulations, authoritative guidance, and judicial precedent. PIOs further stated that DOE has both the authority and the responsibility to require assessments of climate related impacts, as NEPA's plain text explicitly includes "reasonable foreseeable environment effects." However, PIOs also stated that DOE should use existing regulatory and scientific tools that CEQ makes available to assist other Federal agencies with their legally required analysis, and that the resulting analysis of climate impacts need not be perfect. AZGFD noted that when completing the IIP Process and developing the EIS, it is important to ensure that adequate consideration is given to wildlife and wildlife habitat resources

along the project route, that effects to those resources and areas are not generalized for the full project route, and that, as necessary, suitable conservation measures are identified for specific areas and resources. AZGFD stated that it is also important to consider the varying purposes, management plans, and land use goals or mandates for lands managed by different Federal agencies. Hence, AZGFD requested further information on how the proposed rule and development of a single EIS by DOE will ensure that wildlife and wildlife habitat resources are considered and accommodated through the IIP Process. ACP mentioned that CEQ is simultaneously conducting revisions to its regulations implementing NEPA and suggested that DOE should ensure that the CITAP Program and any potential DOE rulemaking aligns with CEQ's NEPA rulemaking.

DOE received multiple recommendations for streamlining environmental review. OSPA asserted that a Programmatic Environmental Impact Statement (PEIS) would dramatically speed the deployment of transmission in chronically underserved areas of the Upper Great Plains. Similarly, ACP suggested that DOE develop resource-specific programmatic NEPA reviews to reduce the administrative burden and legal risk of project-specific reviews. AEP recommended allowing for greater use of programmatic reviews and categorical exclusions. Alan Leiserson said DOE should use more categorical exclusions for clean energy projects. AEP recommended modifying thresholds for Federal agencies when determining what requires development of an environmental document. OSPA additionally recommended that DOE should expressly make EIS underlying data available to Federal and non-Federal permitting entities for purposes of developing a PEIS. OSPA recommended that THPOs explicitly have access to this data as well as well as any consultants hired by THPOs.

Three commenters suggested DOE include statements about what information or resources could be used in the environmental review. ACP argued that the resource reports are useful beyond the IIP Process and so this final rule should require that materials and findings in resource reports be used in the NEPA EIS process. ACP further noted that ideally this authority

for consideration of the resource reports would be DOE's alone rather than DOE and the joint lead agency. AEP recommended stating that Federal agencies can use existing data and studies in determining when to develop an environmental document. AEP also recommended allowing for greater project proponent involvement in preparing environmental documents.

DOE received the following additional comments:

CBD recommended that DOE prioritize development on already degraded lands, existing rights of way, and other areas where communities will not object to new infrastructure.

ACORE noted that there may be projects that do not participate in the CITAP Program, but that will still have DOE as the lead agency. Accordingly, ACORE recommended that DOE clarify which of CEQ's NEPA provisions, including timing requirements, would apply to these types of projects.

DOE Response

In this final rule, DOE confirms its role as NEPA lead agency, the process for selecting a joint lead agency, and the responsibilities DOE will undertake for environmental review, with minor revisions in response to these comments. DOE revises this final rule to state that DOE and relevant Federal entities shall issue, except where inappropriate or inefficient, a joint decision document.

Regarding the joint lead agency selection process, DOE makes no revisions in response to these comments. As proposed and confirmed here, the designation of a joint lead agency will be determined by DOE and Federal entities that manage Federal lands or waters by no later than the IIP Process review meeting. DOE believes the process for designating a joint lead, if any, is consistent with NEPA implementing regulations and provides flexibility to identify the relevant expertise among the relevant entities. Further, since the rule requires DOE to engage Federal land- and water-management agencies in the process, DOE is not persuaded that including a joint lead requirement is necessary, as suggested by CBD and Gallatin Power, and instead believes it is best to leave that determination up to the Federal entities on a project-specific basis. Regarding

the timing of the designation, DOE notes that this final rule confirms the same timing as the proposed rule, requiring the designation by the review meeting, not the completion of the IIP Process as indicated by the commenter. DOE does not agree that a designation requirement is appropriate before the initial meeting because DOE believes the initial meeting provides important project information that could inform any joint lead designation. In response to the PIO's comment about multiple joint leads, DOE maintains the presumption in the rule that no more than one joint lead agency will be designated to ensure efficiency and effectiveness, which will enable DOE to meet its coordination and scheduling obligations under FPA section 216(h).

In response to the recommendation that the CITAP Program issue joint records of decision, DOE agrees with the commenters that this would be consistent with NEPA as amended by the Fiscal Responsibility Act of 2023. DOE also agrees that a policy in favor of joint records of decision would be consistent with the purpose of FPA section 216(h) and would enhance DOE's coordinating function. Accordingly, DOE revises this final rule to provide that, except where inappropriate or inefficient, the Federal agencies shall issue a joint record of decision that includes all relevant Federal authorizations and, to ensure consistency with the requirements of section 216(h), includes, if applicable, the determination by the Secretary of Energy of a duration for each land use authorization issued under section 216(h)(8)(A)(i).

Regarding the scope of environmental reviews, DOE makes no changes to this final rule because the rule as proposed did not change any of DOE or other Federal entities' responsibilities to comply with existing NEPA regulations and environmental review laws. DOE will endeavor to incorporate State requirements in the environmental review and makes no revisions to address this because DOE believes this will be accomplished through the inclusion of relevant non-Federal entities in the IIP Process. Similarly, DOE will endeavor to follow NEPA best practices and use available tools and does not find that these comments require any revisions to the rule.

Regarding ACP's request to require the use of resource reports in the preparation of the environmental review document, AEP's request that DOE include a provision that existing data can be used, and AEP's recommendation that DOE allow for greater project proponent involvement in preparing environmental documents, DOE makes no changes in this final rule. Data requirements for environmental reviews are outside of scope of this rulemaking, which concerns only the implementation of DOE's coordinating authority under FPA section 216(h) and does not address the substance of NEPA compliance by DOE or its fellow agencies. But DOE reiterates that the purpose of the resource reports is to inform environmental review (and agency authorizations), and affirms its commitment to adhering to best practices for leveraging existing data sources. Comments suggesting revised environmental review thresholds, the use of categorical exclusions, and PEISs, are likewise outside the scope of this rulemaking.

In response to CBD's request that DOE prioritize development on already degraded lands, DOE makes no changes to this final rule as this is beyond the scope of DOE's coordinating authority. While DOE and its fellow agencies may encourage development on degraded lands, DOE lacks authority to impose any requirement to that effect in the final rule. In response to ACORE's request for more information on how DOE will serve as lead agency for projects that are not in the CITAP Program, DOE makes no changes to this final rule as this is beyond the scope of the rulemaking, which is the implementation of DOE's coordinating authority under FPA section 216(h).

J. Section 106 of the NHPA

DOE's Proposal

In the NOPR, DOE explained that 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 section 106 of the NHPA. DOE also explained that this initial information-gathering phase precedes the formal consultation process under section 106. DOE proposed to authorize project proponents, as applicants to the CITAP

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 proposed to make this determination within 45 days of the IIP Process review meeting. Finally, DOE affirmed that DOE would remain legally responsible for all findings and determinations charged to the agency under section 106.

Summary of Public Comments

DOE received multiple comments related to section 106 of the NHPA. First, multiple commenters requested clarification regarding whether, and the extent to which, the resource reports would fulfill agencies' and project proponents' section 106 obligations. For instance, the Kentucky SHPO sought clarification of whether the resource reports will serve as only background information, or if they are intended to be utilized by the project proponent or agencies for section 106 consultation materials, as their purpose would affect DOE's ability to impose page limits. It also stated that it is unclear whether DOE proposes to frontload NPS National Historic Landmarks (NHL) review under section 106, and that doing so is not feasible from a regulatory standpoint. The NM SHPO commented that it is not clear, as proposed, whether the rule authorizes the project proponent to initiate consultation with the SHPO and elicit comments on the resource reports, and noted that it may not be possible to account for all of the section 106 impacts of a project at the initiation stage. The NM SHPO suggested that this may need to be stipulated in a Programmatic Agreement and asked how other agency reviews will be conducted. Relatedly, the Arizona SHPO stated that DOE intends to authorize all project proponents to act on its behalf and with procedures that deviate from the standard 36 CFR 800 Subpart B compliance process, and hence it advised that DOE consult with the National Conference of State Historic Preservation Officers (NCSHPO), NATHPO, and ACHP to develop a CITAP Program Alternative in accordance with 36 CFR 800.14. DOE also received comments from the Delaware SHPO and NM SHPO suggesting that DOE consult with ACHP and other entities regarding NHPA compliance.

DOE also received comments on the resource reports as they relate to section 106. The Delaware SHPO recommended that the requirements of the proposed "Resource Report 4: Cultural Resources" be explicitly defined as cultural resources identification and evaluation level surveys, determined necessary through consultation with consulting parties, that meet the relevant Secretary of the Interior Standards and applicable State and Tribal guidelines. The Delaware SHPO expressed concern that the provision in its current form might lead to a scenario wherein the project proponent could be required to redo cultural resource reports if initiation occurs after the submission and review of resource reports, which would cause duplication of effort, leading to unnecessary delays and frustration for all parties. Conversely, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe expressed concern regarding a comment by Department of Energy staff because they believed it indicated that the Communities of Interest resource report would satisfy section 106 conditions for examining the impacts of projects on Tribal Nations' cultural resources and sacred places. The commenters also stated that the proposed resource reports are not a Program Alternative approved by the ACHP under 36 CFR800 and cannot be used to satisfy DOE requirements under NHPA section 106.

DOE received comments on the timing of the section 106 process in relation to the CITAP Program process. The Delaware SHPO noted that the current CITAP Program's schedule would cause the project to experience significant delays when complying with section 106 of NHPA. The Delaware SHPO explained that, as proposed, project proponents would be required to complete resource reports to allow DOE to determine whether there is an undertaking. But, the Delaware SHPO argued, the presence of historic properties is not a determining factor to establish an undertaking. Rather, the Delaware SHPO noted that, per 36 CFR 800.3(a) and 800.16(y), an undertaking is an action with a Federal nexus, which is the type of activity with the potential to cause an effect on historic property. The Delaware SHPO stated that all above-ground transmission lines eligible for the CITAP Program would be undertakings and the initiation of consultation should occur concurrently with or immediately after the first CITAP

Program meeting for a project. This process would set up the project proponent, DOE, and all consulting parties to begin consultation on the level of survey needed to identify historic properties early in the process. The Delaware SHPO noted that earlier consultation will allow the project to meet CITAP and NEPA deadlines and further noted that, with larger transmission projects, multiple SHPOs and numerous consulting parties will be involved and that property access would need to be arranged for surveys and longer reports, all of which may require longer review times. In addition, if a memorandum of agreement is needed due to any adverse effects to historic properties, negotiating and executing such an agreement could be time-consuming.

DOE received comments from the Arizona SHPO and the Kentucky SHPO indicating that only one agency could be selected as lead agency for section 106 consultations as the process did not allow for co-lead agencies.

Finally, DOE received comments regarding SHPOs' resource constraints. The Arizona SHPO expressed concerns that due to staffing and budgeting constraints it would not have adequate resources to conduct preliminary review of NHPA section 106 for project proponents prior to the establishment of a Federal undertaking by Federal agency.

DOE Response

In this final rule, DOE maintains the structure and purpose of the resource reports. DOE revises this final rule as discussed below to adjust the timeline for DOE to make a determination of an undertaking pursuant to section 106 and to designate DOE as the lead agency for section 106.

DOE clarifies that the resource reports are not intended to fulfill the agencies' section 106 responsibilities. Instead, the information provided in the Cultural Resources resource report, and the other resource reports as applicable, will contribute to the satisfaction of DOE's and relevant Federal entities' obligations under section 106. As the lead agency for section 106, DOE remains legally responsible for all findings and determinations charged to the agency under section 106. The function of the resource reports is to gather information to contribute to DOE's subsequent

section 106 compliance. DOE appreciates that project proponents may not have access to all information required for DOE's section 106 compliance at the time the proponents submit their resource reports. This final rule adopts, as proposed, that a project proponent may file incomplete information but must address the reason for the omission. The final rule also provides the Director of the Grid Deployment Office the discretion to allow the project to proceed to the next milestone and provides that the Director of the Grid Deployment Office may waive requirements as appropriate, providing flexibility to the IIP Process to accommodate unique circumstances.

Regarding the comments on particular resource reports, DOE declines to revise the definition of cultural resources in the Cultural Resources resource report in this final rule. That resource report is intended to inform not only DOE's section 106 compliance but also the environmental review document. Given that the timing of consultation under section 106 may vary based on the project and that this resource report is intended to fulfill multiple purposes, DOE necessarily retains its broader scope. Additionally, as previously noted, neither the Communities of Interest resource report nor any other resource report is intended to fulfill DOE's or relevant Federal entities' obligations under section 106.

As for the comments related to program alternatives, DOE submitted the proposed and final rules for interagency review under E.O. 12866 and intends to work collaboratively with ACHP and other relevant entities to develop mechanisms for efficient and effective implementation of section 106, which may include program alternatives. DOE, however, does not modify this final rule to provide for a particular program alternative under the section 106 implementing regulations[10] nor does DOE intend for the resource reports to serve as a program alternative; DOE wishes to inform its approach through initial implementation and further collaboration with relevant entities. DOE believes this part provides sufficient flexibility to allow for an appropriate alternative without specifying one at this time.

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[10] See 36 CFR 800.14.

DOE agrees that initiating the NHPA section 106 consultation process earlier than DOE had proposed may be feasible and beneficial for certain project proposals that are sufficiently mature for DOE to determine there is an undertaking pursuant to the regulations implementing section 106.[11] DOE has accordingly revised this final rule to remove the requirement that DOE make the undertaking determination only after the IIP Process review meeting. As revised, the final rule allows DOE to make the determination at any point in the IIP Process, but no later than 10 calendar days following the close of the 10-day review period.

Regarding resource constraint concerns, DOE understands the staffing and budgeting constraints that SHPOs and THPOs may face. DOE does not intend for the IIP Process to create additional or preliminary review requirements for SHPOs and THPOs, and has designed the IIP Process with the intention of avoiding doing so. Rather, the intent of the IIP Process is to align the NHPA section 106 review with other Federal permitting and authorization processes. DOE notes that SHPOs and THPOs may consult with DOE and other relevant Federal agencies as to the range of possible assistance and resources that may be available.

Finally, DOE modifies this final rule to indicate that DOE intends to serve as lead agency for section 106 of the NHPA as section 106 does not provide for a co-lead agency. The modification aligns this final rule and regulatory path with section 106's statutory language and procedures.

K. Definitions

i. Affected Landowner

DOE's Proposal

In the NOPR, DOE proposed to define "affected landowner" as 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

[11] See 36 CFR 800.3(a) and 800.16(y).

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.

Summary of Public Comments

Commenters made multiple suggestions for revisions to the definition.

ACP recommended that DOE use the term "potentially impacted landowner" instead of "affected landowner," given that "affected landowner" might carry some implication of an obligation for compensation.

ClearPath recommended that DOE adopt the definition of "affected landowner" used in FERC's natural gas pipeline permitting regulations and FERC's proposed rule for implementing section 216(b) of the FPA. ClearPath suggested that the effective use of "affected landowner" in FERC's natural gas pipeline permitting demonstrates that definition's legal durability and thereby bolsters the legal durability and predictability of this final rule.

Some commenters recommended that DOE revise the distances included in the proposed definition of affected landowner. To that end, SEIA, for instance, expressed support for a rule that considers the proposed project scale, geographic considerations, and resource usage of landowners to determine if a landowner falls under an "affected landowner." Niskanen Center described the definition of "affected landowner" as nebulous and thus impracticable and overly burdensome, and recommended proximity qualifiers and a measure of immediate impact to the definition. LTA recommended that the rule should move away from a one-size-fits-all distance for the definition of landowner, and instead require project proponents to engage with communities of interest to assist in identifying potential impacts to landowners and the distance within which notifications to landowners would be appropriate. LTA specifically proposed that DOE expand the definition of "affected landowner" to include areas that a community of interest has identified as having one or more resources likely to be impacted by a proposed project. Grid United commented that the specific distances expressed in the definition of "analysis area" were

not standard for high voltage transmission lines and could result in unnecessary data collection, burdens, and complexity for the project. Grid United suggested lowering the distances in the definition to 500 feet and likewise recommended establishing 500 feet as a presumptive radius for identification of affected resources unless existing practices dictated otherwise. ACP commented that the 0.25-mile distance provided is both too broad and too rigid and proposed that DOE remove references to a particular distance from the definition and instead base the required distance on the physical characteristics of the project and resource evaluated in each report.

Commenters also recommended that DOE include or omit certain considerations from the definition. LTA recommended that DOE remove the reference to county and city tax records because many owners of real property interests are not listed in these records. LTA also suggested that DOE explicitly include in the definition of "affected landowner" conservation easement holders and landowners whose viewshed or other ecosystem services may be impacted by the transmission facility. ACP requested that DOE explicitly exclude landowners affected through owning mineral estate property interests, given the possibility of a project involving broad areas of potentially unoccupied land, and exclude additional areas of potential construction work, including roads and ancillary facilities, that may be preliminary prior to completion of a NEPA review.

Finally, PIOs recommended that DOE require project proponents to provide a landowner bill of rights in transmission permitting processes to ensure affected landowners are informed of their rights in dealings with the proponent and attached a draft landowner bill of rights they submitted for FERC's proposed backstop permitting rule for reference. PIOs outlined that the landowner bill of rights should include any information on requirements to obtain party status prior to appeal, how to obtain such status, and if and how a party can participate in the presidential appeal process.

DOE Response

In this final rule, DOE revises the definition of affected landowner, for the reasons described below, to the following:

Potentially affected landowner means an owner of a real property interest that is potentially affected directly (*e.g.*, crossed or used) or indirectly (*e.g.*, changed in use) by a project right-of-way, potential route, or proposed ancillary or access site, as identified in § 900.6.

At the outset, DOE clarifies that the project proponent is responsible for identifying potentially affected landowners based on the definition provided in this final rule. Nevertheless, as provided in this final rule, the project proponent must provide, as part of the IIP Process, the methodology by which potentially affected landowners were identified, which will allow DOE to evaluate the completeness of the process. Additionally, while the project proponent makes this determination, this final rule provides avenues for communities of interest and stakeholders to comment on the proposed project and engage with the project proponent; this definition does not limit those avenues.

DOE has also made edits to this definition in response to comments. First, DOE agrees with ACP that, at this stage, landowners are not necessarily affected, but are only "potentially" affected. Accordingly, DOE changes the defined term from "affected landowner" to "potentially affected landowner" and includes a reference to "potential indirect and direct effects" in the new definition.

Second, in response to ClearPath's comment, DOE has also revised the definition in this final rule to broaden how real property interests can be potentially impacted by the proposed project, which aligns more closely with FERC's definition of "affected landowner." DOE declines to adopt the exact same definition as FERC, reflecting that FERC's permitting and siting rules do not have an identical purpose to this final rule, which is to coordinate Federal authorizations for transmission facilities.

Relatedly, DOE agrees with the commenters that suggested DOE revise the distance referenced in the affected landowner definition. DOE agrees that in certain instances the

distances in the proposed rule will be overinclusive and overly burdensome, but also that a one-size-fits-all distance will not adequately capture all landowners that are potentially affected by the transmission project. Because a single distance does not provide sufficient flexibility to account for differences in projects, DOE declines to adopt the 500-foot presumptive distance proposed by Grid United. Instead, DOE has removed distances from the definition of "potentially affected landowner," and provides that a potentially affected landowner is one whose real property interest is either potentially affected directly or indirectly by the proposed project. In addition, this final rule requires the project proponent to describe the methodology used to identify potentially affected landowners. This definition allows project proponents to more precisely identify landowners who are most likely to be potentially affected by the project, because those real property interests may not always align with the distances included in the proposed rule and any prescribed distances may be under or overinclusive depending on the particulars of a project.

Additionally, DOE agrees with LTA's comment that the reference to county and city tax records should be removed. As LTA noted, tax records may not, depending on the circumstances, accurately include the potentially affected real property interests. Accordingly, DOE has revised this final rule to remove the requirement that the owner of the real property interests is one who is usually referenced in the most recent county or city tax records. However, this final rule does not preclude the project proponent from referencing recent tax records. DOE declines to require the involvement of communities of interest in the identification of potentially affected landowners because this is an unnecessary step for identifying real property interests. The term "potentially affected landowners" is not intended to refer to all potential impacts; therefore, additional engagement on impacts of a proposed project is not needed to satisfy this definition. Stakeholders and communities of interest are among the terms that capture a broader scope of potential impacts. This final rule also does not preclude project proponents from involving communities of interest in this process.

DOE also declines LTA's suggestion to include conservation easement holders and landowners whose viewshed or other ecosystem services may be impacted by the proposed electric transmission facility. DOE defines potentially affected landowners in the context of real property interests. In some cases, conservation easements may be considered a real property interest and certain landowners whose viewshed or other ecosystem services may be affected may fall within the definition of a potentially affected landowner, but DOE declines to require that project proponents always include these landowners since these landowners may not always be owners of real property interests that are potentially affected. Additionally, DOE has not adopted ACP's suggestion to explicitly exclude mineral interest holders from the definition, as notice to such parties is still important for understanding reasonably foreseeable effects related to mineral entry and exploration. Nor has DOE adopted ACP's recommendation to exclude additional areas of potential construction work, because these areas are potentially relevant for environmental review and these landowners could be affected by the project.

Finally, DOE declines to require project proponents to provide a landowner bill of rights. DOE disagrees with PIOs that a landowner bill of rights is needed or useful for this process, because DOE's exercise of its authority under section 216(h) does not confer eminent domain authority. Although DOE declines to require the provision of a landowner bill of rights, in response to PIOs' request that such a bill of rights include information on the rehearing and review process and the presidential appeals process, DOE notes that these topics are discussed in Sections VI.O.i and ii of this document, respectively. However, in response to both PIOs and LTA, DOE encourages all interested parties to proactively engage transparently and in good faith with appropriate stakeholders, including potentially affected landowners, and may issue best practices on engagement as discussed in section VI.E of this document.

ii. Analysis Area

DOE's Proposal

The NOPR did not provide a definition for "analysis area" nor did it use this specific term. However, DOE sought comment from the public on whether distances included in the proposed rule were appropriate, which informed the definition of this term and are discussed below.

Summary of Public Comments

DOE requested specific comment on whether distances included in the proposed rule were appropriate and received numerous recommendations on changes to distances in this final rule.

ACEG commented that the 0.25-mile distance is too narrow in some contexts or overly broad in others (*e.g.*, affected landowners), and that the distance should be determined by the impacts of the project. Pew Charitable Trusts recommended that DOE allow greater flexibility, stating that while the proposed distance comports with the distance FERC would use for project notification requirements in the context of National Interest Electric Transmission Corridors (NIETCs), some cases warrant a wider area of review, including in areas that include National Wildlife Refuges, designated wilderness areas, cultural resources, or indigenous sacred sites. Pew Charitable Trusts suggested that the distance proposal could be managed like the standard template schedule, which is open to change depending on the project.

DOE received three comments specifically on the Land Use, Recreation, and Aesthetics resource report. LTA supported the use of a 0.25-mile distance, but because the distance will vary based on the specifics of each project and site, proposed that project proponents also consider an area that a community of interest, including experts from local conservation organizations, has identified as having one or more resources likely to be impacted by a proposed project.

PIOs submitted that whether 0.25 miles is a sufficient distance is largely dependent on the nature of the impacts that DOE is attempting to identify. PIOs stated that wilderness areas are particularly vulnerable to visual impacts and proposed that DOE use distances of 5-10 miles for

when considering visual impacts of proposed projects. Relatedly, PIOs noted that certain areas preserved for wildlife habitat may be vulnerable to adverse impacts from transmission projects at distances greater than 0.25 miles, and accordingly, recommended that areas with valuable habitat for migratory birds, such as National Wildlife Refuges, should generally be identified no less than 10 miles from the proposed transmission project, and that DOE should consult with the relevant agencies and organizations to identify appropriate distances.

The CARE Coalition stated that the 0.25-mile distance in the Land Use, Recreation, and Aesthetics resource report is arbitrary and unsuitable for several of the resources listed in that section, including visual resources and wildlife habitat. Referencing research at Argonne National Laboratory, the CARE Coalition suggested that a minimum distance of 10 miles for 500 kV or greater lines and at least five miles for 230–500 kV lines be used to identify sensitive visual resources. Additionally, citing concerns over project impacts to bird species, the CARE Coalition recommended DOE require proponents to identify key habitats for migratory birds and mammals, such as National Parks and National Wildlife Refuges, within 10 miles of proposed projects or consult with the U.S. Fish and Wildlife Service (USFWS) to identify adequate distances for critical migratory bird nesting and stopover habitats, as well as for large mammal migration corridors.

The CEC/CPUC also stated that a 0.25-mile distance is often too narrow and may not capture all indirect impacts, including visual impacts on National Historical Landmarks. CEC/CPUC recommended that distances should be developed with consideration to the scale and scope of the proposed project and the specific resources evaluated.

The Arizona SHPO and CEC/CPUC proposed that DOE align distance requirements with the Area of Potential Effect (APE) under section 106 of the NHPA. The Arizona SHPO recommended that DOE provide guidance to project proponents to develop study areas that conform to the NEPA definition of affected environment as applicable to resource type, and for cultural resource assessments, includes the definition of an APE. Relatedly, the Kentucky SHPO

further noted that an APE of 0.25 miles may be acceptable, depending on the type of transmission activities proposed, whether it is new construction or a rebuild, the applicable SHPO's guidance/standards, and any known resources near the proposed project area. On the other hand, the NM SHPO stated that the 0.25-mile distance is not adequate to address effects to cultural resources and landscapes, National Historic Trails, and National Monuments, especially in western states where the viewshed is expansive.

DOE Response

In this final rule, DOE removes the distances proposed, and adds a defined term, "analysis area." This approach allows the participants in the IIP Process to determine the appropriate analysis area based on project-specific factors.

DOE agrees with the many commenters who indicated the distances should allow for more flexibility. Accordingly, DOE has determined that specific distances should be removed from the final rule, as the appropriate distances for various analyses depend on the relevant physical characteristics and needs of the given project and resource at issue. Instead, as discussed in the revisions to §§ 900.5 and 900.8, DOE and the project proponent must, at the initial meeting, establish initial analysis areas for each resource as determined by project-specific factors like ecology, land use and ownership, and other physical characteristics of the landscape. The proposed analysis areas for each resource may then be refined and finalized during the IIP Process review meeting. DOE confirms that establishment of such analysis areas for wildlife, fish, and plant life will involve not only the project proponent but the appropriate Federal and non-Federal entities, like the USFWS and relevant State and local agencies, to ensure analysis areas are adequate and consistent with those agencies' requirements and appropriate guidance. Relatedly, DOE declines to align the distance requirements with the APE under section 106 of the NHPA or to add any other method of identifying distances, including relying on distances identified by communities of interest, in favor of providing greater flexibility for the reasons stated above. DOE notes that where a legal standard exists for defining the area of analysis for a

particular resource, as in the case of the APE for historic properties, the determination of the analysis area for that resource will take into account that legal standard.

DOE is adding the defined term "analysis area" to account for the removal of the distances, and provide a consistent use of terminology throughout the final rule that accounts for the project's characteristics and needs and the resources at issue. DOE defines analysis area to mean an area established for a resource report at the IIP Process initial meeting and modified at the IIP Process review meeting, as applicable. Discussion of specific uses of this term is included in section VII of this document.

iii. Communities of Interest

DOE's Proposal

In the NOPR, DOE proposed to 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. In the NOPR, DOE also proposed to define communities of interest to include disadvantaged, fossil energy, rural, Tribal, indigenous, geographically proximate, or communities with environmental justice concerns that could be affected by the qualifying project.

Summary of Public Comments

DOE received multiple comments suggesting amendments or clarifications to the definition of "communities of interest" in the proposed rule.

ClearPath opposed DOE's definition of communities of interest, commenting that the definition is ambiguous and lacks "legal durability." ClearPath pointed specifically to the phrase "geographically proximate" as ambiguous and commented that the phrase, "communities with environmental justice concerns" provides no methodology for project proponents to adequately identify these communities. Niskanen Center proposed that further guidance on the term might include precise parameters such as defining it as being within 0.25 miles of a study corridor or potential route. Niskanen Center also indicated that the precise meaning of the terms

"disadvantaged," "fossil energy," "rural," "geographically proximate," or "communities with environmental justice concerns" is unclear, potentially leading to confusion and litigation in the IIP Process and CITAP Program.

EDF stated that the broad proposed definition of "communities of interest" could potentially overlook key differences among and within the identified communities. Referencing several White House commitments and executive orders concerning impacts on communities with environmental justice concerns, EDF advised DOE to ensure it carefully addresses the concerns of those communities in the proposed rule.

PIOs lauded the proposed rule's definition of communities of interest for broadly including Indigenous communities. Similar to EDF's comments, PIOs maintained that DOE revise its definition of "communities of interest" to better reflect environmental justice issues. PIOs recommended that DOE remove the term "disadvantaged," specifically include "communities of Color" and "low-income or low-wealth communities" in the definition, and capitalize the terms "Color" and "Indigenous."

PIOs also suggested that DOE clarify and "equitably describe" the definition of "fossil energy" and align the definition of "overburdened" with the U.S. Environmental Protection Agency (EPA) EJ 2020 Glossary. PIOs then urged DOE to specifically require project proponents to describe how they will reach out to communities of interest about mitigation and require the resource report to describe proposed measures or community concerns. PIOs also recommended that DOE require project proponents to solicit community comments regarding their preferred form of mitigation and to respond to those comments.

Policy Integrity suggested that for project proponents to identify communities of interest more accurately—especially given that DOE does not define "disadvantaged," "fossil energy," "rural," or "communities with "environmental justice concerns"—DOE should provide administrable criteria, such as project proponents locating "disadvantaged" communities via the Climate and Economic Justice Screening Tool. Policy Integrity also recommended that DOE

consider allowing communities to self-identify, which would ensure that communities are not excluded because of limitations of existing identification tools or methods. The commenter also indicated it would be more appropriate for DOE to adjudicate whether a community should be considered as having environmental justice concerns based on evidence submitted rather than allowing the project proponent to make this determination.

LTA suggested that the definition of communities of interest should include local nonprofit conservation organizations to ensure that the conservation and working lands community is included early in the IIP Process.

Finally, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe commented that categorizing Tribal Nations as "Communities of Interest" fails to recognize the sovereignty of Tribal Nations. By doing so, NATHPO and the Santa Rosa Rancheria Tachi Yokut Tribe argued that the proposed rule neglects distinct nation-to-nation responsibilities.

DOE Response

In this final rule DOE has revised the definition of "communities of interest" to improve readability and ensure consistency with the Inflation Reduction Act (Pub. L. 117-169) (IRA) but has retained the communities identified in the proposed rule, as discussed below. DOE notes that the project proponent is responsible for identifying communities of interest and taking the required actions with respect to these communities for purposes of complying with the proponent's responsibilities under these regulations, but through the IIP Process, DOE and the relevant Federal entities and relevant non-Federal entities will have the opportunity to assess the processes by which proponents identify and engage with communities of interest.

To improve the readability of the definition, DOE has revised the structure of the definition to provide a list of the types of communities that are communities of interest. To that end, to clarify that the communities listed in the definition is the exclusive set of communities to which this definition applies, this final rule edits the definition to note that communities of interest "means" rather than "includes" the listed communities. Finally, DOE has changed the

reference to "fossil energy" communities to "energy communities" to align the terminology with that used throughout the IRA's programs.

DOE appreciates the comments regarding the scope of "communities of interest" and the communities included in the definition. DOE declines to revise the communities included within the definition beyond the revision to "fossil energy" communities discussed above.
DOE declines to prescribe a particular distance for "geographically proximate" communities for reasons similar to those explained above in connection with "analysis area." For any given project or community, a set 0.25-mile distance could be over- or under-inclusive. Instead, the current definition provides flexibility and broad coverage for the project proponent to identify the communities that could be affected by a given project.

DOE also declines to provide definitions for the terms used in the definition of communities of interest, or to otherwise narrow the definition. As written, the definition of communities of interest provides broad coverage of various communities and flexibility to consider relevant groups that may fall within such communities. Because the ways in which a project may affect certain communities varies, DOE believes that the definition in this final rule appropriately provides flexibility to encompass the potentially varied affected communities of interest. Relatedly, DOE declines to provide particular criteria that a project proponent must consider in identifying communities of interest, to permit communities to self-identify or to require that proponents engage further with community members, or to administer in the first instance whether a particular community qualifies, in favor of providing flexibility to the project proponent and the ability of DOE and the relevant Federal entities and relevant non-Federal entities to assess and refine the identification as needed throughout the IIP Process.

DOE declines to remove or replace the term "disadvantaged" and declines to include "communities of Color" and "low-income or low-wealth communities." The term provides flexibility for the project proponent to consider a broad range of disadvantaged communities that could be affected by the proposed project. Consistent with its usage throughout this rule, as well

as in rules promulgated by other agencies such as FERC, DOE declines to capitalize the term "indigenous." Whether or not the term is capitalized, project proponents have the same responsibilities to these communities.

Additionally, DOE declines to include nonprofit groups, as requested by LTA, as the definition is focused on communities, not organizations or entities. Nevertheless, this final rule does not preclude an organization from representing a community during IIP Process engagement, and additionally provides a definition of stakeholder that could include the type of organization LTA describes.

Lastly, DOE affirms the sovereignty of Indian Tribes. DOE clarifies that the inclusion of Tribal communities in the definition of communities of interest is not intended to, nor does it, neglect the nation-to-nation responsibilities of Federal agencies when engaging with Indian Tribes, which are distinct from the project proponent's responsibilities under the CITAP Program. The CITAP Program and final rule make no changes to Federal agencies' nation-to-nation responsibilities. DOE's intent in including Tribal communities in the definition is to establish an expectation that project proponents engage with and consider the impacts of proposed projects on Tribal communities.

iv. Other Definition Changes

1. Mitigation Approach and Mitigation Strategies or Plans

DOE's Proposal

The NOPR included definitions for two terms, "landscape mitigation approach" and "landscape mitigation strategies or plans." In the NOPR, DOE proposed to define landscape mitigation approach to mean 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 resources. Among other things, the definition explained that the mitigation hierarchy refers to an approach that first seeks to avoid, then minimize impacts, and then, when necessary,

compensate for residual impacts; while 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.

In the NOPR, DOE proposed to define landscape mitigation strategies or plans as 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.

Summary of Public Comments

ACP recommended that DOE cabin the definition of landscape mitigation approach. Specifically, ACP suggested that the definition include a materiality threshold for all references to impacts to limit overreach and include language regarding the practicability of such an approach. ACP elaborated that the definition should also permit mitigation efforts to be conducted following stakeholder engagement, allow for a deferral of such approach to mitigation in lieu of agency-driven mitigation approaches, and, where stakeholder engagement efforts are ongoing, allow for those processes to fully inform the selected mitigation measures.

DOE Response

In this final rule, DOE has revised "landscape mitigation approach" to a more general term "mitigation approach" and removed the defined term "landscape mitigation strategies or plans."

DOE revised the definition for "landscape mitigation approach" because limiting mitigation approaches to only landscape-level approaches and strategies may not be sufficiently flexible to account for the variety of needs implicated by this rule. Rather than prescribe a single approach, DOE believes that this final rule should create an opportunity for consideration and discussion of multiple types of proposed mitigation for a given proposed project. In addition,

DOE has revised this definition for clarity and to more closely align with existing NEPA regulations regarding mitigation.

DOE declines to implement ACP's suggestion to include a materiality threshold and a discussion of the practicability of any proposed mitigation approaches to limit overreach, because no decisions are being made on mitigation during the IIP Process. Instead, as part of the IIP Process, the project proponent is expected to bring to DOE and any relevant Federal entities and relevant non-Federal entities a proposed mitigation approach, which will facilitate the development of a shared understanding of project needs and expectations.

DOE also disagrees with ACP's suggestion to include stakeholder engagement in development of proposed mitigation approaches both ongoing and future. This final rule encourages stakeholder engagement by the project proponent throughout the IIP Process and the rule does not preclude the engagement described in ACP's comment. DOE avoids codifying a particular mitigation approach process in regulatory text, as this process may inaccurately indicate a preference or priority for the approach.

Because the revisions to mitigation approach rendered "landscape mitigation strategies or plans" redundant, DOE has removed this defined term from this final rule.

2. MOU Signatory Agency

DOE's Proposal

In the NOPR, DOE proposed to define "MOU Signatory Agency" to mean a signatory of the interagency Memorandum of Understanding 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."

Summary of Public Comments

ACP submitted that, in addition to the nine agencies that signed the 2023 MOU, the definition should include any signatories to similar or subsequent MOUs entered into in the future.

DOE Response

DOE agrees with ACP's comment that MOU Signatory Agency should be sufficiently broad to cover not only those signatories to the MOU executed in May 2023, but also to cover signatories to potential similar or subsequent MOUs entered into pursuant to section 216(h)(7)(B)(i) of the FPA later in time. This final rule revises this definition to provide this flexibility, such that if a future MOU includes additional or different agencies, the definition in this final rule will not need to be revised accordingly.

3. Relevant Non-Federal Entity

DOE's Proposal

In the NOPR, DOE proposed to define "non-Federal entity" as an Indian Tribe, multi-State governmental entity, State agency, or local government agency, and to define "relevant non-Federal entity" as 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 NOPR also proposed to provide that 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.

Summary of Public Comments

DOE received two comments on the definition of relevant non-Federal entity. AZGFD recommended that DOE include State wildlife agencies as standard non-Federal entities engaged

in the IIP Process. AZGFD noted that State wildlife agencies can provide project-specific special expertise on wildlife species occurrence and distributions, areas of potential concern, wildlife connectivity, and more, as well as advise on potential conservation measures to avoid, minimize, or offset potential impacts. PIOs commented that DOE should expand the definition to allow certain members of the public to participate in the IIP Process. PIOs noted that, as drafted, the definition excludes community groups or public interest organizations because they are not regulators, even if they have special expertise with respect to environmental and other issues pertinent to or potentially affected by the qualifying project. Instead, the proposed rule would consider these entities as stakeholders, who, as PIOs argued, have significantly less access to the IIP Process compared with relevant non-Federal entities. PIOs believe that allowing community and public interest groups with special expertise to participate in the IIP Process would further the rule's aim to create an opportunity to identify as early as possible potential environmental and community impacts associated with a proposed project. Relatedly, PIOs recommended that DOE define the term "special expertise" to help project proponents, affected communities, and public interest organizations in better understanding what groups may meet this definition and allow community or public interest groups to request that they be permitted to participate in the IIP/CITAP Process by explaining what special expertise they possess.

DOE Response

DOE revises the definition of relevant non-Federal entity to replace "special expertise" with "relevant expertise" to avoid confusion with the NEPA-defined term "special expertise." DOE declines any further revisions to the definition of relevant non-Federal entity that would expand its scope in this final rule.

First, DOE notes that because State wildlife agencies are likely to have relevant expertise or jurisdiction within the proposed project area, may be responsible for issuing an authorization for the qualifying project, may have relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the qualifying project, or may provide funding for

the qualifying project, such agencies may meet the definition of a relevant non-Federal entity. The list of non-Federal entities included in the definition merely provides examples and is not a comprehensive list.

Next, DOE appreciates the expertise of community groups and public interest organizations. Rather than expand the definition of relevant non-Federal entity, DOE believes that the IIP Process, coupled with existing avenues for public comment, will best integrate the expertise and input of community groups and public interest organizations. The IIP Process provides for timely and focused pre-application meetings with relevant Federal entities and relevant 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. The IIP process is not, however, intended to supplant existing public comment processes afforded by relevant statutes, such as NEPA. DOE believes that it has appropriately defined relevant non-Federal entity to provide the necessary information to fulfill its obligations under section 216(h) and facilitate the pre-application process, while still providing sufficient avenues for others to participate as stakeholders and through those existing public-comment processes. DOE declines to provide a definition for special expertise because the term has been removed from the rule. DOE does not expand the definition of non-Federal entity to explicitly include non-regulating or non-permitting entities as the current definition may already include those entities as long as they meet additional criteria.

4. Stakeholder

DOE's Proposal

In the NOPR, DOE proposed to define the term "stakeholder" to mean any relevant non-Federal entity, any non-governmental organization, affected landowner, or other person potentially affected by a proposed qualifying project.

Summary of Public Comments

ACP commented that the proposed definition of "stakeholder" is overly broad, including its reference to anyone "potentially affected by the proposed qualifying project." ACP suggested that DOE narrow the definition to a party able to show some cognizable interest potentially being affected by the project.

DOE Response

In this final rule, DOE revises the definition of "stakeholder" to provide that the term means any relevant non-Federal entity, interested non-governmental organization, potentially affected landowner, or other interested person or organization.

In part, DOE has revised this definition to reflect the revision to terminology used in this final rule, *i.e.*, replacing "affected landowner" with "potentially affected landowner," for the reasons explained above. DOE has also revised the definition to provide more precise parameters for who is a stakeholder for purposes of this final rule, in some instances narrowing the definition and in others, broadening it. Specifically, the definition clarifies that only "interested," rather than "all," non-governmental organizations are stakeholders, which appropriately limits coverage to only those non-governmental organizations that have interest in the proposed project. Additionally, DOE revises the definition to provide that any other stakeholders must be "interested" and provides that stakeholders may be interested persons or organizations. This revision broadens the scope of other stakeholders beyond only persons, allowing those organizations that do not fall within the scope of relevant non-Federal entity, non-governmental organization, or potentially affected landowner to be considered stakeholders. DOE believes this revision is appropriate given the diversity of entities that may be affected by or interested in a proposed project. Additionally, the revision broadens the definition beyond those who are potentially affected to those who are interested. Again, DOE believes this expansion is appropriate in light of various entities that may have equities in a proposed project. For instance, LTA raised in its comment that local conservation organizations may have relevant expertise and views on a proposed project.

DOE disagrees with ACP's proposal to narrow the definition to only those parties able to show some cognizable interest potentially being affected by the project. First, DOE does not discern a practical difference in requiring that an interest be "cognizable," and believes that DOE's definition is consistent with ACP's intent to ensure stakeholders have an interest in or are potentially affected by a proposed project. Second, DOE believes ACP's proposal is unnecessarily narrow and may potentially exclude relevant persons, organizations, or entities from the CITAP Program, including relevant non-Federal entities. Finally, DOE clarifies that this definition does not determine who is a party or has standing to challenge a relevant authorization or related environmental review document issued under section 216(h).

5. Study Corridor

DOE's Proposal

DOE proposed to define study corridor as 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.

Summary of Public Comments

DOE received two comments on the definition of the term study corridor. ACP recommended that the definition regarding consideration of NEPA alternative routes should be restricted to only those within the study corridor. ACP also recommended that the definition of study corridor be limited to alternative routes already within consideration of the study corridors, because, as ACP argued, this would cabin the scope of review and is necessary to avoid potential litigation risk if the rule were to require proponents to consider all potential alternative routes. OSPA requested that this final rule allow for study corridors wider than one mile to consider more alternative transmission paths. OSPA described that the one-mile width restriction is inconsistent with the broad definition of "project area," which may limit the evaluation of potential transmission sites. OSPA therefore urged DOE to either change the definition or allow proponents to request exemptions from the one-mile restriction.

DOE Response

In this final rule, DOE revises the definition of study corridor to clarify the role of study corridors and the relationship between this term and other NEPA-related terms, as provided in section IV of this document.

DOE declines to revise the definition as ACP recommended. First, DOE clarifies that the project area may contain multiple study corridors and that those study corridors may include multiple potential routes. Additionally, DOE notes that study corridors are proposed by the project proponent, and the number of such study corridors will be driven by the project proponent, depending on the level of development of the project design at the time of IIP Process initiation. While these study corridors are developed by the project proponent, nothing in this rule commits DOE to limiting NEPA alternatives to these study corridors. The definition suffices to allow DOE and the relevant Federal entities to evaluate the study corridor and potential NEPA alternatives through the IIP Process.

DOE declines to implement OSPA's recommendation that the definition allow for study corridors wider than one mile. DOE assesses that the one-mile distance suffices to provide DOE and the relevant Federal entities with the information necessary to make the relevant determinations and issue the relevant authorizations, while avoiding overburdening the project proponent.

6. Resilience

DOE's Proposal

As noted, DOE proposed to require the submission of 13 resource reports, one of which would be titled Reliability, Resilience, and Safety.

Summary of Public Comments

One anonymous commenter noted that DOE did not provide a definition of the term "resilience" and requested that DOE define the term.

DOE Response

DOE declines in the final rule to provide a definition for the term "resilience." This term does not appear outside of the Reliability, Resilience, and Safety resource report and its meaning is evident from the substance of that report.

7. Proposed Facility

DOE's Proposal

In the NOPR, DOE used the term "proposed facility" to delineate the scope of certain information project proponents would be required to submit. For instance, the NOPR proposed in § 900.3(b) to require the project proponent to provide a concise description of the proposed facility and a list of anticipated relevant Federal and non-Federal entities involved in the proposed facility.

Summary of Public Comments

CARE Coalition requested that DOE provide a definition of the term "proposed facility."

DOE Response

DOE declines in the final rule to provide a definition for proposed facility. DOE believes that the meaning of this term is sufficiently clear from the context and notes that through the IIP Process, project proponents will be able to refine the scope of the proposed facility as needed.

L. Resource Reports

The PIOs noted that DOE's resource reports are similar to the resource reports required under FERC's proposed rule regarding FERC's siting authority in NIETCs, per FPA section 216(b). The PIOs recommended that DOE align the numbering of resource reports with the numbering in FERC's proposed rule. DOE agrees with the suggested numbering change and has renumbered the reports accordingly. The following table catalogs the renumbering.

Resource Report Name	**Proposed Rule Numbering**	**Final Rule Numbering**
General Project Description	Resource Report 1	Resource Report 1
Water Use and Quality	Resource Report 2	Resource Report 2

Fish, Wildlife, and Vegetation	Resource Report 3	Resource Report 3
Cultural Resources	Resource Report 4	Resource Report 4
Socioeconomics	Resource Report 5	Resource Report 5
Geological Resources	Resource Report 6	Resource Report 8
Soil Resources	Resource Report 7	Resource Report 9
Land Use, Recreation, and Aesthetics	Resource Report 8	Resource Report 10
Communities of interest	Resource Report 9	Resource Report 7
Air Quality and Noise Effects	Resource Report 10	Resource Report 11
Alternatives	Resource Report 11	Resource Report 12
Reliability, Resilience, and Safety	Resource Report 12	Resource Report 13
Tribal Interests	Resource Report 13	Resource Report 6

In this final rule, DOE also makes non-substantive edits to the proposed rule text of the resource reports to clarify the intent of the reports and clearly state the information that must be included in the reports. Across the resource reports, DOE reorganizes the proposed paragraphs to state the purpose of the resource report in the introductory paragraph (e.g., paragraph (j)) and list all requirements for the resource report in subparagraphs (*e.g.*, paragraphs (j)(1), (2), etc.).

DOE's responses to comments on the resource report requirements as well as additional changes to the resource report requirements are discussed as follows. The ordering of the discussion follows the ordering of the resource reports in the NOPR.

i. General Project Description Resource Report

DOE's Proposal

In the NOPR, DOE proposed to require the submission of a resource report containing a general project description. The NOPR proposed that this report 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.

In the NOPR, DOE proposed 12 topics that would be required as part of the report. The NOPR required that the project proponent: describe and provide location maps of all relevant facilities, access roads, and infrastructure; describe specific generation resources that are known or reasonably foreseen to be developed or interconnected; identify other companies that may construct facilities related to the project and where those facilities would be located; provide certain information regarding the facilities identified; provide certain information if the project is considering abandonment of certain resources; describe proposed construction and restoration methods; describe estimated workforce requirements; describe reasonably foreseeable plans for future expansion of facilities; describe all authorizations required and identify environmental mitigation requirements; provide the names and mailing addresses of all affected landowners; summarize any relevant potential avoidance, minimization, and conservation measures; and describe how the project will reduce capacity constraints and congestion on the transmission system, meet unmet demand, or connect generation resources to load, as appropriate.

Summary of Public Comments

DOE received one comment addressing the General Project Description resource report that is not already addressed in other sections of the discussion. ClearPath opposed the requirement that project proponents "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," arguing that this information is outside the scope of Federal jurisdiction under FPA 216(h).

That comment and others addressing reasonable and foreseeable generation are discussed in section VI.D of this document.

DOE Response and Summary of Other Changes

In this final rule, DOE retains the scope and purpose of this resource report with no revisions in response to ClearPath's comment because information may be helpful for understanding the project proponent's purpose and need and the potential scope of the environmental review, consistent with DOE's coordinating obligations under FPA section 216(h).

Additionally, DOE is eliminating a requirement from the NOPR for this report to include correspondence with the USFWS and National Marine Fisheries Service regarding potential impacts of the proposed facility on federally listed threatened and endangered species and their designated critical habitats because that correspondence is already required in Resource Report 3: Fish, Wildlife, and Vegetation, thereby reducing duplication of requirements.

ii. Water Use and Quality Resource Report

DOE's Proposal

In the NOPR, DOE proposed requiring project proponents to submit a report on existing water resources that may be impacted by the proposed project, the impacts of the proposed project on those resources, and proposed mitigation, enhancement, or protective measures to address those impacts.

Summary of Changes

DOE did not receive any comments on the Water Use and Quality Report that have not been addressed in another section of this final rule. However, DOE has made several changes to the requirements for the resource report between the NOPR and this final rule.

In keeping with the discussion in section VI.K.ii of this document, DOE is replacing two distances included in the proposed rule with "in the applicable analysis area" to give DOE, the project proponent, and appropriate Federal and non-Federal entities flexibility to set these distances based on the physical characteristics and needs of the project. A project proponent must now identify the location of known public and private groundwater supply wells or springs within the applicable analysis area rather than within "150 feet of proposed construction areas."

A project proponent must now identify any downstream potable water intake sources within the applicable analysis area, rather than "three miles downstream" of a surface water crossing.

DOE is making several terminology changes to clarify the scope of the analyses required by the report. The report now requires the project proponent to identify surface water resources crossed by a "potential route" rather than "the project." The report also requires wetland maps showing "study corridors and potential routes" rather than just a "proposed route." Finally, the report requires identification of aquifers and wellhead protection area crossed by a "potential route," rather than "proposed facilities."

Lastly, DOE is relocating a requirement to indicate whether a water quality certification under section 401 of the CWA will be required for any potential routes. This requirement was proposed for the General Project Description resource report but has been moved into the requirements for this report because it deals directly with water resources.

iii. Fish, Wildlife, and Vegetation Resource Report

DOE's Proposal

In the NOPR, DOE proposed to require the submission of a resource report on fish, wildlife, and vegetation. As proposed, DOE required this report to include a description of 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. DOE also proposed that this resource report may require species surveys to determine significant habitats or communities of species of special concern to Federal, Tribe, State or local agencies, or field surveys to determine the presence of suitable habitat. Finally, DOE proposed requiring the project proponent to provide a description of the proposed measures to avoid and minimize incidental take of Federally protected species, including eagles and migratory birds as part of this resource report.

Summary of Public Comments

DOE received two comments on the Fish, Wildlife, and Vegetation resource report, from AZGFD and the CARE Coalition.

AZGFD encouraged DOE to include State wildlife sensitive species, especially those classified as of Greatest Conservation Need in individual State Wildlife Action Plans. AZGFD also recommended that potential impacts from habitat loss and fragmentation, including potential impacts on wildlife connectivity, identified habitat linkages or wildlife corridors, be analyzed in the report, considering that transmission infrastructure affects wildlife movements and habitat use. It suggested that DOE provide guidance in the rule regarding coordination with State wildlife agencies on conservation measures necessary for adequate wildlife connectivity.

The CARE Coalition suggested that the report should describe known migratory corridors for large mammals within three kilometers of the proposed line. The CARE Coalition also suggested that project proponents should consult with USFWS to determine a distance at which the project proponent should identify Federally listed or proposed endangered or threatened species and critical habitats in the report.

DOE Response and Summary of Other Changes

DOE makes minor revisions in response to these comments. In response to AZGFD's request to include classifications like "Greatest Conservation Need," DOE revises this final rule to request relevant information on "State, Tribal, and local species of concern and those species' habitats" because DOE believes this broader terminology addresses the concern raised by the commenter and additionally extends to consider species, habitats, or communities of species of concern to Federal, Tribal, State, or local agencies. DOE also agrees that habitat fragmentation impacts are relevant to the resource report and revises this final rule to include information on the potential effects of the proposed project on habitats, including effects related to habitat loss and fragmentation. Regarding AZGFD's request for guidance on coordination with State wildlife agencies, DOE makes no changes to this final rule as such coordination will depend on project

specific circumstances, for example if a wildlife agency in the State participates as a relevant non-Federal entity in the IIP Process.

In response to CARE Coalition's request to include mammalian migratory corridors, DOE makes no revisions to this final rule. DOE believes the detail requested in the resource report is sufficient to provide such information if it is relevant to the project.

DOE is also making changes to the proposed rule text that are not in response to a specific comment. DOE is making several changes to clarify the scope of the analyses required in the report. The rule now requires the project proponent to identify aquatic habitats in the "applicable analysis area" rather than in the "affected area" and cabins the requirement to identify terrestrial habitats to only those terrestrial habitats in the project area. The rule also requires information on essential fish habitat which may be adversely affected by "potential routes," rather than "the project."

In keeping with the discussion in section VI.K.ii of this document, DOE is replacing four distances and areas included in the proposed rule with "in the applicable analysis area" to give DOE, the project proponent, and appropriate Federal and non-Federal entities flexibility to set these distances based on the physical characteristics and needs of the project. DOE is now requiring a project proponent to identify aquatic habitats that occur in the "applicable analysis area" rather than in the "affected area." Additionally, DOE is requiring the project proponent to identify proposed or designated critical habitats that potentially occur in the "applicable analysis area" rather than the "project area." DOE is also now requiring a project proponent to identify the location of potential bald and golden eagle nesting and roosting sites, migratory bird flyways, and any sites important to migratory bird breeding, feeding, and sheltering within the "applicable analysis areas," rather than within "10 miles of the proposed project area." While 10 miles is currently the USFWS standard, DOE opts to leave establishment of these boundaries flexible for future project needs as well as any future updates to USFWS requirements. Likewise, DOE is requiring the project proponent to identify all Federally designated essential fish habitat that

occurs in the "applicable analysis area" whereas in the proposed text, the scope of that identification was undefined.

Lastly, the rule clarifies the role of surveys in the resource report. The rule provides that the project proponent must include the results of any appropriate surveys that have already been conducted and provide protocols for future surveys. The rule maintains the provision that if potentially suitable habitat is present, species-specific surveys may be required.

iv. Cultural Resources Resource Report

DOE's Proposal

In the NOPR, DOE proposed to require the submission of a resource report on cultural resources, which would contribute to the satisfaction of DOE's and other relevant Federal entities' obligations under section 106 of the NHPA. The NOPR required the resource report to describe known cultural and historic resources in the affected environment, including those listed or eligible for listing on the National Register of Historic Places (NRHP), potential adverse effects to those resources, and recommended avoidance and minimization measures to address those potential effects. It also required the resource report to document the project proponent's initial communications and engagement with and comments from Indian Tribes, indigenous peoples, THPOs, SHPOs, communities of interest, and other relevant entities, and provide details regarding surveys. Finally, the NOPR required that the project proponent request confidential treatment for all materials filed with DOE containing location, character, and ownership information about cultural resources.

Summary of Public Comments

DOE received one comment on the Cultural Resources Resource Report from NM SHPO that is not otherwise addressed in section VI.J of this document.

NM SHPO appreciated DOE's requirement for project proponents to consider treatments to avoid, minimize, or mitigate harmful impacts to the landscape, but encouraged DOE to also require project proponents to consider these treatments for individual historic properties eligible

for or listed in the NRHP. This inclusion would require that resource reports begin with historic contexts for landscape-level evaluations and that other Federal agencies examine landscape-level eligibility and effects during the review of resource reports. The NM SHPO noted that in New Mexico, consultants are required to meet State documentation guidelines before accessing cultural resource records to produce a cultural resources report, and subsequently questioned whether DOE's regulation will acknowledge or supersede State statutes, regulations, or guidelines.

DOE Response and Summary of Other Changes

DOE makes no revisions in response to NM SHPO's comment. DOE clarifies that while the CITAP Program is intended to facilitate coordination with relevant State statutes, regulations, and guidelines, the rule does not supersede State statutes, regulations, or guidelines. Regarding the NM SHPO's request that the rule should consider treatments to mitigate harmful impacts on certain individual properties, DOE notes that the rule does not preclude this sort of action, but makes no revisions to mandate a particular approach to mitigation because DOE believes these approaches are more appropriate to discuss in the context of project-specific circumstances. The updated definition of mitigation approach in this final rule is intended to create an opportunity for consideration and discussion of multiple types of mitigation strategies for a proposed project. DOE also notes that no decisions are made on mitigation during the IIP Process; rather, the IIP Process facilitates the development of a shared understanding of project needs and expectations.

DOE is also making several changes to the proposed rule text that are not in response to a specific comment. In keeping with the discussion in section VI.K.ii of this document, DOE is now requiring a summary of known cultural and historic resources in the "applicable analysis area" rather than in the "affected environment."

Furthermore, in the requirement to provide a summary of known cultural and historic resources, DOE is adding as an example of those resources, properties of religious and cultural significance to Indian Tribes, and any material remains of past human life or activities that are of

an archeological interest. This change was made to broaden and clarify the definition of cultural resources included in the rule.

v. Socioeconomics Resource Report

DOE's Proposal

In the NOPR, DOE proposed to require the submission of a resource report on socioeconomics. DOE proposed to require in this resource report the identification and quantification of 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.

Summary of Public Comments

DOE received one comment addressing the required elements of the Socioeconomics resource report. ClearPath recommended that DOE exclude the requirement for project proponents to "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" because it is ambiguous and beyond DOE's statutory authority. Furthermore, ClearPath noted the project proponent is not responsible for minimizing the impact on local infrastructure from the significant migration of people.

DOE Response

DOE makes no revisions in response to this comment because DOE finds this information is commonly requested for evaluating the impacts of infrastructure permitting.[12]

DOE is making several changes to the proposed rule text that are not in response to a specific comment. In keeping with the discussion in section VI.K.ii of this document, DOE is replacing multiple areas of study included in the proposed rule with "in the applicable analysis area" to give DOE, the project proponent, and appropriate Federal and non-Federal entities

[12] See, for example, 10 CFR 380.16(g).

flexibility to set these distances based on the physical characteristics and needs of the project. The rule now requires the project proponent to describe the socioeconomic resources that may be affected in the "applicable analysis area" rather than in the "project area." Likewise, the rule requires the project proponent to evaluate the impact of any substantial migration of people into the "applicable analysis area" rather than the "proposed project area." Finally, the rule replaces "impact area" with "applicable analysis area" in several instances because "impact area" is not defined in the rule.

vi. Geological Resources and Hazards Resource Report

DOE's Proposal

The NOPR proposed requiring project proponents to submit a resource report on geological resources that might be affected by the proposed project and geological hazards that might put the proposed project at risk. As written, the NOPR required the resource report to include a description of methods to reduce the effects on geological resources and reduce the risks posed by the hazards.

Summary of Changes

DOE did not receive any comments on the Geological Resources resource report that have not been addressed in another section of this final rule. However, DOE has made minor changes to the requirements and description for the resource report between the NOPR and this final rule.

The title of this resource report has been updated to "Geological Resources and Hazards" to better reflect the scope of the report. Additionally, in keeping with the discussion in section VI.K.ii of this document, DOE is clarifying that the project proponent only needs to describe geological resources and hazards "in the applicable analysis area." The proposed rule did not provide a definite boundary for these identifications.

vii. Soil Resources Resource Report

DOE's Proposal

The NOPR proposed requiring project proponents to submit a resource report on soil resources that might be affected by the proposed project, the effect on those soils, and measures proposed to avoid, minimize, or mitigate impact.

Summary of Changes

DOE did not receive any comments on the Soil Resources resource report that have not been addressed in another section of this final rule. However, DOE has made one substantive change to the requirements for the resource report between the NOPR and this final rule.

The NOPR proposed that a project proponent would need to list and describe soil series for any "site larger than five acres." However, because almost all projects in the CITAP Program would cover more than five acres, this distinction would not set an effective boundary on the area of the requirement. Therefore, this final rule requires identification and description of soil series within "the applicable analysis area" to allow DOE, the project proponent, and relevant Federal and non-Federal entities to determine the scope of the analysis needed.

viii. Land Use, Recreation, and Aesthetics Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on land use, recreation, and aesthetics. DOE also proposed to require in this resource report a description of the existing uses of land on, and within various distances, the proposed project and changes to those land uses and impacts to inhabitants and users that would occur if the project were approved. The NOPR also required the report to describe proposed mitigation measures, including protection and enhancement of existing land use.

DOE sought comment on whether further revisions were needed to proposed § 900.6(m)(8), which proposed that the project proponent 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.

Summary of Public Comments

DOE received several comments on required elements of the Land Use, Recreation, and Aesthetics Resource Report. LTA expressed support for the inclusion of this resource report and commented specifically in support of retaining multiple provisions of this report.

DOE received responses on whether revisions were needed to paragraph (m)(8) from LTA and CEC/CPUC. The CEC/CPUC advised DOE to divide § 900.6(m)(8) into two sections: one about conservation lands and another about lands with protective covenants due to distinct management practices. LTA recommended adding "conservation or agricultural lands subject to state statutorily enabled conservation or agricultural easements or restrictions" to the list of examples. CEC/CPUC recommended DOE include lands conserved and held by local focus on land use restrictions, and include more specific provisions that agricultural conservation lands described should only include those with formal designations.

LTA recommended requiring the project proponent to describe "an area a Community of Interest has identified as having one or more resources likely to be impacted by a proposed project" in addition to the specifically listed areas under the list of Federal designations in paragraph (10). LTA also recommended adding to the specifically listed areas "National Forests and Grasslands" and "lands in easement programs managed by the Natural Resource Conservation Service or the U.S. Forest Service" to this paragraph.

LTA recommended DOE revise its request for a detailed operations and maintenance plan for vegetation management to include, "that utilizes native species to the maximum extent practical."

ACP stated that the requirement that proponents identify all residences and buildings within 200 feet of the edge of the proposed transmission line construction right-of-way was "excessively onerous" and impractical. ACP suggested that the transmission right-of-way is a more appropriate boundary than the construction right-of-way.

AZGFD recommended that this resource report identify potential impacts to access for State wildlife agencies to carry out their responsibilities, outdoor recreation, and recreational access. AZGFD urged DOE to coordinate with State wildlife agencies to ensure actions do not prevent State agencies from conducting their responsibilities.

DOE Response and Summary of Other Changes

DOE retains the scope and purpose of the Land Use, Recreation, and Aesthetics Resource Report with minor revisions in response to these comments.

In response to the comments on revisions to paragraph (8), which includes a list of example specially designated areas, DOE has made overall changes to the structure and language of the paragraph to improve the clarity and readability of the requested information, to reduce emphasis on the specific types of land ownership or use, and to clarify that the resource report provides details regarding lands with explicit status through Federal, state, or local formal designation, as well as lands owned or controlled by Federal, State or local agencies or private preservation groups. DOE has also added that the proposed list is not exhaustive of the types of lands that should be identified in this section, but rather identifies examples of the types of lands that may meet the criteria now more clearly listed. DOE disagrees with CEC/CPUC that this resource report should only include lands with a formal agricultural conservation designations because the intent of this provision and its list of examples is to capture lands with special status not typically contemplated by Federal or State law but agrees with LTA that "conservation or

agricultural lands subject to State statutorily enabled conservation or agricultural easements or restrictions" is a helpful additional example and includes this in this final rule.

In response to comments on the list of Federal statutory designations in paragraph (10), DOE makes minor revisions to include forests and grasslands. DOE agrees that specifically listed areas should include Forest and Grasslands and lands in easement programs managed by the Natural Resource Conservation Service or the U.S. Forest Service and includes those in this final rule. DOE does not include areas identified by communities of interest because the intent of this resource report requirement is to identify areas that fall under specific Federal statutes and regulations to assist DOE in implementing its environmental review and coordination authority. In response to LTA's request that the vegetation management provision include a prioritization of the use of native species, DOE makes no revisions in this final rule because DOE believes specific prescriptions for project management practices should be addressed on a project-specific basis.

In response to ACP's comment on the appropriate area for building identification DOE revises the proposed distance-based requirement but maintains construction right-of-way because the effects of construction on buildings is information that DOE believes is necessary to inform DOE's environmental review.

In response to AZGFD's request that this final rule consider impacts to State wildlife agencies, DOE makes no revisions because the agency believes that the text is sufficiently clear on the need for project proponents to provide such information in the resource report. Further, DOE believes that the coordination with non-Federal entities in the IIP Process sufficiently addresses the concern of coordination with State wildlife agencies and makes no further revisions.

DOE is also making several changes to the proposed rule text that are not in response to a specific comment. DOE significantly reorganizes portions of the resource report requirements for clarity but does not make any substantive changes through the reorganization.

In keeping with the discussion in section VI.K.ii of this document, DOE is replacing multiple distances included in the proposed rule with "in the applicable analysis area" to give DOE, the project proponent, and appropriate Federal and non-Federal entities flexibility to set these distances based on the physical characteristics and needs of the project. A project proponent must now identify certain planned development within "the applicable analysis area" rather than within "0.25 mile of proposed facilities." Likewise, the requirement for a project proponent to identify directly affected areas that are owned or controlled by a governmental entity or private preservation group within "0.25 miles of any proposed facility" has been changed to within "applicable analysis areas." The final rule also requires the project proponent to identify resources within "the applicable analysis area" that are included in or designated for study for inclusion in certain Federal land and water management statutes. The proposed rule asked for the project proponent to identify the same types of resources "crossed by or within 0.25 mile of the proposed transmission project facilities."

ix. Communities of Interest Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on communities of interest. DOE proposed to require in this resource report a summary of known information about the presence of communities of interest that could be affected by the qualifying project; identification and description of the potential impacts of constructing, operating, and maintaining the project on communities of interest; a description of any proposed measures intended to avoid, minimize, or mitigate such impacts or community concerns; and a discussion of any disproportionate and/or adverse human health or environmental impacts to communities of interest.

Summary of Public Comments

DOE received three comments on the Communities of Interest Resource Report that are not already addressed in the discussion regarding the definition of communities of interest in section VI.K.iii of this document.

LTA expressed support for retaining this resource report. ClearPath opposed the addition of this resource report because "by proposing separate requirements for Communities of Interest in Project Participation plans and outreach plans, the DOE is conceding that stakeholder engagement requirements are deficient." ClearPath claims that the proposal represents duplicative requirements and paperwork for project proponents and establishes a hierarchy of treatment and consideration of project impacts across population segments that could have concerns regarding equal treatment and discrimination.

Regarding the requirement that the project proponent "[s]ummarize known information about the presence of communities of interest that could be affected by the qualifying project," EDF noted that the phrase "known information" may present a loophole, and instead the project proponent should be required to investigate, observe, and understand the concerns of communities of interest. EDF also indicated that regulations should specify that there is a responsibility to avoid, minimize, or mitigate any health or environmental impacts identified.

DOE Response

DOE retains the Communities of Interest resource report with minor revisions in response to these comments. DOE does not agree that this resource report is duplicative with the public engagement plan and clarifies that this resource report is aimed at identifying negative impacts to communities of interest and mitigation measures while the public participation plan is aimed at ensuring sufficient engagement. ClearPath's concerns about the disparate treatment in the public engagement plan are discussed in further detail in section VI.E of this document.

DOE agrees with EDF that "known" is not consistent with the intent of the information request and revises this final rule to require "best available information on" rather than EDF's

proposed cure because this is consistent with the standard of information gathering for environmental reviews.

x. Air Quality and Noise Effects Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on air quality and noise effects. DOE proposed to require in this resource report the identification of the effects of the project on the existing air quality and noise environment and describe proposed measures to mitigate the effects.

Summary of Public Comments

DOE received three comments in response to the Air Quality and Noise Effects resource report proposal.

Policy Integrity stated that the NOPR is unclear regarding local air pollutants and non-power-sector emissions and advised DOE to require project proponents to comprehensively estimate the associated changes to GHG emissions and local air pollution from their transmission project and alternatives, such as indirect upstream GHG emissions from methane leakage. Additionally, the commenter suggested that the need to estimate and describe impacts from changes to criteria pollutants should not depend on whether they remain below the Clean Air Act's National Ambient Air Quality Standards (NAAQS), stating that the EPA has recognized that there is no safe level of exposure. In contrast, ClearPath strongly opposed Air Quality and Noise Effects resource report's proposed requirement that project proponents estimate direct, indirect, and "reasonably foreseeable" generation resource-related project emissions. ClearPath described the proposed requirements as vague and as lacking a robust process for proponents to follow, such that proponents are unlikely to understand and comply.

AZGFD recommended that DOE require the identification of air and noise related potential impacts on all wildlife resources, in addition to the Federally-listed species or sensitive wildlife habitats currently identified.

DOE Response and Summary of Other Changes

DOE retains the Air Quality and Noise Effects resource report in full in this final rule with no changes in response to these comments.

Regarding local air pollutants and emissions, DOE makes no changes in response to the comment. DOE believes the rule makes clear that it requires information regarding non-GHG emissions and non-power-sector emissions. In this resource report, project proponents must identify reasonably foreseeable emissions caused by the project, regardless of whether those emissions occur in NAAQS non-attainment areas. DOE believes that requirement provides adequate guidance to project proponents.

Regarding the impacts on wildlife resources, DOE believes the impacts to wildlife are sufficiently addressed in the Fish, Wildlife, and Vegetation resources report and makes no revisions to this report.

DOE is making several changes to the proposed rule text that are not in response to a specific comment. DOE significantly reorganizes portions of the resource report requirements for clarity but does not make any substantive changes through the reorganization.

In keeping with the discussion in section VI.K.ii of this document, DOE is replacing multiple areas of study included in the proposed rule with "in the applicable analysis area" to give DOE, the project proponent, and appropriate Federal and non-Federal entities flexibility to set these distances based on the physical characteristics and needs of the project. A project proponent is now required to describe existing air quality in "the applicable analysis area" rather than in the "project area." Likewise, a project proponent is required to identify air quality impacts on communities and the environment in the "applicable analysis area," rather than the "project area." Finally, the proposed rule clarifies that a project proponent is required to describe existing noise levels at noise-sensitive areas in the "applicable analysis area," instead of leaving the study area undefined.

xi. Alternatives Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on alternatives. DOE proposed to require this resource report to include a description of alternatives identified by the project proponent during its initial analysis, which may inform the relevant Federal entities' subsequent analysis of alternatives, 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. DOE also proposed that the project proponent include all of the alternatives identified by the project proponent, including those the proponent chose not to examine or not examine in greater detail, and an explanation for the project proponent's choices regarding the identification and examination of alternatives. The NOPR proposed to require that project proponents 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 explain the costs to construct, operate, and maintain each alternative, the potential for each alternative to meet project deadlines, and the potential environmental impacts of each alternative.

Summary of Public Comments

DOE received three comments addressing the Alternatives Resource Report that are not already addressed in other sections.

Niskanen Center noted that the alternatives report would benefit from clarifying language and revisions to avoid ambiguity regarding the definition of alternatives and the extent to which they should be included in the resource report and provided recommendations. Niskanen Center also requested clarifying language if the Alternatives resource report is the only report that is required to include an alternatives analysis, and that if not, DOE should clearly state its request for such analysis in each report.

ACP expressed concerns regarding the NOPR not reflecting the intersections between state, Tribal, and Federal siting authorities, specifically noting the overlapping timetables that

can be difficult to predict. ACP provided as an example that if State siting precedes Federal siting, only a single route might be approved which would materially limit the required NEPA alternative and potentially increase overall legal risk if opponents claim that the failure to adequately consider proposed alternatives violates NEPA or the Administrative Procedure Act. ACP recommended that DOE explicitly address these limited alternatives that may be established through a State siting process, as well as ensure that Federal reviews account for the potential scope of State siting determinations and not require consideration of alternatives that are impossible or implausible.

The CARE Coalition urged DOE to specifically require the consideration of alternative transmission technologies (ATTs), such as dynamic line ratings, power flow controllers, advanced conductors, and battery storage, in the report. The commenter explained that failure to consider ATTs excludes a potentially low-cost alternative that may prevent or reduce environmental harm.

DOE Response

DOE maintains the Alternatives resource report but makes substantial revisions in response to these comments to reduce ambiguity on the scope and purpose.

In response to Niskanen Center's comment, DOE confirms that this resource report is the only resource report that requires an alternatives analysis. Other resource reports are intended to address the potential study corridors or routes along which the project proponent is considering siting the electric transmission facility. Those resource reports do not need to address alternative study corridors or alternative routes that the project proponent has eliminated from consideration.

The Alternatives resource report is intended to provide an overview of the study corridors and routes that were initially considered for the proposed project, but that ultimately were not chosen for further study by the project proponent. In keeping with this intent, in this final rule, DOE is requiring a project proponent to identify all study corridors that were considered as part of the proposed project, as well as all routes contained within those study corridors. Within that

broad group of study corridors and routes, DOE requires the project proponent to identify those alternative study corridors and routes that the project proponent eliminated from further study under an initial screening, and the reasons why those corridors and routes were eliminated.

For the remaining alternative study corridors and routes, DOE requires analyses of certain impacts of siting the electric facility in the corridor or along the route. Likewise, DOE requires a discussion of the costs, timelines, and technological and procedural constraints of siting the electric facility in the corridor or along the route. Finally, DOE requires the project proponent to demonstrate whether and how environmental benefits and costs were weighed against economic benefits and costs to the public for the route or corridor.

In response to ACP's concern about overlapping timetables and limitations to alternatives, DOE makes no additional revisions because, as clarified above, the Alternatives resource report addresses the project proponent's approach to Alternatives which may inform, but does not supplant, DOE's consideration of appropriate alternatives for its environmental review.

In response to CARE Coalition's request that DOE include ATTs, DOE declines to specify the consideration of specific evolving technologies in its regulatory test.

xii. Reliability, Resilience, and Safety Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on potential hazards to the public from failures of the proposed electric transmission facility due to accidents, intentional destructive acts, and natural catastrophes. DOE also proposed requiring the report to describe how these events would affect reliability, benefits to reliability from the project, and what procedures and design features could be used to reduce risks to the facility and the public.

Summary of Changes

DOE did not receive any comments on the Reliability, Resilience, and Safety resource report that have not been addressed in another section of this final rule. However, in this final

rule DOE significantly reorganizes portions of the proposed resource report requirements for clarity but does not make any substantive changes through the reorganization.

xiii. Tribal Interests Resource Report

DOE's Proposal

DOE proposed to require the submission of a resource report on Tribal interests. DOE proposed to require in this resource report the identification of the Indian Tribes, indigenous communities, and their respective interests that may be affected by 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. DOE also proposed to require in this resource report a discussion of potential impacts on Indian Tribes and Tribal interests and of traditional cultural and religious resources that could be affected by the proposed project, to the extent Indian Tribes are willing to share this information. Additionally, DOE proposed that certain specific site or location information that may create a risk of harm, theft, or destruction, or otherwise violate Federal law should be submitted separately, and that the project proponent must request confidential treatment for all material filed with DOE containing location, character, and ownership information about Tribal resources.

Summary of Public Comments

DOE received four comments regarding the Tribal Interests Resource Report that are not already addressed in previous discussions. Most comments are addressed in section VI.J of this document in response to the approach to compliance with section 106 of the NHPA.

LTA expressed support for this resource report and urged DOE to collaborate with Indian Tribes to ensure that the language used in the report adequately protects their interests.

The Santa Rosa Rancheria Tachi Yokut Tribe and NATHPO expressed concern with a comment by DOE staff, which the commenters believe indicated, contrary to the proposed rule text, that the Tribal Interests resource report would not contain cultural resources, examples of Tribal

resources provided in the proposed rule (e.g., water rights, access to property, wildlife and ecological resources) are Tribal cultural resources. The commenters stated that this comment reflects a fundamental lack of understanding about what is a Tribal cultural resource. Relatedly, the NM SHPO noted that resources identified in other resource reports, such as the Water Use and Quality resource report and the Fish, Wildlife, and Vegetation resource report, may also be of traditional and cultural significance and eligible for the NRHP.

DOE Response

In this final rule DOE retains the Tribal Interests resource report with minor revisions for clarity in response to comments. First, DOE did not intend to indicate that the Tribal Interests resource report would not contain cultural resources. Second, DOE sought comment from Indian Tribes and will coordinate with Indian Tribes in accordance with the Federal Government's nation-to-nation responsibilities, pursuant to DOE's authority under FPA 216(h).

In response to the concern raised by Santa Rosa Rancheria Tachi Yokut Tribe and NATHPO that the resource report requirements reflect a misunderstanding about tribal cultural resources, DOE revises the report for clarity. DOE acknowledges that the Tribal Interests and Cultural Resources resource reports may contain some resources that overlap in part but clarifies that they are intended to support different purposes and request different details. DOE expects that certain cultural resources may be described in both resource reports and revises the Cultural Resources resource report to clarify that cultural and historic resources include, among other things, properties of religious and cultural significance to Indian Tribes.

M. Administrative Docket

DOE's Proposal

To better coordinate Federal authorizations, DOE proposed to maintain a consolidated administrative docket containing meeting requests, meeting summaries, resource reports, other information assembled during the IIP Process, and all information assembled by relevant Federal entities for authorizations and reviews after completion of the IIP Process.

Summary of Public Comments

Commenters, such as EEI, PJM, and the CARE Coalition, expressed support for a consolidated administrative docket. PJM believes that a consolidated administrative docket will ensure all Federal entities are working from a single, complete record for reviews and decisions.

One commenter, Niskanen Center, proposed that the administrative docket be public, while the CARE Coalition proposed the rule provide more details to clarify access to the administrative docket to ensure stakeholder participation. Another commenter, StopPATH WV, proposed DOE make the administrative docket information available to landowners that may be impacted by the proposed project.

DOE Response

DOE maintains the features and purpose of the administrative docket in this final rule with minor revisions. DOE agrees that the public should have access to the administrative docket for the proposed project and revises this final rule to provide that "Upon request, any member of the public may be provided materials included in the docket, excluding any materials protected as CEII or as confidential under other processes (*e.g.*, confidential business information and information developed during consultation with Tribes)."

N. Interaction with FPA 216(a) and FPA 216(b)

Summary of Public Comments

Seven commenters provided comments on the interaction of the proposed rule with DOE's process for designating NIETCs, per FPA section 216(a), and FERC's pending regulations regarding its siting authority in NIETCs, per FPA section 216(b), referred to by some commenters as "backstop siting."

PIOs praised DOE's proposed rule for its alignment with FERC's proposed backstop permitting rule. PIOs anticipated that this coordination would support a consistent, predictable, and rigorous Federal review and permitting process and offer certainty to project proponents, as they seek necessary authorizations. Additionally, PIOs anticipated that alignment would ensure

project proponents could easily engage in both processes if necessary, citing potential scenarios in which a project seeking a FERC permit needs multiple Federal authorizations and could benefit from the IIP Process or a project undergoing the IIP Process decides it needs a FERC permit. PIOs argued that in these cases, alignment across processes would allow project proponents to effectively engage in both processes, while reducing duplication. PIOs identified several similarities between proposed requirements under DOE's CITAP Program and FERC's proposed rule. PIOs stated that DOE's proposed IIP Process plays a similar role to FERC's pre-filing process. Additionally, PIOs noted that DOE's resource reports are similar to those required under FERC's rule and recommended that DOE align the numbering of resource reports with the numbering in FERC's proposed rule.

Several commenters supported alignment of the CITAP Program's requirements with FPA sections 216(a) and 216(b) regulations. ACEG, CEBA and the CARE Coalition urged DOE to align the CITAP Program with NIETC designation and FERC's backstop siting authority. CEBA suggested this would avoid duplication and ensure processes are clear and remain streamlined across relevant Federal agencies. ACEG stated it would ensure effective and efficient implementation; the CARE Coalition argued that this coordination would provide certainty and transparency for stakeholders, predictability for project proponents, and a reduction in associated project permitting costs. LADWP recommended that DOE align the information required by the resource reports during the IIP Process with the information required by the resource reports under FERC's proposed backstop permitting rule. LADWP suggested that alignment of this information would result in a more efficient permitting process. Similarly, ACORE recommended that DOE provide a mechanism for any information submitted under the NIETC program to be incorporated into the IIP Process.

ACP commented that since proposed electric transmission projects seeking Federal "backstop" siting authority under section 216(b) of the FPA would not be eligible for the CITAP Program, DOE should ensure, in conjunction with FERC, that any subsequent NEPA

rulemakings will allow for each agency to use an EIS prepared by the other agency as this would help to minimize the potential for duplicative reviews. Similarly, EDF recommended that in the event a transmission facility requires a construction or modification permit from FERC pursuant to section 216(b) of the FPA, DOE should conduct a single coordinated environmental review with FERC. EDF explained that the benefits of such a coordinated review have already been recognized by DOE in its "Building a Better Grid Initiative to Upgrade and Expand the Nation's Electric Transmission Grid To Support Resilience, Reliability, and Decarbonization" NOI, wherein DOE states that "DOE and FERC intend to work together, as appropriate, to establish coordinated procedures that facilitate efficient information gathering related to the scope of activities under review pursuant to these authorities." EDF believes that by coordinating, to the greatest extent practicable, pre-filing and application processes, DOE and FERC can work with project proponents to identify and resolve issues as quickly as possible, share information in a timely fashion, and expedite reviews conducted pursuant to these authorities, NEPA, and other requirements. ACEG added that to avoid fragmentation in the review process, and to comply with section 216(h) of the FPA, DOE must prepare a single document for the project's NEPA review, which will serve as the basis for decision-making under both NIETC and CITAP.

Two comments requested more information. ACEG and CEBA requested clarification on how a project proponent can initiate the CITAP Program while seeking project-specific NIETC designation and how a CITAP Program project can apply for backstop siting. ACEG explained that a project in a NIETC could need to transition to backstop siting years into the CITAP Program review process, and CEC/CPUC similarly requested clarification on what will happen to a CITAP Program application once a project becomes eligible for backstop siting. CEBA offered its interpretation of the NOPR, understanding that projects could participate in the section 216(h) process if the project has not triggered or received section 216(b) FERC backstop authority. ACEG explained that project proponents are likely to seek NIETC designation to unlock funding opportunities available to projects in designated corridors. ACEG encouraged

DOE to streamline the processes by allowing project proponents to submit a single application to initiate both processes.

Conrad Ko suggested the routes of any applicant for a transmission line construction permit to be automatically designated as a NIETC and for the entire United States should be designated a NIETC.

DOE Response

DOE makes no revisions to the rule in response to these comments, except to renumber the resource reports to align with the numbering in FERC's proposed rule. DOE intends to coordinate interagency efforts to the greatest extent possible, pursuant to its authority under FPA section 216(h). The responsibility for coordinating Federal authorization under section 216(h) for projects seeking a permit under FPA section 216(b) has been delegated to FERC, pursuant to Delegation Order No. S1-DEL-FERC-2006. DOE's current approach to the environmental analysis for designation of NIETCs under section 216(a) may be found in the Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors issued in December 2023.[13]

DOE does not find that any provisions in this rule would preclude the use of an EIS prepared by another agency, including FERC, should such a circumstance arise. DOE agrees with commenters that projects within a NIETC may qualify for the CITAP Program; however, if a project within a NIETC seeks a permit from FERC under FPA section 216(b), FPA section 216(h) coordination will proceed consistent with Delegation Order No. S1-DEL-FERC-2006. DOE has endeavored to align the environmental review procedures for NIETC designation and the CITAP Program to the greatest extent possible, and additionally align with FERC's proposed procedures for implementing section 216(b), as observed by PIOs, to minimize the chance that

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[13] "U.S. Department of Energy Grid Deployment Office Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors." *National Interest Electric Transmission Corridor Designation Process*, United States Department of Energy, 19 Dec. 2023, *www.energy.gov/sites/default/files/2023-12/2023-12-15 GDO NIETC Final Guidance Document.pdf*.

such transitions create duplicative work or unnecessary delay. Deviations among the regulations, particularly the specific contents of the thirteen resource reports, reflect the differences in authorizations and permits DOE expects to coordinate and provide for in its single environmental review under FPA section 216(h).

This final rule maintains the provision that the Director of the Grid Deployment Office may waive requirements of the CITAP Program, which provides flexibility for transitioning between processes without requiring duplicative work. Nothing in this final rule precludes the reuse or concurrent submission of resource reports or other project materials for a proposed project in a NIETC, whether under consideration for designation or already designated, seeking CITAP Program participation. DOE declines to further specify the coordination between NIETCs and the CITAP Program because it is outside the scope of the rulemaking. DOE has sufficiently established the requirements and restrictions on qualifying project designation and further details on interactions with other DOE programs are implementation issues that will be determined as needed. DOE may provide additional guidance outside of this rule regarding the interactions of various DOE and FERC authorities in section 216 of the FPA.

O. Miscellaneous

i. Presidential Appeal

Summary of Public Comments

DOE received comments regarding the presidential appeals process and review. PIOs commented that the language in the proposed rule was consistent with the FPA but requested clarification on the process to inform project proponents and members of the public. PIOs requested that DOE clarify how the appeal to the President might work, and whether and how a project proponent might appeal the President's decision. AEU explained that the FPA section 216(h) allows for an appeal to the President of the United States which appears to be an extreme step in a process that should be handled through a judicial or administrative hearing. The association emphasized that transmission developers should have the ability to appeal if the

approval process is not proceeding according to the schedule set by DOE through no fault of their own and the proposed rule should either describe how an appeal to the President would proceed or lay out a specific appeal process for a project developer. AEU also expressed concerns regarding recourse if the timeframe from NOI through issuance of the EIS is not met. AEP similarly recommended enabling project proponents to petition the court if Federal agencies fail to comply with applicable deadlines.

DOE Response

Section 216(h) of the FPA authorizes the President to hear and consider appeals under that section. The 2023 MOU describes the procedures for Presidential appeals. The Presidential appeals provision of section 216 of the FPA and the procedures described in the MOU, including any process by which such a decision may be appealed, are outside the scope of DOE's authority and thus outside the scope of this rulemaking.

In response to AEP's request that DOE enable project proponents to petition a court if Federal agencies fail to comply with applicable deadlines, DOE notes that it does not, through this rule, have the authority to authorize, or prohibit, project proponents from filing court petitions regarding of Federal agency adherence to applicable deadlines.

ii. Rehearing and Judicial Review

Summary of Public Comments

PIOs urged DOE to explain the implications of section 313 of the FPA, including (1) the FPA's judicial review provision, in which challenges are first brought to the agency, and then litigated in a court of appeals under shorter timelines than most Federal agency decisions, which are subject to review in district courts within six years, and (2) the exhaustion requirements of the FPA, under which courts only recognize claims raised in a rehearing application. PIOs also asked DOE to explain whether the FPA's judicial review provisions require a potential challenger to intervene before DOE, to raise any substantive concerns during the DOE process even if DOE lacks substantive expertise with the challenger's concerns, to seek rehearing within

thirty days, and to seek judicial review in a court of appeals within sixty days of a rehearing decision. PIOs also recommended that DOE (1) encourage parties, in both pre- and post-application outreach, to provide comment on transmission applications, (2) provide language for doing so, and (3) grant party status to any party that submits a timely comment.

DOE Response

Section 313 of the FPA contains rehearing and judicial review provisions applicable to orders issued by DOE under the FPA, including any order issued under section 216(h). 16 U.S.C. 825l.[14] Section 313(a) provides that any person aggrieved by an order must first apply for rehearing within 30 days of the issuance of such order. Upon receiving the application, section 313 authorizes DOE to grant or deny rehearing or to abrogate or modify its order without a further hearing. DOE has 30 days to act upon the application for rehearing or the application is deemed to have been denied. Under section 313(b), a party may then proceed to seek judicial review in the courts of appeals, by filing a petition for review in such a court within 60 days of the order on the application for rehearing.

Thus, any party that wishes to ensure the availability of judicial review of any relevant authorization or related environmental review document issued under section 216(h) should raise in rehearing before DOE all challenges to such authorization or document, including those actions undertaken by DOE in its role as the lead agency for purposes of environmental review. Subject to any further process, DOE intends to treat as a party any person or entity that comments on any relevant authorization or related environmental review document. Because these topics relate to procedures outside the scope of this rule and may depend on specific factual circumstances, DOE declines at this time to establish model language regarding rehearing and

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[14] Section 313 refers to "an order issued by the [Federal Power] Commission." 16 U.S.C. 825l(a)-(b). In 1977, Congress dissolved the Federal Power Commission and transferred its authorities to DOE and FERC. *See* Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977). The rehearing and judicial review provisions of section 313 apply to DOE as a successor to the Federal Power Commission. *See Ctr. for Biological Diversity v. Dep't of Energy*, No. CV 08-168AHM(MANX), 2008 WL 4602721, at *5-6 (C.D. Cal. Oct. 16, 2008); *Pa. Pub. Util. Comm'n v. Bodman*, No. CIV. 1:CV-07-2002, 2008 WL 3925840, at *3-5 (M.D. Pa. Aug. 21, 2008).

review. Nevertheless, DOE supports interested parties making comments on transmission applications in the CITAP Program, including pursuant to NEPA and other review processes that afford opportunities for comment and participation. Because of the various avenues for comment and participation and because the CITAP Program does not limit the public comments that can be made through the existing avenues for public input, DOE finds it is unnecessary to provide standardized language for providing comments as suggested by commenters.

iii. Role of States

Summary of Public Comments

DOE received two comments related to the roles of states in siting transmission lines. AEP emphasized the importance of respecting the roles and responsibilities of states and localities in transmission project approval. CEC/CPUC encouraged the coordination of Federal and State permitting processes, explaining that most major transmission facilities in California will require both Federal and State environmental review and approval. To align these processes and inform coordination, CEC/CPUC recommended that DOE support project-specific MOUs between State and Federal permitting authorities.

DOE Response

DOE agrees with the commenters on the importance of states in the siting of transmission lines. Accordingly, and consistent with section 216(h), the IIP Process is designed to encourage and facilitate states' participation. Moreover, nothing in the IIP Process supersedes any State siting or permitting authority. DOE may develop project-specific MOUs as appropriate and necessary; such individual decisions are outside the scope of this rulemaking.

iv. Effective Date

Summary of Public Comments

Idaho Power requested clarification on when the CITAP Program outlined in the proposed rule would go into effect.

DOE Response

DOE intends for the CITAP Program to take effect on the day this final rule takes effect: 30 days after publication of the rule in the *Federal Register*.

v. Costs and benefits of conservation

Summary of Public Comment

AZGFD requested additional information about DOE's assessment of potential costs and benefits of the CITAP program. AZGFD stated that it was unclear whether DOE has assessed and evaluated the costs associated with implementation of conservation measures for offsetting potential impacts to resources. If DOE did not include this analysis, AZGFD recommends that DOE account for the cost of conservation measures.

DOE response

DOE makes no changes in this final rule in response to this comment. DOE believes that the CITAP Program, as finalized in this rulemaking, is designed to enhance coordination of decision-making efforts for the purposes of improved speed and efficiency of Federal permitting and authorizations overall, but will not materially impact the outcomes of specific decisions, which would include any conservation measures required to be undertaken. DOE's assessment of the final rule's anticipated costs and benefits is presented in section VIII of this document.

vi. Burden estimates under the Paperwork Reduction Act of 1995

Summary of Public Comment

Gallatin Power expressed concern that the cost burden estimated in the NOPR seemed "significantly lower than current market rates." Gallatin Power acknowledged that the median hourly rate was used to calculate the cost burden, but explained that, in its experience, "these hourly wages are significantly more when contracting with a subject matter expert, at an industry-accepted firm." Gallatin Power also expressed concern that the cost and time estimates did not identify a size for the transmission project given that "these costs and time estimates would vary greatly among project lengths and locations."

DOE Response

DOE makes no changes in this final rule in response to this comment. Although Gallatin Power expressed concern about the burden analysis, it did not challenge DOE's approach as unreasonable nor did it provide an alternative approach for DOE to consider. As Gallatin Power acknowledges, costs and time estimates can vary widely among projects. Given that estimates can vary widely by project, DOE believes it was reasonable to use the most recently available median hourly wage for management analysts according to the Bureau of Labor Statistics, for the proposed rulemaking and in this final rule, consistent with DOE's previous burden analysis for this collection. Though this revised collection changes the volution and subject matter of the information collection, including requesting analysis from a range of experts, many of the median wages reported by BLS for environmental and scientific consultants are below the management analysis median wage proposed by DOE, further supporting DOE's use of this occupation as a basis for estimation. Regarding the size of transmission project, DOE estimated an average burden for a qualifying project under CITAP, which represents a wide range of length and size, based on the special expertise in environmental evaluation of transmission projects within DOE. DOE's assessment of the final rule's estimated burden is in section VIII of this document.

P. Out of Scope Comments

Summary of Public Comments

DOE received six additional comments not addressed above. NAM noted it supports a diverse approach to powering communities and operations, and urged DOE to follow its findings in the draft National Transmission Needs Study released in February 2023.

The State of Colorado Governor's Office stated that the proposed rule does not consider the need to minimize the potential of the challenges from private citizens and groups alleging deficiencies in project review under NEPA and other statutes nor DOE's ability to facilitate interstate transmission development in the face of opposition from certain states or organizations.

EEI suggested DOE consider how its implementation of section 216(h) can support electric companies working to meet State timelines for reducing emissions in the electric grid through its implementation of section 216(h) and for DOE and other agencies to consider IRA funds to increase the training of personnel or to provide grants to other agencies.

Kris Pastoriza requested clarification on a statement on FERC's website, a definition for or list of "interstate transmission lines."

Gallatin Power asked DOE to clarify whether designated DOE staff would be assigned to qualifying projects who could help move the permitting process along and would facilitate knowledge retention.

EDF recommended DOE consider co-location of transmission projects within abandoned rights-of-way. In addition, EDF recommended DOE develop a record of right-of-way locations and to consider publishing this information on an interactive map for ease of use by the public. EDF believes the CITAP Program presents the perfect opportunity to develop this information. EDF believes this proposal would be consistent with the objective to ensure NEPA reviews are not duplicative because the information about rights-of-way would be more readily available for transmission projects.

DOE Response

DOE finds these comments to be out of scope of the rulemaking, which addresses the implementation of DOE's authority to coordinate Federal environmental review and decision-making on transmission project authorizations and permits. The findings of the Needs Study are outside the scope of this rulemaking, as are the potential of challenges alleging deficiencies in NEPA review, as well as any interpretations of FERC's authority. Regarding EEI's request that DOE consider State emissions reductions statutes in its implementation of section 216(h), DOE's authority is limited to coordination of environmental reviews and decision-making; project proponents remain responsible for meeting or complying with any State emissions reductions statutes. Additionally, regarding Gallatin Power's request that DOE clarify which DOE staff will

be assigned to qualifying projects, whether there will be certain designated staff assigned to these projects will depend on the particular project and is best addressed on a project-by-project basis. Regarding EDF's recommendation for DOE to consider co-location within abandoned rights-of-way, project proponents remain responsible for proposed routes, and they may consider co-location as appropriate. Regarding EDF's recommendation for DOE to use the CITAP Program as an opportunity to develop a database of rights-of-way, DOE finds it unnecessary to adopt any regulatory text to address this recommendation but may, through implementation of the program, develop various tools to inform the public.

VII. Section-by-Section Analysis

§ 900.1 Purpose and Scope

Section 900.1 provides a process for the timely and coordinated submission of information necessary for decision-making for Federal authorizations for siting of proposed electric transmission facilities pursuant to section 216(h) of FPA. This final rule revises § 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 changes in this section reflect DOE's intent to carry out the full scope of the authority that Congress provided. Paragraph (a) is added to establish the overarching CITAP Program and provide a roadmap to authorities and processes throughout part 900. This paragraph states that DOE will act as a lead agency for preparing an environmental review document for any qualifying project. Paragraph (a), as well as revised paragraph (d), identify DOE's role in establishing and monitoring adherence to intermediate milestones and final deadlines, as required by section 216(h).

This final rule revises the current regulatory text of § 900.1 by dividing it into paragraphs (b) through (d). Portions of the text dealing with the IIP Process have been 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 changes also clarify that the IIP Process is integrated into the CITAP Program.

In this final rule, DOE is adding 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, this section clarifies that nothing in the IIP Process is intended to abrogate the obligations of Federal agencies under 36 CFR part 800. Additionally, this section authorizes 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 redesignates 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. This final rule adds a new paragraph (f) to establish that DOE and the relevant Federal entities shall issue a joint decision document except where inappropriate or inefficient. This revision is to be consistent with NEPA regulations, including the Fiscal Responsibility Act of 2023, which codified processes to streamline the environmental review process and facilitate one Federal decision, be consistent with the Congressional intent of FPA 216(h), and enhance DOE's coordinating function. This final rule revises new paragraph (g) to clarify that DOE will serve as lead agency for consultation under section 7 of the ESA and section 106 of the NHPA unless the relevant Federal entities designate otherwise. This revision aligns the lead agency designation with the authorizing statutes.

This final rule also adds paragraph (h) 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 added this paragraph 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 has added language to indicate that the Director will consider modifications to the requirements under this part as may be necessary under the circumstances.

§ 900.2 Definitions

DOE redesignated § 900.3 as § 900.2 for the purpose of providing the definitions of terms before those terms occur in the body of the regulation. Section 900.2 provides definitions for various terms used throughout part 900. This final rule amends or adds the following definitions:

- Revises the term "affected landowner" to "potentially affected landowner" and revises the substance of that definition to include any owner of a real property interest whose interest is potentially affected by a project right-of-way, potential route, or proposed ancillary or access site. Adds a definition of "analysis area" to serve as a reference in locating the points in the IIP Process that analysis areas are established and modified.
- Adds a definition for "authorization" to provide clarity in several places where that term occurs. Amends the definition for "Federal authorization" to account for the new definition of "authorization."
- Adds 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. Adds a definition for "participating agencies" to serve as shorthand for the group of agencies that will serve various roles under the amendments to the coordination of Federal authorizations.
- Adds a definition of "NEPA joint lead agency" to identify where information about the designation of a NEPA joint lead agency occurs in the rule.
- Removes the term "OE-1," meaning the Assistant Secretary for DOE's Office of Electricity Delivery and Energy Reliability, and replaces 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 Redelegation 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 same substitution is made throughout part 900 to reflect that delegation change.

- Revises the reference to the definition of "Indian Tribe" in the United States Code to the correct reference following the 2016 editorial reclassification. This change does not amend the definition. Adds 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 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 are updated throughout part 900.
- Revises the definition for "regional mitigation approach" to a more general term of "mitigation approach." DOE revised this term because regional-level approaches and strategies may be too limiting for the needs at hand; instead, DOE wants to create the opportunity for discussion of all types of proposed mitigation for a given proposed project. In addition, DOE has revised the substance of this definition to clarify the meaning and more closely align with existing NEPA regulations regarding mitigation. Because the revisions to mitigation approach rendered "regional mitigation strategies or plans" redundant, DOE has removed that definition.
- Revises the definition for "MOU signatory agency" to mean any Federal entity that has entered into the currently effective MOU under section 216(h)(7)(B)(i) of the FPA. This change decouples the term from any particular MOU and keeps the rule current without requiring changes to the regulatory text. The term references the 2023 MOU as an example.

- Revises the definition for "qualifying project" in a number of ways. First, the revised definition removes 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 revised definition includes several factors for determining if a transmission line is regionally or nationally significant. Third, the revised definition limits 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. Fourth, in accordance with the 2023 MOU, this final rule revises 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 changes to § 900.3 and discussed further in that section. Fifth, in accordance with the 2023 MOU, the term excludes a transmission facility that are seeking a construction or modification permit from FERC pursuant to section 216(b) of the FPA. Sixth, the revised definition excludes 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 it is not replicated it in this definition for clarity. Seventh, the revision provides a mechanism under § 900.3 by which a project that does not meet the definition of a qualifying project under the first paragraph of the term may still participate in the Program. This change is discussed in more detail in the following section.
- Revises the definition for "project area" to clarify the scope of this term.
- Removes the definitions of "DOE" and "NEPA" because those terms are acronyms best addressed in the regulatory text rather than as definitions.
- Removes the definition of "FPA" because that term no longer occurs in the regulatory text.

- Removes 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 part 900.
- Removes the definition for "NEPA Lead Agency" because that term is self-explanatory in the context in which it occurs.
- Revises the term "stakeholder" for clarity and readability and includes "organization" in the definition to clarify that stakeholders are not just individuals.
- Revises the term "study corridor" to clarify that the term does not coincide with "permit area," "area of potential effect," "action area," or other terms specific to certain types of regulatory review.

§ 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." This final rule redesignates § 900.2 as § 900.3 and retains a mechanism by which projects that do not otherwise qualify as "qualifying projects" may be treated.

Section 900.2(b) is revised and redesignated as § 900.3(a)-(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, this final rule removes the definition of the term "other project" and instead includes the substance of that term in paragraph (a) of the revised section.

Paragraphs (a) and (e) of current § 900.2 are redesignated as paragraphs § 900.1(f) and (g), respectively, because those paragraphs contain general propositions regarding part 900 and are better suited to the general "Purpose and Scope" section. This final rule removes the first sentence of current § 900.2(e) as it is unnecessary because part 900 does not purport to affect other Federal law requirements except in specific, articulated instances.

Current paragraphs § 900.2 (g) and (h) are relocated to § 900.4 as paragraphs (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. Current § 900.2(d) is redesignated as paragraph (e) and a new paragraph (d) is added. New paragraph (d) provides factors that the Director of GDO may consider when determining if a proposed electric transmission facility should be considered a qualifying project and accepted into the CITAP Program.

Redesignated paragraph (e) is further amended. Whereas the current version of that paragraph provides that the section does not apply to a transmission facility that will require a construction or modification permit from FERC, this final rule amends the paragraph to allow such projects to take advantage of part 900, provided that the request to be included in the CITAP Program is submitted by a person with relevant authority under Delegation Order No. S1-DEL-FERC-2006 or any subsequent, similar delegation.

In addition, this final rule removes paragraph (f), which describes the IIP process as a complementary process that does not supplant existing pre-application processes, because this final rule establishes the IIP Process as the mandatory precondition for coordination under section 216(h).

This final rule adds new paragraphs (f) and (g)(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 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 moved to paragraph (g)(2) to improve the readability of the section.

§ 900.4 Purpose and Scope of IIP Process

Section 900.4 of the current rule states the purpose and structure of the IIP Process. This final rule divides this section into §§ 900.4, 900.5, 900.8, and 900.9 to improve readability. Section 900.4(a) of the current rule remains in § 900.4 but is further divided into paragraphs (a), (b), and (c) to improve readability.

Sections 900.4(j)(3)(i) through (iv) are redesignated as § 900.4(a)(1) through (8) and amended to reflect a new purpose. Current § 900.4(j)(3) requires the Federal entities at the initial meeting to identify reasonable criteria for adding, deleting, or modifying preliminary routes within the study corridors and lists nine criteria that should be included in the criteria that Federal entities identify. In contrast, new § 900.4(a) provides that those criteria should instead be used by the project proponent when identifying potential study corridors and potential routes. The change encourages the project proponent to utilize the criteria in identifying routes and corridors throughout the IIP Process, rather than just after the initial meeting. This final rule retains the requirement for DOE and other agencies to identify other criteria for adding or modifying potential routes and includes that the agencies should also identify criteria for potential study corridors as well.

Additionally, § 900.4(b) establishes the IIP Process as a prerequisite for coordination, consistent with the statutory language and the revisions to the purpose of part 900 in § 900.1. This final rule adds 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.

This rule redesignates § 900.2(g) and (h) as § 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.

Section § 900.4 gives new 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, this final rule adds 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 establish the mechanisms through which the IIP Process complies with 10 CFR 1004.11 and 1004.13.

§ 900.5 Initiation of IIP Process

Section 900.5 is composed of current § 900.4(b), (c), (e), (g), (h), (i), and (j). This final rule revises 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. This final rule revises the contents of the request. First, this final rule updates the contents required in the summary of the qualifying project in 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. This final rule also adds new requirements for additional maps as part of the initiation request, as detailed in paragraph (c). DOE believes the additional information in paragraphs (b) and (c) is necessary to properly identify the relevant agencies for efficient coordination.

Additional requirements are added in this final rule to require submission of a project participation plan as part of the initiation request. This plan is in place of the summary of early identification of project issues currently required under the current regulation. The project participation plan, as detailed in paragraph (d), will 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 regulation will 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 complements 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.

This final rule adds a new paragraph (e), 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. This final rule adds requirements for project proponents to indicate whether their proposed project currently is a FAST-41 "covered project".

This final rule adds paragraph (f), which gives DOE 20 days from the receipt of the initiation request to determine whether the initiation request is sufficient and whether the proposed electric transmission facility is a qualifying project. In that same timeframe, paragraph (f) requires DOE to provide relevant Federal entities and relevant non-Federal entities with a copy of the initiation request and notify the project proponent and all relevant Federal entities and relevant non-Federal entities whether the initiation request is sufficient and whether the proposed facility is a qualifying project.

This final rule adds a new paragraph (g), to provide clarity to the process that DOE and the project proponent must follow if DOE determines that the initiation request is insufficient or that the proposed facility is not a qualifying project. Paragraph (g) dictates that DOE must give the project proponent the rationales for the determinations. It also provides that the project proponent may file a request for coordination with the Director of the GDO as provided in § 900.3, if DOE determines that the proposed facility is not a qualifying project.

This final rule removes 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 is replaced by thirteen resource reports submitted after the IIP Process initial meeting.

Section 900.5(j) is redesignated as § 900.5(h), and the content of that section is amended to reflect a new timeline for convening the IIP Process initial meeting and updates to the discussions that must occur at the meeting. The timeline for convening the initial meeting has been reduced from 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 to within 15 days of providing notice under paragraph (f) that the initiation request meets the requirements of the section.

Likewise, the contents of the initial meeting have been updated. Section 900.5(h)(1) is added to require DOE and the relevant Federal entities to discuss the IIP Process and

requirements with the project proponent, the different Federal authorization processes, and 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.

This final rule adds § 900.5(h)(2) to 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 a project proponent 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.

This final rule adds § 900.5(h)(3) requiring DOE to establish all analysis areas necessary for the completion of resource reports required under § 900.6. By requiring DOE to establish the analysis areas at this early stage of the IIP Process, this final rule enables and encourages the project proponent to begin assembling the resource reports soon after the proposed project is accepted into the CITAP Program.

As discussed in the previous section, § 900.4(j)(3)(i) through (iv) are redesignated as § 900.4(a)(1) through (8) to encourages the project proponent to utilize the criteria in those paragraphs when in identifying potential routes and study corridors. Section 900.5(h)(5) retains the requirement in § 900.4(j)(3) for DOE and other agencies to identify other criteria for adding or modifying potential routes but adds that the agencies should also identify criteria for potential study corridors as well. Section 900.5(h)(5) is further amended to include a requirement that DOE and the relevant Federal entities discuss study corridors and potential routes identified by the project proponent and the criteria used to identify those corridors and routes.

This final rule revises the requirement that DOE produce a draft initial meeting summary within 15 calendar days after the meeting to 10 calendar days, and the revises the time that participating Federal entities and Non-Federal entities, and the project proponent will then have to provide corrections to the draft summary from 15 calendar days to 10 calendar days. Additionally, this final rule revises the requirement that DOE produce a final initial meeting summary within 30 days of receiving corrections to the draft summary to 10 days. All three changes are intended to expedite the IIP Process.

This final rule revises this section to add the requirement in § 900.6 that requires DOE to add the final initial meeting summary to the consolidated administrative docket.
Finally, this final rule removes portions of paragraph (j)(3)(v) because the contents are addressed elsewhere.

§ 900.6 Project Proponent Resource Reports

This final rule adds a new § 900.6 to add requirements for 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 will 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 and hazards; Soil resources; Land use, recreation, and aesthetics; Communities of interest; Air quality and noise effects; Alternatives; Reliability, resilience, and safety; and Tribal interests. This final rule renumbers the resource reports in response to a comment, as discussed in section VI.L of this document.

This final rule adds requirements for project proponents to 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 section 900.4(d). The resource reports identify information needed to complete NEPA and other review and authorization requirements. However, the topics identified and the 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. To address possible differences in information required for onshore and offshore project environments, the final rule allows the Director to modify the requirements of resource reports to ensure that the reports adequately cover their intended purpose. 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. DOE anticipates that these reports will inform its work to meet its requirements under the various environmental laws referenced above. 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 will be developed by project proponents during the IIP Process with input and feedback from the Federal and non-Federal entities involved in authorization decisions. This procedure better matches the IIP Process with the project development and Federal review timelines. Under these changes, a project proponent may initiate the IIP Process without detailed environmental resources information, but the detailed information required by this section must be developed to complete the IIP Process. The more detailed pre-application information, presented in the resource reports, will 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.

§ 900.7 Standard and Project-Specific Schedules

This final rule adds a new § 900.7 to amend how DOE will carry out its obligation to "establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility" pursuant to section 216(h). 16 U.S.C. 824p(h)(4)(A). Specifically, this final rule adds a description for the "standard schedule," which DOE will publish as guidance and update from time to time. The standard schedule is not project specific. Rather, 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. 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 below, DOE will develop this schedule with the NEPA joint 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 provision is intended to specify the considerations that DOE will incorporate into its determination of the appropriate project-specific schedule including joint 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 paragraph (b).

§ 900.8 IIP Process Review Meeting

This final rule amends 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, this final rule establishes 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, this final rule adds a requirement for a project proponent requesting the review meeting to update DOE on the status of the project's public engagement and provide updated environmental information.

This final rule adds that the IIP Process review meeting will 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, this final rule adds a requirement in paragraph (f) 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, the meeting participants will provide updates on the siting process, including stakeholder outreach and input. To facilitate these discussions, paragraph (a) is added to state 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, an updated public engagement plan and timeline information including dates on which any applications were already filed, estimated dates for filing remaining applications with Federal and non-Federal entities, and a proposed duration for each Federal land use authorization expected to be required for the proposed project.

Additionally, the IIP Process review meeting will 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, the review meeting will only be held after submission of the reports. Section 900.8(f)(8) is added to state that during the IIP Process review meeting, DOE and the relevant Federal and non-Federal entities will identify any updates to the information included in those reports that the project proponent must make before the conclusion of the IIP Process. Finally, this final rule adds in § 900.8(k) the requirement that the project proponent 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 a single environmental review document and increase the likelihood of readiness of the project proponent's application(s) for Federal authorization(s).

Furthermore, the IIP Process review meeting will integrate DOE's statutory schedule-setting function discussed in the previous section into the IIP Process. For this purpose, the review meeting request under 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 § 900.8(f)(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.

This final rule adds a requirement in paragraph (b) that within 10 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 the initial resource reports submitted under § 900.6. In paragraph (c), DOE believes a 60-day period is necessary to review the request for sufficiency and provide notice to the proponent and relevant Federal and non-Federal agencies and provides in paragraph (d) that it will provide reasons for any findings of insufficiency and

how the project proponent may address them for reconsideration. Furthermore, this final rule adds a requirement in paragraph (e) that the review meeting will convene within 15 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 initial resources reports in paragraph (b) will ensure that all entities participating in the meeting have access to the materials being discussed at the meeting.

This final rule adds requirements in paragraphs (g), (h), and (i) that the IIP Process review meeting will conclude with a draft and, subsequently, a final review meeting summary, to be prepared by DOE. This summary will be included in the consolidated administrative docket described by § 900.10. It will 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.

This final rule adds paragraph (j) 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 will 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.

§ 900.9 IIP Process Close-Out Meeting

This final rule amends the close-out meeting provisions of the current rule at § 900.4(k) and (l). The IIP Process will conclude with the close-out meeting. This final rule adds the requirement of submission of a close-out meeting request to specify the modifications to the project since the review meeting. This final rule removes the requirement in this section that states that the request may be submitted no less than 45 days after the initial meeting. DOE removes that requirement because changes to the IIP Process in this final rule no longer allow for a request to be submitted within that timeframe.

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

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

This final rule revises the timelines for requesting and convening a close-out meeting. In current paragraphs (1), (2), and (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 provides in paragraph (b) that within 10 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 as required under § 900.8. 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 paragraph (d), if DOE

determines that the meeting request or updated resource reports are insufficient then DOE will provide reasons and how deficiencies may be addressed. Under paragraph (e), DOE will convene the close-out meeting within 15 days of notifying the project proponent that the request and updated resource reports have 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 removed the requirement that the substance of the close-out meeting 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. This information is covered at the review meeting under § 900.8(d). Likewise, DOE eliminated paragraphs (l)(3)(ii), (iii), (iv), and (v) because that information is now required to be discussed at the review meeting. DOE added 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 previously explained, the project-specific schedule will include the intermediate milestones and final deadlines for review of the project proponent's application and related environmental reviews.

This final rule removes 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." This final rule adds a provision to select the NEPA joint lead agency earlier in the IIP Process to allow for sufficient coordination.
DOE removed paragraph (l)(3)(vi) because the information covered by the Final IIP Resources Report will be covered by the thirteen resources reports. Additionally, DOE removed paragraph (l)(3)(vii), which encourages agencies to use the Final IIP Resources Report to inform the NEPA Process. Instead, this final rule adds a new requirement at § 900.12(f) to require all relevant

Federal entities to use the single environmental review document as the basis for Federal authorization decisions. That requirement is discussed in more detail as follows.

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

Paragraphs (g), (h), and (i) provide that the IIP Process close-out meeting will conclude with a draft and, subsequently a final close-out meeting summary, to be prepared by DOE. This summary will be included in the administrative docket. It would serve as a summary 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 (i)(4), in accordance with the 2023 MOU, DOE will notify the 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).

In paragraph (j), DOE and the NEPA joint lead agency shall issue a notice of intent to publish an environmental review document within 90 days of the later of the IIP Process close-out meeting or the receipt of a complete application for a Federal authorization for which NEPA review will be required, as consistent with the final project-specific schedule to enable DOE to implement its coordinating authority under FPA section 216(h).

Finally, in paragraph (k), in accordance with section 313(h)(8)(A)(i) of the FPA, DOE shall issue, for each Federal land use authorization for a proposed electric transmission facility, a preliminary duration determination commensurate with the anticipated use of the proposed facility.

§ 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 dispenses with the IIP Process Administrative File and combines 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, this final rule amends and redesignates 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 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 joint lead NEPA agency. However, this final rule adds in paragraph (c) the requirement that DOE make the consolidated administrative docket available to both the NEPA joint lead agency and any Federal or non-Federal entity that will issue an authorization for the project. This change ensures that other entities are able to use the docket for their own authorizations. Consequently, this final rule removes paragraph (d), which says that Federal entities are strongly encouraged to maintain information developed during the IIP Process.

This final rule adds 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 joint 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.

This final rule adds a new paragraph (e) providing that upon request, any member of the public may be provided materials included in the docket, excluding any materials protected as CEII or as confidential under other processes. This addition is to support stakeholder engagement in the IIP Process.

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

§ 900.11 NEPA Lead Agency and Selection of NEPA Joint Lead Agency

This section states that DOE serves in the NEPA lead agency role contemplated in section 216(h) except where a joint lead is designated, in which case DOE serves as a joint lead. 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.

This final rule redesignates § 900.5 to a new § 900.11 and amends 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 joint 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 joint 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 proposed project would serve as lead agencies jointly responsible for preparing an EIS under NEPA. Section 900.11(b) reflects that agreed-upon process.

These 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 joint lead agency.

§ 900.12 Environmental Review

Consistent with DOE's role as lead agency, a new § 900.12 is added to define DOE's responsibilities as lead agency for environmental reviews and the NEPA process, including by preparing a single environmental review document designed to serve the needs of all relevant Federal entities. In paragraph (a) of this section, this final rule clarifies that DOE will begin preparing an environmental review document 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 joint lead agency selected under § 900.11.

The other provisions of this section specify details of DOE's—and any NEPA joint 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. This final rule provides that except where inappropriate or inefficient to do so, the Federal agencies shall issue a joint record of decision, inclusive of all relevant Federal authorizations including the determination by the Secretary of Energy of a duration for each land use authorization issued under section 216(h)(8)(A)(i). This joint-decision provision is added to be consistent with NEPA regulations, including the Fiscal Responsibility Act of 2023, which codified processes to streamline the environmental review process and facilitate one Federal decision, be consistent with the Congressional intent of FPA 216(h), and enhance DOE's coordinating function.

Consistent with section 216(h)(5)(A), which requires that DOE's environmental review document serve as "the basis for all decisions on the project under Federal law," paragraph (f) is added to establish that the relevant Federal agencies will use the environmental review document as the basis for their respective decisions.

Finally, paragraph (g) is added to specify that DOE will serve as lead agency for purposes of consultation under the ESA and compliance with the NHPA unless the relevant Federal entities designate otherwise. This provision will allow DOE to meet its obligation under section 216(h)(2) to coordinate "all . . . related environmental reviews of the facility."

§ 900.13 Severability

Section § 900.13 provides that the provisions of this final 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 would still function sensibly and shall continue in effect. This 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 this final 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.

VIII. 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 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 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 final rule. 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 these regulations and therefore the investment of time and resources required by this process are unlikely to be an additional burden on respondents. However, the full costs are considered in this analysis for transparency. These costs of $439,000 per year are detailed in the Paperwork Reduction Act burden analysis. The table below captures the 10-year and 20-year net present value of those annual costs under two discount rates (3% and 7%).

CITAP Program NPV Cost Estimates*

Discount Rate	3%	7%
10-year NPV	$3,745,000	$3,083,000
20-year NPV	$6,531,000	$4,651,000

*10-year analysis is 2024-2033, 20-year analysis is 2024-2043. NPV estimates provided in 2024$.

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.

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.[15] 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.[16]

The DOE Grid Deployment Office released the 2023 National Transmission Needs Study (Needs Study), which identified significant need for the expansion of electric transmission across

[15] 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*.

[16] *Id.*

the contiguous United States.[17] The 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.[18]

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.[19] A 2022 study by Lawrence Berkeley National Lab found that between 2012 and 2021, a 1000 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.[20] 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 in the past 17 years. With decreased authorization times after the

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[17] DOE, National Transmission Needs Study (Oct. 2023), available at *https://www.energy.gov/sites/default/files/2023-12/National%20Transmission%20Needs%20Study%20-%20Final_2023.12.1.pdf*

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

[19] (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*.

[20] Millstein, *et al.*, 2022, 15.

CITAP Program is initialized, the additional capacity enabled by this action would likely provide substantial congestion relief, consistent with the studies cited previously.

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.[21] 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.[22] 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_2 equivalent) in 2030 alone.[23] 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.[24] 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

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[21] 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*.

and

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.

[22] 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.

[23] *Id.*

[24] *Technical support document: Social cost of carbon, methane,* (2021) *whitehouse.gov,* 5. Available at: *https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf*.

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 non-monetized benefits of the CITAP Program to the public are expected to far offset the monetized 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*).

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that this final rule will 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 amendments to part 900 will 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 final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this 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

This final 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 *et seq.*). The request to approve and revise this collection requirement has been submitted to OMB for approval. The amendments are intended to improve the pre-application procedures and result in more efficient processing of applications.

This final rule modifies certain reporting and recordkeeping requirements included in OMB Control No. 1910-5185 which is an ongoing collection. The 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 revisions include requiring that a project proponent provide: (1) additional maps and information for the summary of proposed 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 environmental review document 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 and hazards; Soil resources; Land use, recreation, and aesthetics; Communities of interest; Air quality and noise effects; Alternatives; Reliability, resilience, 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 revisions 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 final rule 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 Number/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 X Number of Hours per response)	Estimated Reporting and Recordkeeping Cost Burden**

Current Rule Estimate of Annual Respondent Reporting and Recordkeeping Burden and Cost					
Section 900.2	5	5	1	5	$ 283
Section 900.4	5	10	5	50	$ 2,830
TOTAL		**15**		**55**	**$ 3,113**
Final Rule Estimate of Annual Respondent Reporting and Recordkeeping Burden and Cost					
Initiation Request	3	3	30	90	$ 5,855
Initial Meeting	3	3	8	24	$ 1,561
Resource Report 1: General project description	3	3	110	330	$ 21,467
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: Tribal interests	3	3	160	480	$ 31,224
Resource Report 7: Communities of interest	3	3	96	288	$ 18,734
Resource Report 8: Geological resources and hazards	3	3	160	480	$ 31,224
Resource Report 9: Soil resources	3	3	200	600	$ 39,030
Resource Report 10: Land use, recreation and aesthetics	3	3	224	676	$ 43,714
Resource Report 11: Air quality and noise effects	3	3	220	660	$ 42,933

Resource Report 12: Alternatives	3	3	160	480	$ 31,224
Resource Report 13: Reliability, resilience, and safety	3	3	100	300	$ 19,515
Review Meeting Request	3	3	1	3	$ 195
Review Meeting	3	3	4	12	$ 781
Close-Out Meeting Request	3	3	1	3	$ 195
Close-Out Meeting	3	3	2	6	$ 390
TOTAL	**3**	**3**	**2,134**	**6,402**	**$ 421,720**

*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*.

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 final rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this final rule is covered under the categorical exclusion located at 10 CFR part 1021, subpart D, appendix A, Categorical Exclusion A5 because this final rule revises 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 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 final 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 notice and has determined that this final rule will not preempt State law and will 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. This final rule aims to improve the coordination of Federal authorizations for proposed interstate electric transmission facilities pursuant to the FPA. Specifically, the amendments are intended to refine the pre-application procedures and result in more efficient processing of applications. As a result, the amendments to part 900 do not have substantial direct effects on one or more Indian Tribes, will not impose substantial direct compliance costs on Indian Tribal governments, and will 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.

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 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*). DOE examined this final 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 this final 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 final 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 final rule will 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 rule that may affect family well-being. This final 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 final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

IX. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that the Office of Information and Regulatory Affairs has determined that the rule does not meet the criteria set forth in 5 U.S.C. 804(2).

X. Rehearing

This rule is a final order subject to section 313 of the FPA (16 U.S.C. 825l). Accordingly, any party seeking judicial review of this rule must first seek rehearing before the Department. A request for rehearing must be submitted in accordance with the **FOR FURTHER INFORMATION CONTACT** portion of this rule, within 30 days of the issuance of this rule. A request must concisely state the alleged errors in the final rule and must list each issue in a separately enumerated paragraph; any issue not so listed will be deemed waived.

XI. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this final rule.

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 April 11, 2024, 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 April 12, 2024.

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

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

PART 900 - COORDINATION OF FEDERAL AUTHORIZATIONS FOR ELECTRIC TRANSMISSION FACILITIES

Sec.

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 proposed electric transmission facility. Pursuant to section 216(h)(4)(A), this part establishes the mechanism by which DOE will set prompt and binding 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) joint lead agency and in consultation with the relevant Federal entities, as applicable, DOE will prepare a single environmental review document, which will be designed to serve the needs of all relevant Federal agencies and inform all Federal authorization decisions on the proposed electric transmission project.

(b) This part provides a process for the timely submission of information needed for Federal decisions related to authorizations for siting proposed electric transmission projects. This

part seeks to ensure that these projects are developed consistent with the nation's environmental laws, including laws that address 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 proposed 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. In addition, the IIP Process facilitates early identification of potential siting constraints and opportunities. The IIP Process promotes thorough and consistent stakeholder engagement by a project proponent. At the close-out of each IIP Process, DOE will establish the schedule for all Federal reviews and authorizations required to site a proposed electric transmission facility, in coordination with the relevant Federal entities.

(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 determine it has an undertaking with the potential to affect historic properties and may, at that time, 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 lead for the section 106 process, consistent with DOE's role as lead or joint 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 proposed electric transmission projects. 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 proposed electric transmission project. Where the principal project developer is itself a Federal entity that would be otherwise expected to prepare an environmental review document 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:

Analysis area means a geographical area established for a resource report at the IIP Process initial meeting and modified at the IIP Process review meeting, if applicable.

Authorization means any license, permit, approval, finding, determination, or other administrative decision required under Federal, Tribal, State, or local law to site a proposed electric transmission facility, including special use authorization, certifications, opinions, or other approvals.

Communities of Interest means the following communities that could be affected by a proposed electric transmission project: disadvantaged communities; rural communities; Tribal communities; indigenous communities; geographically proximate communities; communities with environmental justice concerns; and energy communities.

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).

Mitigation approach means an approach that applies a conceptual plan to identify appropriate measures to avoid, minimize, or compensate for potential impacts to resources from a proposed electric transmission project, consistent with 40 CFR 1508.1(s) or any successor regulation. A mitigation approach identifies the needs and baseline conditions of targeted resources, potential impacts from the proposed project, cumulative impacts of past and reasonably foreseeable future disturbances to those resources, and future disturbance trends, then uses this information to identify priorities for measures across the relevant area. 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).

MOU signatory agency means a Federal entity that has entered into the currently effective memorandum of understanding (MOU) under section 216(h)(7)(B)(i) of the Federal Power Act, such as the interagency 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 joint lead 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.

Potentially affected landowner means an owner of a real property interest that is potentially affected directly (e.g., crossed or used) or indirectly (*e.g.*, changed in use) by a project right-of-way, potential route, or proposed ancillary or access site, as identified in § 900.6.

Project area means the area located between the two end points of the proposed electric transmission facility containing the study corridors selected by the project proponent for in-depth consideration for the proposed project and the immediate surroundings of the end points of the proposed facility. The project area does not necessarily coincide with "permit area," "area of potential effect," "action area," or other terms specific to a certain type of regulatory review.

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

Qualifying project means:

(1) A proposed electric transmission line and its attendant facilities:

(i) That will either be a high-voltage (230 kV or above) line or a regionally or nationally significant line, as determined by DOE based upon relevant factors, including but not limited to, reduction in congestion costs for generating and delivering energy, mitigation of weather and variable generation uncertainty, and enhanced diversity of supply;

(ii) Which is expected to be used, in whole or in part, for the transmission of electric energy in interstate or international commerce for sale at wholesale;

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

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

(v) Which is not seeking a construction or modification permit from FERC pursuant to section 216(b) of the Federal Power Act (16 U.S.C. 824p(b)); and

(vi) Which will not be wholly located within the Electric Reliability Council of Texas interconnection; or

(2) Any other proposed 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 proposed electric transmission project, that is responsible for issuing a Federal authorization for the proposed project, that has relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the proposed project, or that provides funding for the proposed 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 proposed electric transmission project, that has relevant expertise with respect to environmental and other issues pertinent to or potentially affected by the proposed project, or that provides funding for the proposed 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 Office 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 proposed electric transmission facility could be sited that is:

(1) Wide enough to allow minor adjustments in the alignment of the proposed facility 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, interested non-governmental organization, potentially affected landowner, or other interested person or organization.

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

§ 900.3 Applicability to other projects.

(a) Following the procedures set out in this section, the Director may determine that a proposed 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 requestor seeking DOE assistance under this part for a proposed 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

proposed 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 proposed 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 proposed facility is not a qualifying project, a justification of that determination, and an indication that the project proponent must follow the procedures of each relevant Federal entity that has jurisdiction over the proposed facility without DOE performing a coordinating function.

(d) In making the determination whether a proposed electric transmission facility is a qualifying project, the Director may consider:

(1) Whether the proposed facility would benefit from CITAP Program coordination;

(2) Whether the proposed facility would result in reduced congestion costs for generating and delivering energy;

(3) Whether the proposed facility would result in mitigation of weather and variable generation uncertainty;

(4) Whether the proposed facility would result in an enhanced diversity of supply; and

(5) Any other relevant factors, as determined by the Director.

(e) For a proposed facility that is seeking a construction or modification permit pursuant to section 216(b) of the Federal Power Act, DOE may only consider a request for assistance under this section if the request under paragraph (b) of this section is consistent with Delegation Order No. S1-DEL-FERC-2006 or any similar, subsequent delegation that the Secretary may order.

(f) At the discretion of the MOU signatory agencies, this section may be applied to a proposed electric 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.

(g) This section does not apply to:

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

§ 900.4 Purpose and scope of IIP Process.

(a) The Integrated Interagency Pre-Application (IIP) Process is intended for a project proponent who has identified potential study corridors or potential routes and the proposed locations of any intermediate substations for a proposed electric transmission project. To the extent possible, the project proponent should use the following criteria to identify potential study corridors and potential routes:

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

(2) Potential cultural resources, sacred sites, and historic properties that may be eligible for or listed in the National Register of Historic Places;

(3) 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 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 Tribes, 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, National Historic Landmarks, units of the National Park System, national marine sanctuaries, and marine national monuments;

(4) Opportunities to site potential 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, 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), existing rights-of-way, National Interest Electric Transmission Corridors designated under Federal Power Act section 216(a), or utility corridors identified in a land management plan);

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

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

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

(8) Potential avoidance, minimization, offsetting, and compensatory (onsite and offsite) measures, developed through a mitigation approach to reduce or offset the potential impact of the proposed project to resources requiring mitigation.

(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 proposed electric transmission project, the project proponent's siting process, and the environmental and community setting being considered by the project proponent for siting the proposed electric transmission facility; 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, in accordance with applicable law. The project proponent must request confidential treatment for all material

filed with DOE containing non-public 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 proposed electric transmission 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 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 proposed project.* The summary of the proposed electric transmission project may not exceed 10 single-spaced pages unless the project proponent requests a waiver of the page limit, including a rationale for the waiver, and DOE grants the waiver. The summary 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 proposed project or the need for the proposed project; and

(ii) Any relevant interconnection requests;

(4) A description of potential study corridors and routes identified by the project proponent and a brief description of the evaluation criteria and methods used by the project proponent to identify and develop those corridors and routes;

(5) A brief description of the proposed 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 proposed project;

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

(c) *Maps, geospatial information, and studies.* The initiation request must include maps, geospatial information, and studies in support of the information provided in the summary of the proposed project under paragraph (b) of this section. Maps must be of sufficient detail to identify the study corridors and potential 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 in these materials should be submitted in accordance with § 900.4(h);

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

(3) Existing data or studies relevant to the summary of the proposed project; and

(4) Citations identifying sources, data, and analyses used to develop the summary of the proposed project.

(d) *Project participation plan.* The project participation plan, which may not exceed 10, single-spaced pages, summarizes the 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, as well as any entities and organizations interested in the proposed electric transmission project;

(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 proposed project and the rights that the owners 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 study 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 or issues 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 public communications and public information, including whether the project proponent will have a readily accessible, easily identifiable, single point of contact.

(e) *FAST-41 statement.* The FAST-41 statement required under paragraph (a) of this section must specify the status of the proposed electric transmission project pursuant to FAST-41 at the time of submission of the initiation request. The statement must either:

(1) State that 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) *Initiation request determination.* Not later than 20 calendar days after the date that DOE receives an initiation request, DOE shall:

(1) Determine whether the initiation request meets the requirements of this section and, if not previously determined under § 900.3, whether the proposed electric transmission facility is a qualifying project;

(2) Identify the relevant Federal entities and relevant non-Federal entities and provide each with an electronic copy of the initiation request; and

(3) Give notice to the project proponent and relevant Federal and non-Federal entities of DOE's determinations under paragraph (f)(1) of this section.

(g) *Deficiencies.* If DOE determines under paragraph (f)(1) of this section that the initiation request does not meet the requirements of this section, DOE must 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. If DOE determines under paragraph (f)(1) of this section that the proposed electric transmission facility is not a qualifying project, DOE must provide a justification for the determination and the project proponent may file a request for coordination with the Director as provided in § 900.3. A project

to site a proposed electric transmission facility that is not a qualifying project is not eligible for participation in the IIP Process.

(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 (f) of this section as soon as practicable and no later than 15 calendar days after the date that DOE provides notice under paragraph (f) 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) DOE will establish all analysis areas necessary for the completion of resource reports required under § 900.6;

(4) The project proponent shall describe the proposed electric transmission project and the contents of the initiation request;

(5) 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, discuss the study corridors and potential routes identified by the

project proponent, discuss the evaluation criteria and methods used to identify those corridors and routes and, to the extent possible and based on agency expertise and experience, identify any additional criteria for adding or modifying potential routes and study corridors;

(6) DOE and the relevant Federal entities will discuss, based on available information provided by the project proponent, any surveys and studies that may be required for potential routes and completion of the resource reports, including biological (including threatened and endangered species or avian, aquatic, and terrestrial species and aquatic habitats of concern), visual, cultural, economic, social, health, and historic surveys and studies.

(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 10 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 10 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 10 calendar days following the close of the 10-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 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. 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 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. If material required for one resource report is provided in another resource report or in another exhibit, it may be incorporated by reference. If outside material is reasonably available for review and comment, a resource report may incorporate that material by reference by including a citation to the material and a brief summary of the material. Consistent with §§ 900.1(h) and 900.4(g), the Director may modify the requirements of this section to reflect differences in onshore and offshore environments and uses.

(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 Process 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 proposed electric transmission project;

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

(3) Identify the potential effects of construction, operation (including maintenance and malfunctions), and termination of the proposed 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, minimize, or compensate for potential adverse effects of the proposed project; and

(5) Provide a list of publications, reports, and other literature or communications, including agency communications, that were cited or relied upon to prepare each report.

(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 relevant Federal entities 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 should describe all expected facilities associated with the project, special construction and operation procedures,

construction timetables, future plans for related construction, and permits, authorizations, and consultations that are expected to be required for proposed project. Resource Report 1 must:

(1) Describe and provide location maps of all facilities to be constructed, modified, abandoned, replaced, or removed, including facilities related to 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 (*e.g.*, connections to existing substations and transmission, and existing access roads);

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

(3) Identify facilities constructed by other entities that are related to the proposed project (*e.g.*, fiber optic cables) and where those facilities would be located;

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

(i) A brief description of the 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; and

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

(5) Provide any communications with the appropriate State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs) regarding cultural and historic resources in the project area;

(6) To the extent known, identify the permits, authorizations, and consultations that are expected to be required for proposed project, including consultation under section 106 of the NHPA, consultation under section 7 of the Endangered Species Act of 1973 (Pub. L. 93-205, as amended, 16 U.S.C. 1531 *et seq.*), consistency determinations under the Coastal Zone

Management Act (CZMA), and permits under the Clean Water Act (33 U.S.C. 1251 *et seq.*) (CWA);

(7) Describe any developments in obtaining authorizations and permits or completing required consultations for the proposed project 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 resource report;

(8) If the project includes abandonment of certain facilities, rights-of-way, or easements, identify and describe the following:

(i) facilities, rights-of-way, or easements that the project proponent plans to abandon;

(ii) how the facilities, rights-of-way, or easements would be abandoned;

(iii) how the abandoned facilities, rights-of-way, and easements would be restored;

(iv) the owner of the facilities, rights-of-way, or easement after abandonment;

(v) the party responsible for the abandoned facilities, rights-of-way, or easement;

(vi) whether landowners were or are expected to be given the opportunity to request that the abandoned facilities on their property, including foundations and below ground components, be removed; and

(vii) landowners whose preferences regarding abandoned facility removal the project proponent does not intend to honor and reasons why the project proponent does not intend to honor those preferences;

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

(10) Describe estimated workforce requirements for the proposed project, 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;

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

(12) Provide the names and mailing addresses of all potentially affected landowners identified by the project proponent, identify which potentially affected landowners have been notified by the project proponent, and describe the methodology used to identify potentially affected landowners;

(13) Summarize the proposed mitigation approach anticipated by the project proponent to reduce the potential impacts of the proposed project to resources warranting or requiring mitigation; and

(14) Describe how the proposed 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 should describe water resources that may be impacted by the proposed project, describe the potential impacts on these resources, and describe the measures taken to avoid and minimize adverse effects to such water resources, where appropriate. Resource Report 2 must:

(1) Identify surface water resources, including perennial waterbodies, intermittent streams, ephemeral waterbodies, municipal water supply or watershed areas, specially designated surface water protection areas and sensitive waterbodies, floodplains, and wetlands, that would be crossed by a potential route;

(2) For each surface water resource that would be crossed by a potential route, identify the approximate width of the crossing, State water quality classifications, any known potential

pollutants present in the water or sediments, and any downstream potable water intake sources within the applicable analysis area;

(3) Describe typical staging area requirements at surface water resource crossings and identify and describe each potential surface water crossing where staging areas are likely to be more extensive and could require a mitigation approach to address potential impacts to the water resource;

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

(5) For each wetland crossing, identify the milepost of the crossing, 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) Describe and provide data supporting the expected impact of the proposed project on surface and groundwater resources;

(8) Describe and provide data supporting proposed avoidance and minimization measures as well as protection or enhancement measures that would reduce the potential for adverse impacts to surface and groundwater resources, and discuss any potential compensation expected to be provided for remaining unavoidable impacts to water resources due to the proposed project;

(9) Identify the location of known public and private groundwater supply wells or springs within the applicable analysis area;

(10) Identify locations of EPA or State-designated principal-source aquifers and wellhead protection areas crossed by a potential route;

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

(12) Indicate whether the project proponent expects that a water quality certification (under section 401 of the CWA) will be required for any potential routes.

(h) *Resource Report 3 – Fish, wildlife, and vegetation.* This report should identify and describe potential impacts to aquatic and terrestrial habitats, wildlife, and plants from the proposed project and discuss potential avoidance, minimization, or compensation measures, and enhancement or protection measures to reduce adverse impacts to these resources. Resource Report 3 must:

(1) Describe aquatic habitats that occur in the applicable analysis area, including commercial and recreational warmwater, coldwater, and saltwater fisheries and associated significant habitats such as spawning or rearing areas, estuaries, and other essential fish habitats;

(2) Describe terrestrial habitats that occur in the project area, including wetlands, typical wildlife habitats, and rare, unique, or otherwise significant habitats;

(3) Identify fish, wildlife, and plants that may be affected by the proposed project, including 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 by the proposed project, 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 the proposed project on aquatic and terrestrial habitats, including potential loss and fragmentation;

(6) Describe the potential impact of the proposed project on Federally listed, candidate, or proposed endangered or threatened species, State, Tribal, and local species of concern, and

those species' habitats, including the possibility of a major alteration to ecosystems or biodiversity;

(7) Describe the potential impact of maintenance, clearing, and treatment of the applicable analysis area on fish, wildlife, and plant life;

(8) Identify all Federally listed, candidate, or proposed endangered or threatened species that may be affected by the proposed project and proposed or designated critical habitats that potentially occur in the applicable analysis area;

(9) Identify all State, Tribal, and local species of concern that may be affected by the proposed project;

(10) 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 the applicable analysis areas. These identifications should coincide with the USFWS's most current range and location maps at the time this resource report is submitted;

(11) 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;

(12) Include the results of any appropriate surveys that have already been conducted, as well as plans and protocols for future surveys. If potentially suitable habitat is present, species-specific surveys may be required;

(13) If present, identify all Federally designated essential fish habitat (EFH) that occurs in the applicable analysis area and provide:

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

(ii) The results of discussions with National Marine Fisheries Service; and

(iii) Any resulting EFH assessments that were evaluated, and EFH Conservation Recommendations that were provided by the National Marine Fisheries Service;

(14) Describe potential avoidance, minimization, or compensation measures, and enhancement or protection measures to address adverse effects described in paragraphs (h)(5), (6), and (7) of this section;

(15) Describe anticipated site-specific mitigation approaches for fisheries, wildlife (including migration corridors and seasonal areas of use), grazing, and plant life;

(16) Describe proposed measures to avoid and minimize incidental take of Federally listed and candidate species and species of concern, including eagles and migratory birds; and

(17) Include copies of any correspondence not otherwise provided pursuant to this paragraph (h) containing recommendations from appropriate Federal, State, and local fish and wildlife agencies to avoid or limit impact on wildlife, fish, fisheries, habitats, and plants, and the project proponent's response to those recommendations.

(i) *Resource Report 4 – Cultural resources.* This report should describe the location of known cultural and historic resources, previous surveys and listings of cultural and historic resources, the potential effects that construction, operation, and maintenance of the proposed project will have on those resources, and initial recommendations for avoidance and minimization measures to address potential effects to those resources. 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 known cultural and historic resources in the applicable analysis area including but not limited to those listed or eligible for listing on the National Register of Historic Places, such as properties of religious and cultural significance to Indian Tribes, and any material remains of past human life or activities that are of an archeological interest;

(ii) A description of potential effects that construction, operation, and maintenance of the proposed project will have on 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 of the proposed project;

(v) Any relevant existing surveys or listings of cultural and historic resources in the affected environment; and

(vi) Recommendations for any additional surveys needed; and

(vii) A description, by milepost, of any area that has not been surveyed due to a denial of access by landowners.

(2) The project proponent must update this report with the results of any additional surveys that the project proponent chooses to undertake, as identified in in paragraph (i)(1)(vi) of this section, after the initial submission of this report.

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

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

(1) Describe the socioeconomic resources that may be affected in the applicable analysis area;

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

(3) Evaluate the impact of any substantial migration of people into the applicable analysis 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 applicable analysis area, who would commute daily to the site from outside the analysis area, or who would relocate temporarily within the analysis area;

(5) Determine whether existing affordable housing within the applicable analysis 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 proposed project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments.

(k) *Resource Report 6 – Tribal interests.* This report must identify the Indian Tribes and indigenous communities that may be affected by the construction, operation, and maintenance of the project facilities, including those Indian Tribes and indigenous communities that may attach religious and cultural significance to cultural resources within the project area. In developing this report, the project proponent should consider both Indian Tribes with contemporary presence in the project area and Indian Tribes with historic connections to the area. To the extent Indian Tribes and indigenous communities are willing to communicate and share resource information, this report must discuss the potential impacts of project construction, operation, and maintenance on Indian Tribes and Tribal interests. This discussion must include impacts to sacred sites and Treaty rights, 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 any additional, relevant traditional cultural and religious resources that could be affected by the proposed electric transmission project that are not already addressed. This resource report should acknowledge existing relationships

between adjacent and underlying Federal land management agencies and the Indian Tribes. In developing this report, the project proponent should engage the Federal land manager early to leverage existing relationships. Specific site or property locations, the disclosure of which may create a risk of harm, theft, or destruction of archaeological or Native American cultural resources and information 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 304 of the NHPA (54 U.S.C. 307103), should be submitted consistent with § 900.4(h). The project proponent must request confidential treatment for all material filed with DOE containing non-public location, character, and ownership information about Tribal resources in accordance with § 900.4(h).

(l) *Resource Report 7 – Communities of Interest.* This report must summarize best available information about the presence of communities of interest. The resource report must identify and describe the potential impacts of constructing, operating, and maintaining the proposed electric transmission project on communities of interest; and describe any proposed mitigation approaches for 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.

(m) *Resource Report 8 – Geological resources and hazards.* This report should describe geological resources that might be directly or indirectly affected by the proposed electric transmission project and methods to reduce those effects. The report should also describe geological hazards that could place project facilities at risk and methods proposed to mitigate those risks. Resource Report 8 must:

(1) Describe geological resources in the applicable analysis area that are currently or potentially exploitable, if relevant;

(2) Identify, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern in the applicable analysis area, 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 proposed project from each hazard or area of nonroutine geotechnical concern identified in paragraph (m)(2) of this section;

(4) Describe how the proposed project would be located or designed to avoid or minimize adverse effects to geological resources and reduce risk to project facilities, 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 discuss whether the proposed project would hinder mine reclamation or expansion efforts.

(n) *Resource Report 9 – Soil resources.* This report should describe the soils that could be crossed by the proposed electric transmission project, the potential effect on those soils, and the proposed mitigation approach for those effects. Resource Report 9 must:

(1) List, by milepost, the soil associations that would be crossed by each potential route and describe the erosion potential, fertility, and drainage characteristics of each association;

(2) For the applicable analysis area:

(i) List the soil series within the area and the percentage of the area 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 soil units are classified as prime or unique farmland by the USDA, Natural Resources Conservation Service;

(3) Identify potential impacts 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 the proposed mitigation approach to reduce the potential for adverse impact to soils or agricultural productivity.

(o) *Resource Report 10 – Land use, recreation, and aesthetics.* This report should describe the existing uses of land that may be impacted by the proposed project, and changes to those land uses and impacts to inhabitants and users that would occur if the proposed electric transmission project is approved. Resource Report 10 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 existing rights-of-way that would be co-located with or adjacent to the proposed rights-of-way (including temporary construction lines), 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 are expected to be used for any portion of the construction or operational right-of-way, the overlap, and how much additional width is expected to 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:

(i) Lands crossed by or adjacent to each project facility; and

(ii) Lands on which a project facility is expected to be located;

(7) Describe:

(i) Planned development within the applicable analysis area that is either included in a master plan or on file with the local planning board or the county;

(ii) The time frame (if available) for such development; and

(iii) Proposed coordination to minimize impacts on land use due to such development;

(8) Identify areas within applicable analysis areas that:

(i) Are owned or controlled by Federal, State or local agencies, or private preservation groups;

(ii) Are directly affected by the proposed project or any project facilities or operational sites; and

(iii) Have special designations not otherwise mentioned in other resource reports.

(iv) Examples of such specially designated areas under this provision may include but are not limited to sugar maple stands, orchards and nurseries, landfills, hazardous waste sites, nature preserves, conservation or agricultural lands subject to conservation or agricultural easements or restrictions, game management areas, remnant prairie, old-growth forest, national or State forests, parks, designated natural, recreational or scenic areas, registered natural landmarks, and areas managed by Federal entities under existing land use plans as Visual Resource Management Class I or Class II areas;

(9) Identify Indian Tribes and indigenous communities that may be affected by the proposed project;

(10) Describe Tribal and indigenous community resources lands, interests, and established treaty rights that may be affected by the proposed project;

(11) Identify properties within the project area which may hold cultural or religious significance for Indian Tribes and indigenous communities, regardless of whether the property is on or off of any Federally recognized Indian reservation;

(12) Identify resources within the applicable analysis area that are included in, or are designated for study for inclusion in, if available: the National Wild and Scenic Rivers System (16 U.S.C. 1271), the National Wildlife Refuge System (16 U.S.C. 668dd), the National Wilderness Preservation System (16 U.S.C. 1131), the National Trails System (16 U.S.C. 1241-1251), the National Park System (54 U.S.C. 100101-120104), 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. 1131-1136); or the National Marine Sanctuary System, including national marine sanctuaries (16 U.S.C. 1431-1445c–1.) and Marine National Monuments as designated under authority by the Antiquities Act (54 U.S.C. 320301-320303) or by Congress; National Forests and Grasslands (16 U.S.C. 1609 *et seq*); and lands in easement programs managed by the Natural Resource Conservation Service or the U.S. Forest Service (16 U.S.C. 3865, *et seq*.);

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

(14) Describe the impacts the proposed project will have on:

(i) Present uses of land in the applicable analysis area, including commercial uses, mineral resource uses, and recreational uses,

(ii) Public health and safety;

(iii) Federal, State, and Tribal scientific survey, research, and observation activities;

(iv) Sensitive resources and critical habitats;

(v) The aesthetic value of the land and its features; and

(vi) Federal, State or Tribal access limitations.

(15) Describe any temporary or permanent restrictions on land use that would result from the proposed project.

(16) Describe the proposed mitigation approach intended to address impacts described in paragraphs (o)(12) and (13) of this section, as well as protection and enhancement of existing land use;

(17) Provide a proposed operations and maintenance plan for vegetation management, including management of noxious and invasive species;

(18) Describe the visual characteristics of the lands and waters affected by the proposed project. Components of this description include a description of how permanent project facilities will impact the visual character of proposed 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;

(19) Identify, by milepost, all residences and buildings near the proposed electric transmission facility construction right-of-way, and identify 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 proposed facility in relation to the buildings;

(20) 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 the applicable analysis area 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;

(21) List all known commercial AM radio transmitters located within the applicable analysis area and all known FM radio transmitters, microwave relay stations, or other similar electronic installations located within the analysis area; provide a general description of each installation and its distance from the centerline of the proposed project; and locate all installations on a routing map; and

(22) List all known private airstrips within the applicable analysis area and 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 the analysis area. 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 the analysis area. 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 the analysis area. 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.

(23) Information made available under paragraphs (o)(9), (10), and (11) must be submitted consistent with § 900.4(h), including information regarding 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 and information 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 304 of the NHPA (54 U.S.C. 307103).

(p) *Resource Report 11 – Air quality and noise effects.* This report should identify the effects of the proposed electric transmission project on the existing air quality and noise environment and describe proposed measures to mitigate the effects. Resource Report 11 must:

(1) Describe the existing air quality in the applicable analysis 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, including greenhouse gas 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 proposed project or interconnect as a result of the proposed project, 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 proposed project with the applicable General Conformity thresholds (40 CFR part 93);

(iv) Identify the corresponding impacts on communities and the environment in the applicable analysis 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 proposed project on indirect emissions;

(3) Describe existing noise levels at noise-sensitive areas in the applicable analysis area, such as schools, hospitals, residences, and any areas covered by relevant State or local noise ordinances;

(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 noise regulations that may be applicable to the proposed project;

(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 provide a quantitative estimate of the impact of operation of proposed substations and appurtenant project facilities on noise levels at nearby noise-sensitive areas, including discrete tones;

(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 (either from the manufacturer or from far-field sound level data measured from similar project facilities in service elsewhere) 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);

(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;

(5) Based on noise estimates, indicate whether the proposed project will comply with applicable noise regulations and whether noise attributable to any proposed substation or appurtenant facility will exceed permissible levels at any pre-existing noise-sensitive area;

(6) Based on noise estimates, determine whether any wildlife-specific noise thresholds may have an impact on the proposed project, such as those thresholds specific to avian species that may be relevant in significant wildlife areas, if appropriate; and

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

(q) *Resource Report 12 – Alternatives.* This report should describe the range of study corridors that were considered as alternatives during the planning, identification, and design of the proposed electric transmission project and compare the environmental impacts of such corridors and the routes contained in those corridors. This analysis may inform the relevant Federal entities' subsequent analysis of their alternatives during the NEPA process. Resource Report 12 must:

(1) Identify all study corridors and routes contained within those corridors. The report must identify the location of the corridors on maps of sufficient scale to depict their location and relationship to the proposed project, and the relationship of the proposed electric transmission facility to existing rights-of-way;

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

(3) Discuss design and construction methods considered by the project proponent;

(4) Identify all the alternative study corridors and routes the project proponent considered in the initial screening for the proposed project but did not recommend for further study and the reasons why the proponent chose not to examine such alternatives.

(5) For alternative study corridors and routes recommended for more in-depth consideration, the report must:

(i) Describe the potential impacts to cultural and historic resources for each alternative;

(ii) Describe the environmental characteristics of each alternative, provide comparative tables showing the differences in environmental characteristics for the alternatives, and include an analysis of the potential relative environmental impacts for each alternative;

(iii) Provide an explanation of the costs to construct, operate, and maintain each alternative, the potential for each alternative to meet project deadlines, and technological and procedural constraints in developing the alternatives; and

(iv) Demonstrate whether and how environmental benefits and costs were weighed against economic benefits and costs to the public.

(r) *Resource Report 13 – Reliability, resilience, and safety.* This report should describe the impacts that would result from a failure of the proposed electric transmission facility, the measures, procedures, and features that would reduce the risk of failure, and measures in place to reduce impacts and protect the public if a failure did occur. Resource Report 13 must:

(1) Discuss events that could result in a failure of the proposed facility, including accidents, intentional destructive acts, and natural catastrophes (accounting for the likelihood of relevant natural catastrophes resulting from climate change);

(2) Describe the reasonably foreseeable impacts that would result from a failure of the proposed electric transmission facility, including hazards to the public, environmental impacts, and service interruptions;

(3) Describe the operational measures, procedures, and design features of the proposed project that would reduce the risk of facility failure;

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

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

(6) 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

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

§ 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 proposed electric transmission 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 review document under § 900.9 or as soon as practicable thereafter, considering the requirements of relevant Federal laws, and the need for robust analysis of proposed project impacts, early and meaningful consultation with potentially affected Indian Tribes and engagement with stakeholders and communities of interest.

(b) During the Integrated Interagency Pre-Application (IIP) Process, DOE, in coordination with any NEPA joint 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 proposed electric transmission project, accounting for relevant statutory requirements, the potential route,

reasonable alternative potential routes, if any, the need to assess and address any impacts to military testing, training, and operations, and other factors particular to the specific proposed project, including the need for early and meaningful consultation with potentially affected Indian Tribes and engagement with stakeholders and communities of interest. DOE may revise the project-specific schedule as needed to satisfy applicable statutory requirements, allow for engagement with stakeholders and communities of interest, and 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 proposed electric transmission 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 initial resource reports required under § 900.6. The review meeting request must include:

(1) A summary table of changes made to the proposed project since the IIP Process initial meeting, including potential environmental and community benefits from improved siting or design;

(2) Maps of potential routes and study corridors, including the proposed line, substations, and other infrastructure, as applicable, with at least as much detail as required for the 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;

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

(4) A conceptual plan for implementation and monitoring of proposed mitigation measures to avoid, minimize, or compensate for effects of the proposed project, consistent with 40 CFR 1508.1(s) or any successor regulation. This may include compensatory mitigation measures (offsite and onsite);

(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) A listing of:

(i) The dates on which the project proponent filed applications or requests for Federal authorizations and the dates on which the project proponent filed revisions to previously filed applications or requests; and

(ii) Estimated dates for filing remaining applications or requests for Federal authorization;

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

(8) A proposed duration for each Federal land use authorization expected to be required for the proposed project, commensurate with the anticipated use of the proposed electric transmission facility.

(b) Not later than 10 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 the initial 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:

(1) Determine whether the meeting request meets the requirements of paragraph (a) of this section and whether the initial resource reports are sufficiently detailed; and

(2) Give notice to the project proponent and relevant Federal and non-Federal entities of DOE's determinations under paragraph (c)(1) of this section.

(d) If DOE determines under paragraph (c)(1) of this section that the meeting request does not meet the requirements of paragraph (a) of this section or that the initial resource reports

are not sufficiently detailed, DOE must provide the reasons for that finding and a description of how the project proponent may address any deficiencies in the meeting request or resource reports so that DOE may reconsider its determination.

(e) Not later than 15 calendar days after the date that DOE provides notice to the project proponent under paragraph (c) of this section that the review meeting request and initial resource reports have 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.

(f) During the IIP Process review meeting:

(1) The relevant Federal entities shall discuss, and modify if needed, the analysis areas used in the initial resource reports;

(2) Relevant Federal entities shall identify any remaining issues of concern, known 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 proposed electric transmission project;

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

(4) 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;

(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 proposed 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 complete applications for Federal authorizations for the proposed project;

(8) Led by DOE, all relevant Federal entities shall identify necessary updates to the initial 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.

(g) Not later than 10 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.

(h) The project proponent and entities that received the draft review meeting summary under paragraph (g) of this section will have 10 calendar days following receipt of the draft to review the draft and provide corrections to DOE.

(i) Not later than 10 calendar days following the close of the 10-day review period under paragraph (h) 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; and

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

(j) Not later than 10 calendar days following the close of the 10-day review period under paragraph (h) of this section, DOE shall:

(1) 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; and

(2) if the scope is sufficiently developed, initiate consultation with SHPOs, THPOs, and others consistent with 36 CFR 800.2(c)(4), which may include authorizing a project proponent, as a CITAP applicant, to initiate section 106 consultation and providing appropriate notifications.

(k) 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 and based on any updated surveys conducted since the initial 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 proposed electric transmission project and may only be held after the project proponent submits a close-out meeting request to DOE. The project proponent may submit the request at any time following the submission of the updated resource reports as required under § 900.8. The close-out meeting request shall include:

(1) A summary table of changes made to the proposed 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 proposed project since the review meeting, including a summary of changes made to the updated resource reports 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 proposed project; and

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

(b) Not later than 10 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 close-out meeting request, DOE shall:

(1) Determine whether the meeting request meets the requirements of paragraph (a) of this section and whether the updated resource reports are sufficiently detailed; and

(2) Give notice to the project proponent and relevant Federal and non-Federal entities of DOE's determinations under paragraph (c)(1) of this section.

(d) If DOE determines that the meeting request does not meet the requirements of paragraph (a) of this section or that the updated resource reports are not sufficiently detailed, DOE must provide the reasons for that finding and a description of how the project proponent may address any deficiencies in the meeting request or resource reports so that DOE may reconsider its determination.

(e) Not later than 15 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 and updated resource reports have 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.

(f) 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.

(g) Not later than 10 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.

(h) The project proponent and entities that received the draft close-out meeting summary under paragraph (g) of this section will have 10 calendar days following receipt of the draft to review the draft and provide corrections to DOE.

(i) Not later than 10 calendar days following the close of the 10-day review period under paragraph (h) 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 proposed project is not identified as a covered project pursuant to § 900.5(e), notify the FPISC Executive Director that the proposed project ought to be included on the FPISC Dashboard as a transparency project.

(j) DOE and any NEPA joint lead agency shall issue a Notice of Intent to prepare an environmental review document for the proposed project within 90 days of the later of the IIP Process close-out meeting or the receipt of a complete application for a Federal authorization for which NEPA review will be required, as consistent with the final project-specific schedule.

(k) DOE shall issue, for each Federal land use authorization for a proposed electric transmission facility, a preliminary duration determination commensurate with the anticipated use of the proposed facility.

§ 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 resource 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 relevant 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 proposed electric transmission project.

(c) DOE shall make the consolidated docket available, as appropriate, to the NEPA joint lead agency selected under § 900.11; any relevant Federal or non-Federal entity responsible for issuing an authorization for the proposed 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.

(e) Upon request, any member of the public will be provided materials included in the docket, excluding any materials protected as CEII or otherwise required or allowed to be withheld under the Freedom of Information Act.

§ 900.11 NEPA lead agency and selection of NEPA joint lead agency.

(a) For a proposed electric transmission project that is accepted for the Integrated Interagency Pre-Application (IIP) Process under § 900.5, DOE shall serve as the NEPA lead agency to prepare an environmental review document to serve the needs of all relevant Federal entities. A NEPA joint lead agency to prepare the environmental review document may also be designated pursuant to this section, no later than by the IIP Process review meeting.

(b) The NEPA joint 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 proposed project. DOE shall make this determination in consultation with all Federal entities that manage Federal lands or waters traversed or affected by the proposed project. For a proposed project that would traverse lands managed by both the USDA and the DOI, DOE will request that USDA and DOI determine the appropriate NEPA joint 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 for a Federal authorization or permit in accordance with the final project-specific schedule, DOE and any NEPA joint lead agency selected under § 900.11 shall prepare an environmental review document for the proposed electric transmission project designed to serve the needs of all relevant Federal entities.

(b) When preparing the environmental review document, DOE and any NEPA joint 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 joint lead agency, is expected to be responsible for:

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

(2) Publishing the environmental review document and any related documents.

(d) Each Federal entity or non-Federal entity that is responsible for issuing a separate Federal authorization for the proposed 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 joint 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 environmental review document as the basis for all Federal authorization decisions on the proposed project. DOE and the relevant Federal entities shall issue, except where inappropriate or inefficient, a joint decision document, which will include the determination by the Secretary of a duration for each land use authorization issued on the proposed project.

(g) For all proposed projects, DOE shall serve as lead agency for consultation under the Endangered Species Act (50 CFR 402.07) and section 106 of the NHPA (36 CFR 800.2(a)(2)) unless the relevant Federal entities designate otherwise. DOE shall coordinate these consultation processes with the Federal agency with the most significant interest in the management of Federal lands or waters that would be traversed or affected by the proposed project or the designated lead agency.

§ 900.13 Severability.

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

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