



Coordination of Federal Authorizations for Electric Transmission Facilities: Public Meeting for Notice of Proposed Rulemaking

DOE Grid Deployment Office

Grid Deployment Office

August 2023





Housekeeping

Technical Questions?

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Webinar Notice

- None of the information presented herein is legally binding.
- The content included in this presentation is intended for informational purposes only relating to the Notice of Proposed Rulemaking (NOPR): **DOE-HQ-2023-0050**
Coordination of Federal Authorizations for Electric Transmission Facilities.
- Any content within this presentation that appears discrepant from the NOPR language is superseded by the NOPR language.

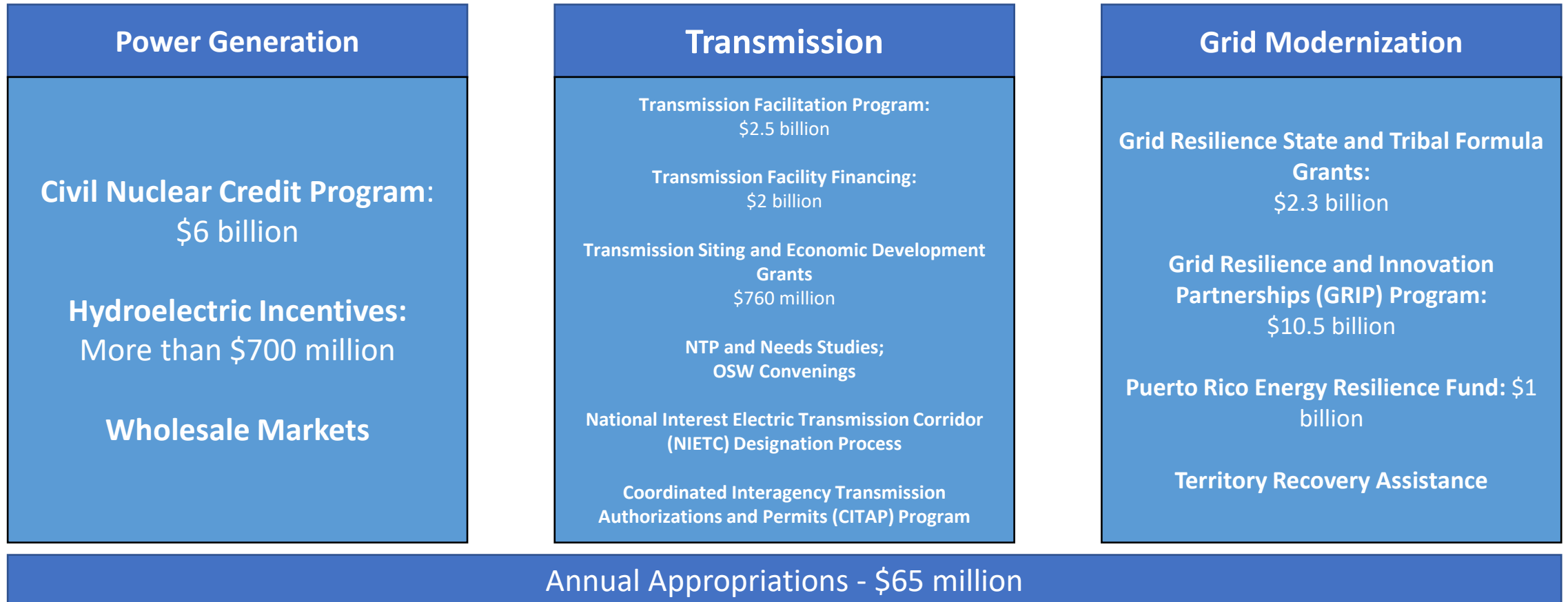
Maria Robinson



Director,
Grid Deployment Office,
U.S. Department of Energy



GDO at a glance



Agenda

- 1 **MOU and 216(h) Background**
- 2 **Notice of Proposed Rulemaking**
- 3 **Standard Schedule**
- 4 **Comments**



Samuel Walsh



General Counsel,
U.S. Department of Energy



May 2023 MOU revitalized DOE's authority over electric transmission authorizations

- ❖ **Federal Power Act (FPA) Section 216(h) provides DOE authority to act as Lead Agency** to coordinate Federal authorizations and related environmental reviews required to site an interstate electric transmission facility, including setting binding schedules and preparing a single environment review document.
- ❖ **Nine Federal agencies finalized a Memorandum of Understanding (MOU) in May 2023** agreeing to coordinate environmental reviews and permitting consistent with FPA 216(h).
 - Participating Federal agencies committed to 2-year environmental permitting review schedule (from Notice of Intent to Record of Decision).
 - DOE committed to creating a standard schedule for 216(h) within 60 days of signing the MOU.
 - DOE committed to updating 216(h)'s implementing regulations within six months of signing the MOU.
 - **Notice of Proposed Rulemaking (NPR) proposes updates to 10 CFR Part 900 pursuant to the MOU.**





Jeffery Dennis



Deputy Director, Transmission Development,
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NOPR proposes updates to 10 CFR Part 900 pursuant to the MOU

- ❖ **Proposes to implement the MOU by establishing the Coordinated Interagency Transmission Authorizations and Permits (CITAP) Program**
- ❖ **CITAP Program is intended to:**
 - Improve the efficiency of the permitting and environmental review process.
 - Enhance communication and coordination and reduce duplication of work among Federal agencies.
 - Provide more certainty for developers through a standard and transparent process.
 - Ensure early community engagement in the decision-making process.
 - Require heightened readiness on the part of project proponents to proceed to review, reducing potential for later delays.
- ❖ **DOE believes that the NOPR is consistent with Section 107 of the Fiscal Responsibility Act of 2023** which requires the designation of a National Environmental Policy Act (NEPA) lead agency to perform a coordinating and schedule-setting function.



Overview of NOPR

- ❖ **Designates DOE as lead agency** for setting schedules to complete environmental reviews and authorizations within two years and the preparation of a single Environmental Impact Statement, consistent with MOU.
- ❖ **Improves the pre-application process and establishes a standard schedule template.**
- ❖ **Commits participating Federal agencies to project-specific environmental permitting review schedule** to be developed during the pre-application process (from Notice of Intent to Record of Decision).
- ❖ **Requires submission of Resource Reports** to assist in developing information needed to efficiently conduct permitting and environmental reviews.
- ❖ **Requires Project Participation Plan** to summarize past and planned stakeholder and community outreach and public engagement.



216(h) is separate authority from other FPA provisions

216(a)

National Transmission Needs Study &
National Interest Electric Transmission
Corridors (NIETCs)

Department of Energy (DOE)

- ❖ DOE collects and releases data on **regions most in need of increased transmission capacity** through the National Transmission Needs Study.
- ❖ Based on results of Needs Study and additional criteria, including feedback from private industry, **DOE designates NIETC.**

216(b)

FERC Backstop
for NIETC Projects

Federal Energy Regulatory
Commission (FERC)

- ❖ After DOE designates a NIETC, **FERC has the authority** to issue permits within a corridor in certain circumstances **where states lack authority to site the project, have not acted on an application after more than one year, or have denied an application.**

Projects in NIETCs not seeking permits from FERC under this section would still be eligible for coordination under Section 216(h), if appropriate.

216(h)

DOE-Led Federal Authorizations
for Transmission Projects

Department of Energy (DOE)

- ❖ **DOE coordinates all Federal authorizations and environmental reviews** (e.g., NEPA) for certain transmission projects to ensure timely and efficient review and decision-making.
- ❖ Establishes binding schedules for all Federal reviews.
- ❖ Prepares a single environmental review document.

Would not apply to projects seeking permits from FERC under Section 216(b).



Liza Reed



Senior Policy Advisor,
Grid Deployment Office,
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Section-by-Section Overview of NOPR

- ❖ **Introduces CITAP Program.**
§ 900.1 Purpose and Scope
- ❖ **Defines qualifying projects.**
§ 900.2 Definitions and § 900.3 Applicability to Other Projects
- ❖ **Requires participation in the Integrated Interagency Pre-Application Process (IIP Process).**
§ 900.4 Purpose of the IIP Process, § 900.5 Initiation of IIP Process, § 900.8 IIP Process Review Meeting, and § 900.9 IIP Process Close-Out Meeting, § 900.10 Consolidated Administrative Docket
- ❖ **Defines Resource Reports developers must submit to ensure efficient review process.**
§ 900.6 Project Proponent Resource Reports
- ❖ **Includes development of a project-specific schedule to complete Federal authorizations.**
§ 900.7 Standard and Project-Specific Schedules
- ❖ **Provides process to establish and coordinate with a NEPA co-lead agency.**
§ 900.11 NEPA Lead Agency and Selection of NEPA Co-Lead Agency, § 900.12 Environmental Review
- ❖ **Establishes severability.**
§ 900.13 Severability



§ 900.2 Definitions: Qualifying Project

❖ Qualifying project means:

- A high-voltage electric transmission line (230 kV or above), or other regionally or nationally significant electric transmission lines, and its attendant facilities that:
 - Is used in interstate or international commerce; and
 - Is expected to require an environmental impact statement; or
- An electric transmission facility that is approved by the Director of the DOE's Grid Deployment Office (provided for in § 900.3)

❖ The term does not include transmission facilities:

- Authorized under the Outer Continental Shelf Lands Act Section 8(p);
- Seeking a construction permit by FERC under FPA 216(b) ; or
- Wholly located within the Electric Reliability Council of Texas.



§ 900.3 Applicability to Other Projects

❖ **GDO Director**, in coordination with the relevant Federal entities, will determine if a project that does not meet the qualifying project definition can be accepted into the Integrated Interagency Pre-Application (IIP) Process.



§ 900.4 Purpose of the IIP Process

❖ **The Integrated Interagency Pre-Application (IIP) Process ensures early interaction between the project proponents, relevant Federal entities, and relevant non-Federal entities to enhance early understanding by those entities.**

- IIP Process is intended for a project proponent who has identified potential study corridors and/or potential routes and the proposed locations of any intermediate substations for a qualifying project.
- 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 under the CITAP program.
- The IIP process is iterative and includes procedures to evaluate the completeness of submitted materials and the suitability of materials for the relevant Federal entities' decision-making.



IIP Process and Components

Process

§ 900.5 Initiation of IIP Process

§ 900.8 IIP Process Review Meeting

§ 900.9 IIP Process Close-Out Meeting

Components

§ 900.6 Project Proponent Resource Reports

§ 900.7 Standard and Project-Specific Schedules





§ 900.5 Initiation of IIP Process

1. Initiation request and initial meeting

- Project proponent submits request with a project summary, associated maps and other info, a project participation plan, and Fixing America's Surface Transportation Act (FAST-41) statement.
- During the initial meeting DOE and relevant agencies review and provide guidance on permitting and review topic areas.

2. DOE proposes to require submission of a project participation plan at the outset. (§ 900.5 (d))

- Plan would include the project proponent's history of interactions with stakeholders and communities of interest and a public engagement plan for future efforts.
- An updated public engagement plan is required at the close-out of the IIP Process to reflect any activities that took place during that process.
- Communities of Interest (defined in § 900.2) include communities that are disadvantaged, fossil energy, rural, Tribal, indigenous, or geographically proximate, or communities with environmental justice concerns that could be affected by the qualifying project.

§ 900.6 Project Proponent Resource Reports

Resource Report	Resource Report Title
1	General project description
2	Water use and quality
3	Fish, wildlife, and vegetation
4	Cultural resources
5	Socioeconomics
6	Geological resources
7	Soil resources
8	Land use, recreation, and aesthetics
9	Communities of Interest
10	Air quality and noise effects
11	Alternatives
12	Reliability, resilience, and safety
13	Tribal interests



§ 900.7 Standard and Project-Specific Schedules

❖ Standard Schedule

- Identifies the steps generally needed to complete decisions on all Federal environmental reviews and authorizations for a qualifying project.
- Includes recommended timing for each step to allow final decisions on all Federal authorizations within two years of the publication of a notice of intent to prepare an environmental impact statement.

❖ Project-Specific Schedule

- DOE, in coordination with any NEPA co-lead agency and relevant Federal entities, shall prepare a project-specific schedule for each project that is informed by the standard schedule.
- Establishes prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, a qualifying project.





§ 900.8 IIP Process Review Meeting

- Project proponent first submits required resource reports and meeting request.
- DOE provides a completeness check within 60 days.
- Meeting establishes project description and resource baseline information for NEPA review.
- Federal agencies discuss statutory and regulatory standards and expectations.
- During the review meeting DOE presents draft project-specific schedule.





§ 900.9 IIP Process Close-Out Meeting

- Prior to meeting request, project proponent updates resource reports if needed.
- DOE provides a completeness check within 60 days
- DOE presents final project-specific schedule (details on schedules in § 900.7).



§ 900.10 Consolidated Administrative Docket

❖ DOE proposes to maintain a consolidated docket of:

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

❖ Consolidated administrative docket will be made available to:

- NEPA co-lead agency;
- Any Federal or non-Federal entity responsible for issuing an authorization for the qualifying project;
- Any NHPA Section 106 consulting parties, consistent with 36 CFR part 800;
- 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





NEPA procedures

§ 900.11 NEPA lead agency and selection of NEPA co-lead agency

- NEPA co-lead agency, if any, shall be the Federal entity with the most significant interest in the management of Federal lands or waters that would be traversed or affected by the qualifying project.

§ 900.12 Environmental Review

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



§ 900.13 Severability

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





RJ Boyle



CITAP Program Staff,
Grid Deployment Office,
U.S. Department of Energy



Proposed Standard Schedule

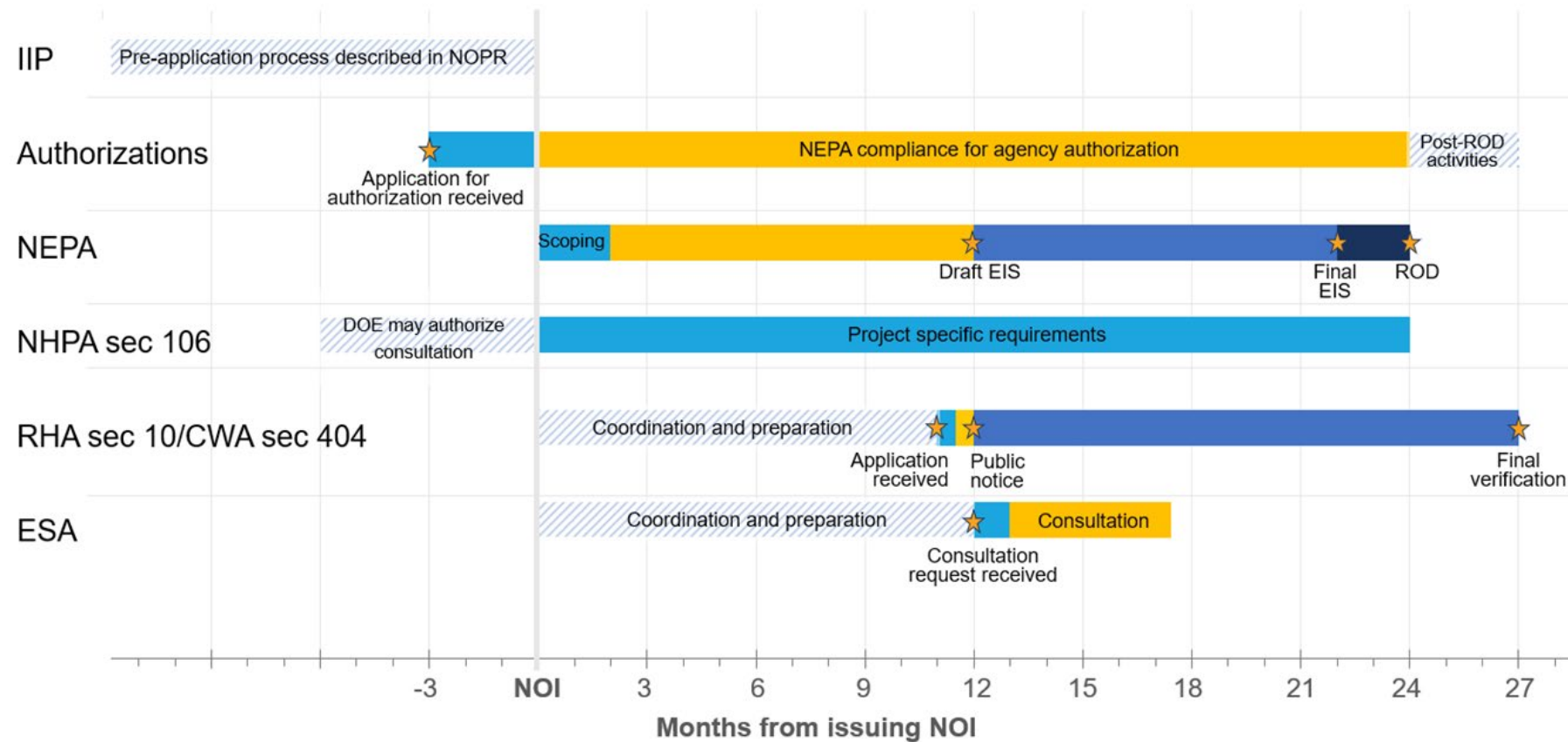
❖ Based on Federal Permitting Improvement Steering Council's (FPISC) 2023 Draft Recommended Performance Schedule with a few adjustments:

- The pre-application period (IIP Process) is represented in “negative” months to indicate that these activities are expected to occur prior to the Environmental Impact Statement (EIS) Notice of Intent (NOI).
- Endangered Species Act (ESA) Section 7 Consultation and the Rivers and Harbors Act (RHA) Section 10/Clean Water Act (CWA) Section 404 permitting compliance coordination can start as soon as after the NOI due to information collection guidance in the IIP Process.
- National Historic Preservation Act (NHPA) Section 106 compliance may be authorized prior to the NOI, as proposed in the NOPR.
- CWA Section 408 permitting is not represented. These authorizations follow similar timelines to RHA Section 10/CWA Section 404 and Section 408 is not as commonly applicable as Sections 10/404.
- Some task timelines are expanded to account for uncertainty.

The standard schedule serves as a starting point for establishing project-specific schedules. It is a guidance document.



Proposed Standard Schedule Template



Requested NOPR Comments

❖ DOE seeks comment on all aspects of the NOPR, including the following topics identified in preamble section III.F paragraph 4:

- Use of “lead” and “co-lead” agencies , consistent with the terminology used in the 2023 MOU. DOE believes these terms to be substantively equivalent to the FRA’s “lead” and “joint lead” agencies.
- Estimated burden and costs associated with the requirements contained in the proposed rule.
- Estimated time and expense saved by the proposed CITAP Program.
- Indian Tribal government estimates of the costs and effects the NOPR could have on Tribal communities.



Requested NOPR Comments, continued.

- Project Proponent Resource Reports :
 - Whether any other distances listed in the regulations are appropriate;
 - Whether the page limits identified in the regulations are appropriate;
 - Whether the duplicative aspects of the resource reports should be rectified; and
 - Whether further revisions are needed to proposed § 900.6(m)(8);
 - Whether 0.25 mile distance of the proposed transmission project facilities is an adequate distance to: affected landowners, the National Wild and Scenic Rivers System (16 U.S.C. 1271), the National Wildlife Refuge system (16 U.S.C. 668dd-ee), the National Wilderness Preservation System (16 U.S.C. 1131), the National Trails System (16 U.S.C. 1241), the National Park System (54 U.S.C. 100101), National Historic Landmarks (NHLs), National Natural Landmarks (NNLs), Land and Water Conservation Fund (LWCF) acquired Federal lands, LWCF State Assistance Program sites and the Federal Lands to Parks (FLP) program lands, or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132); or the National Marine Sanctuary System, including national marine sanctuaries (16 U.S.C. 1431 et seq.) and Marine National Monuments as designated under authority by the Antiquities Act (54 U.S.C. 320301-320303) or by Congress.





Thank You!

Please provide comments on the NOPR through [Regulations.gov](https://www.regulations.gov) or by any of the other methods specified in the NOPR.

The comment period closes on
Monday, October 2nd, 2023.



<https://www.energy.gov/gdo/coordinated-interagency-transmission-authorizations-and-permits-program>



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