

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

I. PURPOSE

The Department of Agriculture (USDA), Department of Commerce (DOC), Department of Defense (DOD), Department of Energy (DOE), Department of the Interior (DOI), Environmental Protection Agency (EPA), Federal Permitting Steering Improvement Steering Council (FPISC), Council on Environmental Quality (CEQ), and the Office of Management and Budget (OMB) enter into this Memorandum of Understanding (MOU) to expedite the siting, permitting, and construction of electric transmission infrastructure in the United States under section 216(h) of the Federal Power Act (FPA), 16 U.S.C. § 824p(h), as enacted by section 1221(a) of the Energy Policy Act of 2005. As described below, this MOU improves coordination among project applicants, Federal agencies, Tribes, states, and multistate entities involved in the siting process, sets clear timelines for Federal reviews and authorizations, enhances the capacity of Federal agencies to perform effective and legally sound reviews and authorizations, and enables collaboration to provide technical assistance and resources to states and Tribes to participate in Federal reviews and carry out related state and Tribal reviews and authorizations.

To implement section 216(h), nine Federal agencies signed the October 23, 2009, *Memorandum of Understanding Regarding the Coordination in Federal Agency Review of Electric Transmission Facilities on Federal Land* (2009 MOU) and, in 2016, DOE adopted regulations establishing an Integrated Interagency Pre-Application (IIP) Process to encourage cooperation prior to the submission of a formal application. *See* 10 C.F.R. § 900 *et seq.* This MOU supersedes the 2009 MOU to expand efforts to ensure pre-construction coordination and provide updated direction to Federal agencies in expediting the siting, permitting, and construction of electric transmission infrastructure.

This MOU is intended to address all Federal authorizations necessary for the siting, permitting, and construction of Qualifying Projects as defined in Section III(c) of this MOU as well as all reviews required by Federal law necessary for the issuance of decisions with respect to such authorizations.

II. BACKGROUND

The electric transmission system is the backbone of our electricity system. Electric transmission facilities move power across regions, connecting electricity generators and customers across the nation. Bolstering our electric transmission system will reduce the prices consumers pay for electricity and will enhance U.S. energy security and the reliability and resilience of our electrical grid by limiting vulnerability to local events, including those associated with climate change. Public Law No. 117-58, commonly referred to as the Infrastructure Investment and Jobs Act, and Public Law No. 117-169, commonly referred to as the Inflation Reduction Act of 2022, made significant investments in clean energy manufacturing and generation, and the electrification of homes, businesses, and vehicles. The full benefits of those investments will not be realized unless the United States can quickly, sustainably, and equitably expand our electric transmission infrastructure.

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. There is a strong public interest in increasing coordination across Federal agencies to expand our nation's electric transmission infrastructure. In the past, insufficient budgetary resources, lack of agency staff, and limited mechanisms to enable coordination across Federal agencies, delays at the State and local level, and difficulties securing project funding have contributed to unnecessary delays in permitting timelines for transmission. An increasing recognition of the value electric transmission can provide to communities, businesses, and the climate; significant new funding to deploy electric transmission infrastructure from the Infrastructure Investment and Jobs Act and the Inflation Reduction Act; and the infusion of funding from the Inflation Reduction Act to support agency permitting activities make for a key moment to improve timely, sustainable, and equitable permitting of transmission lines.

The rate at which new and upgraded electric transmission capacity is being built has slowed over the past decade. That rate is now well below what is necessary to meet the country's electric transmission needs. Without adequate transmission capacity, new power sources cannot be brought online. The resulting bottleneck will slow efforts to cut Americans' energy bills, bolster our electrical grid, enhance energy security, and reduce harmful emissions. There are enough proposed generation projects in the interconnection queues waiting for a connection to the electrical grid to achieve an 80 percent clean electrical grid by 2030. Increased electric transmission capacity can both accelerate the connection of new generation to the electrical grid and reduce the cost of deploying those resources. New and upgraded electric transmission facilities will benefit communities and families across the country. Securing these benefits for all communities will require that Americans have a meaningful opportunity to participate in decisions about where electric transmission facilities are located, including through consultation with affected Tribal Nations and early and sustained engagement with affected communities, States, landowners, and other key stakeholders. Improving the electric transmission infrastructure permitting process will advance economic growth and global competitiveness, allow the nation to access new power resources, reduce barriers to entry into this market, and appropriately account for the perspectives of affected communities.

The Signatory Agencies have a significant interest in working with constituents and stakeholders to assess impacts from electric transmission projects and to site these facilities appropriately. Pursuant to the various statutes they implement, the Signatory Agencies play different roles in the Federal review, authorization, and siting process.

Section 216(h) 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 has previously delegated its section 216(h) authority to the Federal Energy Regulatory Commission for transmission projects located within National Interest Electric Transmission Corridors (NIETCs) as designated by the Secretary of Energy. That authorization remains unchanged by this MOU. Except as provided by any delegation of authority by the Secretary of Energy to another Federal agency, through this MOU, DOE will exercise its authority to serve as a Lead Agency to both (a) coordinate all required Federal authorizations and related environmental reviews and (b) prepare an Environmental Impact Statement to serve the needs of all relevant Federal agencies, for electric transmission proposals that are Qualifying Projects as defined in section III.

III. DEFINITIONS

(a) “Federal authorization” means, as defined by section 216(h)(1) of the Federal Power Act (16 U.S.C. § 824p(h)(1)), any authorization required under Federal law in order to site an electric transmission facility including such permits, special use authorizations, certifications, opinions, or other approvals as may be required.

(b) “Co-Lead Agency” means the agency identified under Section V(b) of this MOU, which, along with DOE, will serve as a Lead Agency as defined in CEQ’s regulations implementing the National Environmental Policy Act (NEPA), *see* 40 C.F.R. § 1508.1, and will carry out additional responsibilities identified in this MOU.

(c) “Cooperating Agency” means a Signatory Agency, other than DOE and the Co-Lead Agency, that has jurisdiction by law or special expertise with respect to any environmental impact with regard to a Qualifying Project consistent with the meaning of the term in CEQ’s regulations implementing NEPA. *See* 40 C.F.R. § 1508.1

(d) “Lead Agency” means the agencies preparing or having taken primary responsibility for preparing an Environmental Impact Statement (EIS) for a Qualifying Project consistent with the meaning of the term in CEQ’s regulations implementing NEPA. *See* 40 C.F.R. § 1508.1

(e) “Participating Agency” means a Signatory Agency that is participating in an environmental review or authorization for a Qualifying Project consistent with the meaning of the term in CEQ’s regulations implementing NEPA. *See* 40 C.F.R. § 1508.1.

(f) “Qualifying Project” and “Qualifying Projects” mean high voltage electric transmission lines (generally though not necessarily 230 kV or above), and their attendant facilities that are expected to require the preparation of an environmental impact statement (EIS) to inform an agency decision on a Federal authorization. Qualifying Projects will not include: (i) transmission projects authorized under Section 8(p) of the Outer Continental Shelf Lands Act approved in

conjunction with a generation resource authorized under that section, but may, at the discretion of all relevant Signatory Agencies, include transmission projects authorized under that section independent of any generation project; or (ii) transmission projects granted a construction permit from the Federal Energy Regulatory Commission pursuant to section 216(b) of the FPA. A project for which a notice of intent to prepare an environmental impact statement has already been published will be a Qualifying Project unless the Department of Energy determines that applying the terms of this MOU to it will delay Federal authorization.

(g) “Signatory Agency” means an executive branch Agency or Department that is a signatory to this MOU.

IV. PRE-APPLICATION PROCESS

Within six months of the effective date of this MOU and consistent with section 216(h)(4)(C) of the FPA, the Secretary of Energy, in consultation with the heads of the Signatory Agencies, will update DOE’s regulations implementing section 216(h), including those establishing an Integrated Interagency Preapplication (IIP) Process, to:

- (a) Make participation by applicants in the IIP Process a pre-condition for a decision under the section 216(h) coordinated permitting process;
- (b) Require applicants to submit applicant-prepared resource reports, *see* 10 C.F.R. § 900.3, and public engagement plans for communities that would be affected by the proposed Qualifying Project;
- (c) Require applicants to conduct robust engagement with all Tribes and communities that would be affected by the proposed Qualifying Project;
- (d) Where necessary and appropriate, align and harmonize the IIP Process and implementation of section 216(h) of the FPA with the process set forth in Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), Pub. L. 114-9494, 42 U.S.C. § 4370m *et seq.*, which is administered by FPISC.

V. COORDINATED SCHEDULES

- (a) DOE agrees to establish prompt and binding intermediate milestones and ultimate deadlines for decisions, on Federal authorizations and related environmental reviews relating to each Qualifying Project.
- (b) To implement section 216(h)(4) of the FPA, the Secretary of Energy agrees to:
 - (i) In consultation with Signatory Agencies, establish within 60 days of the effective date of this MOU a standard schedule that identifies the steps generally needed to complete decisions on all Federal environmental reviews and authorizations for a Qualifying Project with recommended timing for each that would allow a final decision on all Federal authorizations within two years of the publication of a notice of intent to prepare

an EIS or as soon as practicable thereafter, considering the requirements of relevant Federal laws, and the need for robust analysis of project impacts and early and meaningful consultation with potentially-affected Tribal Nations and public engagement with potentially-affected communities and other stakeholders. The standard schedule will include a provision for early consultation with the Department of Defense to identify and resolve any potential conflict with military testing, training, or operations and will account for parallel review and authorizations by States, Tribal Nations, local governments, and others that also are responsible for reviews and authorizations related to a Qualifying Project and allow, where possible, efficient and effective coordination.

(ii) At the conclusion of each IIP Process and in coordination with the Participating Agencies for the Qualifying Project, lead the development of a project-specific schedule and milestones informed by the standard schedule, accounting for relevant statutory requirements the proposed route, reasonable alternative routes, if any, the need to assess and address any impacts to military testing, training, and operations, and other factors particular to the specific Qualifying Project, including the need for early and meaningful consultation with potentially-affected Tribal Nations and engagement with potentially-affected communities and other relevant stakeholders.

(iii) In the event that a Qualified Project is not a FAST-41 covered project, DOE will post and manage project-specific schedules and milestones for Qualifying Projects on the Federal Permitting Dashboard as “Transparency Projects” pursuant to 42 U.S.C. § 4370m-2(b)(2)(A)(ii) by taking the following steps:

(A) At the conclusion of the IIP Process, DOE will notify the FPISC Executive Director that a Qualifying Project is under review. The FPISC Executive Director agrees to direct DOE to create an entry on the Dashboard for the Qualifying Project in the interest of transparency pursuant to 42 U.S.C. § 4370m-2(b)(2)(A)(ii).

(B) DOE will then maintain a current permitting timetable for the Qualifying Project, consistent with 42 U.S.C. § 4370m-2(b)(2)(A)(iii)(II).

(iv) Monitor adherence to intermediate milestones and final completion dates reflected in the project-specific schedules on the Federal Permitting Dashboard and if any interim deadlines are not met, engage with the relevant Participating Agencies as early as possible and resolve any disputes under paragraph (e).

(v) In consultation with Participating Agencies and applicants, promptly update any project-specific schedule’s intermediate and final completion dates in the event that it is necessary to revise a project-specific schedule in order to satisfy applicable statutory requirements, consult with affected Tribal Nations, or meaningfully engage with potentially-affected communities, including in the event that there are delays caused by the actions or inaction of an applicant.

(c) In addition, the heads of Participating Agencies agree to proceed with their respective authorization decisions according to the project-specific schedules established by the Secretary

of Energy pursuant to Section VI(b)(ii), as consistent with the requirements of the relevant Federal laws.

(d) The Secretary of Energy, in consultation with the relevant Participating Agencies, agrees to update a project-specific schedule's intermediate milestones and deadlines, as necessary to satisfy applicable statutory requirements, complete robust consultation with affected Tribal Nations, meaningfully engage with affected communities, or adjust to delays caused by the actions or inaction of an applicant.

(e) If there are disagreements between the head of a Participating Agency and the Secretary of Energy over the appropriate project-specific schedule or whether an adjustment to that schedule is necessary, the head of the Participating Agency or the Secretary of Energy agree to notify the Chair of CEQ and the Director of OMB, who will facilitate resolution of the dispute within 30 days of being notified. As necessary and appropriate, the Chair and Director agree to consult with the Department of Justice if applicable, to ensure the schedule enables relevant timeframes for statutory requirements to be fulfilled. Any action taken by the Chair and the Director to resolve the dispute will be final and conclusive.

(f) The Secretary of Energy, the FPISC Executive Director, and other Signatory Agencies will consult to appropriately harmonize the statutory provisions of FPA section 216(h) and FAST-41 and this MOU.

VI. ENVIRONMENTAL REVIEW

(a) DOE will serve as a Lead Agency, along with the Co-Lead Agency designated under paragraph (b), to prepare an EIS to serve the needs of all relevant Federal agencies and, to the maximum extent permitted by law, the Participating Agencies will rely on the EIS as the basis for all relevant Federal authorization decisions on the proposed Qualifying Project.

(b) For all Qualifying Projects, DOE and the agency with the most significant interest in the management of Federal lands or waters that would be traversed or affected by the Qualifying Project will serve as Lead Agencies jointly responsible for preparing an EIS under NEPA. DOE will request that the USDA and DOI determine the appropriate Co-Lead Agency. If a co-lead agency is not identified within 14 days of DOE requesting the decision, DOE will notify the Chair of CEQ who will select a Co-Lead Agency for the Qualifying Project, or determine that no Co-Lead Agency is necessary, in which case DOE will assume any responsibilities otherwise assigned to the Co-Lead Agency, within 14 calendar days of the notification. Cooperating and Participating Agencies will collaborate with DOE and the Co-Lead Agency in preparation of the EIS.

(i) DOE, in consultation with the Co-Lead Agency, will be responsible for (A) identifying, contracting with, directing, supervising, and arranging for the payment of contractors to prepare the EIS, and (B) publishing all completed environmental review documents.

(ii) The Co-Lead Agency and any Cooperating Agencies, in consultation with DOE, will be responsible for (A) identifying all information and analysis needed for their respective

Federal authorizations, and (B) identifying any alternatives that they would like analyzed, including a preferred alternative, with respect to their respective Federal authorization(s).

(iii) DOE and the Co-Lead Agency, in consultation with any Cooperating Agencies, will identify the full scope of alternatives for analysis, including the no action alternative.

(iv) Any Cooperating Agencies will participate throughout the EIS preparation process by providing timely review of draft documents, engaging with the public and other parties according to the EIS schedule, and providing other assistance as needed to ensure timely completion of the EIS.

(v) DOE, in consultation with the Co-Lead Agency, will maintain a consolidated administrative record of the information assembled and utilized by the Cooperating Agencies as the basis for Federal authorizations and related reviews.

(vi) DOE, in consultation with the Co-Lead Agency, will, to the extent practicable and consistent with Federal law, ensure that all Qualifying Project data are submitted and maintained in an electronic geospatial format or another generally accessible electronic format (e.g., geographic information system data must include metadata descriptions meeting Federal Geographic Data Committee standards); will compile and make available the information assembled and utilized by the Cooperating Agencies; and as appropriate, provide public access to the data by maintaining on DOE's website information and links to the information available from all Cooperating Agencies.

(vii) DOE and the Co-Lead Agency may allocate their responsibilities, including the responsibilities described in subparagraphs (i) through (vi) above, in a manner that reflects the degree to which the Qualifying Project would traverse or affect Federal lands and waters. If DOE and the Co-Lead Agency disagree over the appropriate allocation of responsibilities, DOE will notify the Chair of CEQ, who will determine the appropriate resolution of the disagreement within 14 calendar days.

(c) For all Qualifying Projects, DOE and other relevant Participating Agencies will coordinate to identify the appropriate lead agency or co-lead agencies for purposes of compliance with section 106 of the National Historic Preservation Act (NHPA) and any applicable consultation processes required under Federal Law including under the Endangered Species Act (ESA).

(d) The Secretary of Energy, within six months of the effective date of this MOU, will amend 10 C.F.R. § 900.5 to reflect the terms of this Section of the MOU.

VII. APPEALS

(a) Consistent with section 216(h)(6)(A) of the FPA, if a Signatory Agency has denied a Federal Authorization required for a Qualifying Project or has failed to act by the deadline established by DOE for deciding whether to issue the authorization, due to delays not caused by actions of the applicant for the authorization, the Chair of CEQ and the Director of OMB will receive appeals made by an applicant or any State in which a portion of the Qualifying Project would be located.

This applies to any Qualifying Project, regardless of when the notice of intent to develop an EIS was published.

(b) Upon receipt of an appeal under paragraph (a), the Chair and Director, with technical support from the Department of Energy, will request any additional information that may be needed from the appellant to render a decision;

(c) Upon a determination that the appellant has submitted all needed information, the Chair and the Director will refer the application and pertinent information to and request recommendations from the head of any Participating Agencies responsible for issuing a determination on a Federal authorization that is the subject of the appeal, and input from any other Federal department or agency that the Chair and the Director deems appropriate. All Federal officials consulted by the Chair and the Director pursuant to this paragraph will provide their input and render such assistance as may be requested, consistent with their authority, in a timely manner, but not to exceed 30 days from the date of the request;

(d) The Chair and the Director will consult with such State, Tribal, and local government officials as they deem appropriate, with respect to each appeal;

(e) After considering the input received, the Chair and the Director will prepare a recommendation to the President with respect to the pending appeal. If the Chair and the Director recommend that the President issue the requested authorization, the Chair and the Director, with technical support from DOE, will prepare such authorization in draft, in such form and with such terms and conditions as may, in the Chair and the Director's judgment, in consultation with the relevant Participating Agencies, be required.

VIII. RESOURCE SUPPORT

(a) Resource constraints can seriously limit the ability of Federal agencies to complete Federal reviews and authorizations for Qualifying Projects in a timely fashion. States and Tribal Nations also face resource constraints and may also benefit from technical assistance to enhance their capacity. To address these constraints, the Secretary of Energy and the Executive Director of FPISC, in consultation with the Director of OMB and Chair of CEQ, agree to work together to provide, as appropriate and authorized by statute:

(i) technical assistance, expertise, personnel or financial resources to State, Tribal, and local governments to help facilitate timely and efficient environmental review and permitting processes necessary for advancing Qualifying Projects.

(ii) financial resources and personnel to Participating Agencies to facilitate timely and efficient environmental reviews and authorizations for Qualifying Projects.

IX. ADDITIONAL RESPONSIBILITIES

The Signatory Agencies agree to the following additional responsibilities:

(a) Each Signatory Agency will establish, for purposes of implementation of this MOU, a point of contact (POC) to assist with coordination under this MOU. The POC will assist with identifying and assigning appropriate personnel to the Qualifying Project and/or the Qualifying Project team; ensure that any relevant timelines are fairly determined and met; ensure that their respective agency participation receives a high priority within the agency; to the extent that the Signatory Agency is involved in the environmental review and authorization of a Qualified Project, ensure that project design, impact, and mitigation issues are recognized and addressed early in the project planning; and in other ways ensure that each project receives full and appropriate consideration of that agency's interests such that issues can be identified and resolved expeditiously as the project develops.

(b) Cooperating and Participating Agencies agree to participate fully throughout the Federal agency review process as described below:

(i) Timely Coordination: Cooperating and Participating Agencies will submit reviews in accordance with the timeline established by DOE under section V of this MOU.

(ii) Personnel and Expertise: Cooperating and Participating Agencies will provide personnel and/or expertise to the Co-Lead Agencies as agreed to during initial project negotiations.

(iii) Provide Data and Studies: Cooperating and Participating Agencies will engage in early coordination to identify and share any existing data and studies and provide any information necessary to complete application reviews and authorizations when requested by the Lead Agency, and/or identify where data and studies are lacking in accordance with the project-specific schedule.

(iv) Communicate Effectively: Each Cooperating and Participating Agency will assign a lead POC for coordination and consultation with the Lead Agency during the life of the project.

(v) Share Information and Data: Each Cooperating and Participating Agency will share information and data with other Cooperating and Participating Agencies and, to the maximum extent practicable, submit information in a common electronic format for record-keeping and analysis.

(vi) Issue Resolution: Cooperating and Participating Agencies will ensure that any issues or problems with the Qualifying Project or processes are brought to the immediate attention of the Lead Agency and will participate fully in seeking and implementing resolution. The Lead Agency will inform Cooperating and Participating Agencies regarding new information and necessary changes related to the project.

X. AUTHORITY TO ENTER INTO THIS MOU

General

Section 216(h) of the FPA directs Federal agencies with authority to issue Federal authorizations to enter into a memorandum of understanding to ensure timely and coordinated review and permitting of electricity transmission facilities.

USDA

The participation of USDA in this MOU includes through the U.S. Forest Service. The authority for the USDA to enter into this MOU includes Service First, Pub. L. No. 111-8, Div. E, Title IV, § 418, 123 Stat. 747 (2005) and Title V of the Federal Land Policy and Management Act of 1876, 43 U.S.C. §§ 1761-1772.

The U.S. Forest Service within USDA is responsible for managing lands within the National Forest System. *See* 16 U.S.C. §§ 472, 551.

DOC

The authority for the DOC to enter into this MOU includes sections 1221(h), 119 Stat. 594, 946-951 (2005) and 16 U.S.C. 824p.

The National Oceanic and Atmospheric Administration within DOC is responsible for conserving and managing coastal and marine ecosystems and resources, which includes environmental review and authorization actions under the ESA, the MSFCMA, the MMPA, and the NMSA.

DOD

The Authority for the DOD to enter into this MOU includes the Energy Policy Act of 2005, Pub. L. No. 109-58, §§ 368, 372, 119 Stat. 727-728, 734-735 (2005), and 10 U.S.C. § 2668, and the Sikes Act, 16 U.S.C. §§ 670a-670f, The Military Lands Withdrawal Act of 1999, Pub. L. No. 106-65, §§ 113 Stat. 885 (1999), and Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions, 10 USC § 183a.

The United States Army Corps of Engineers (USACE) within DOD is responsible for administering laws for the protection and preservation of waters of the United States, pursuant to the requirements of sections 10 and 14 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act and applicable provisions of the section 404(b)(1) Guidelines.

DOE

The authority for the DOE to enter into this MOU includes sections 301 and 641 of the DOE Organization Act (42 U.S.C. 7151 and 7251) and 216(h) and 309 of the FPA (16 U.S.C. 824p(h) and 825h).

EPA

The authority for the EPA to enter into this MOU includes sections 102(b), 103(a) and (g), 176(c), and 309 of the Clean Air Act (CAA) (42 U.S.C. §§ 7402(b), 7403(a) and (g), 7506(c), and 7609); sections 104, 401, 402, and 404 of the Clean Water Act (CWA) (33 U.S.C. §§ 1254, 1341, 1342, and 1344).

CEQ

CEQ enters into this MOU at the President's direction and also pursuant to NEPA (42 U.S.C. 4321 *et seq.*).

DOI

The authority for the DOI to enter into this MOU includes section 307(b) of the Federal Land Policy and Management Act of 1976 (43 USC § 1737(b)), the ESA (16 U.S.C. § 1531 *et seq.*), NEPA, the Migratory Bird Treaty Act (16 U.S.C. § 703 *et seq.*), the NPS Organic Act (16 U.S.C. §§ 1-3), the Indian Right-of-Way Act of 1948 (25 U.S.C. § 323 *et seq.*), the Act of June 17, 1902 (Reclamation Act), as amended and supplemented (43 U.S.C. § 391 *et seq.*), and Service First, § 330, Pub. L. No. 106-291, as amended by § 428, Pub. L. No. 109-54 and § 418, Pub. L. No. 111-8.

The Bureau of Land Management within DOI is responsible for the management of public lands and minerals.

The U.S. Fish & Wildlife Service within DOI is responsible for administering the National Wildlife Refuge System and engaging in consultation under the ESA.

The Bureau of Indian Affairs within DOI is responsible for reviewing and approving, as appropriate, rights of way across trust and restricted Indian lands and facilitating engagement between Federal agencies and Tribal Nations.

The Bureau of Reclamation within DOI is responsible for managing, developing, and protecting Federal water and related resources.

The National Park Service within DOI is responsible for administering the National Park System.

The U.S. Geological Survey within DOI is responsible for providing unbiased science and predictive understanding when needed to assist siting qualifying transmission infrastructure on Federal lands, including impacts to the water, biology, energy, and mineral resources of those lands.

FPISC

The authority for FPISC to enter into this MOU includes 42 U.S.C. §§ 4370m-8(d)(2) & (3).

OMB

OMB enters into this MOU at the President's direction.

XI. ADMINISTRATIVE PROVISIONS

(a) Nothing in this MOU is intended to or will be construed to limit or affect in any way the authority or legal responsibilities of the Signatory Agencies.

(b) Nothing in this MOU binds the Signatory Agencies to perform beyond their respective authorities.

(c) Nothing in this MOU may be construed to obligate the Signatory Agencies or the United States to any current or future expenditure of resources in advance of the availability of appropriations from Congress. Nor does this MOU obligate the Signatory Agencies, or the United States to spend funds on any particular project or purpose, even if funds are available.

(d) The mission requirements, funding, personnel, and other priorities of the Signatory Agencies may affect their ability to fully implement all the provisions identified in this MOU.

(e) Specific activities that involve the transfer of money, services, or property between or among the Signatory Agencies will require execution of separate agreements or contracts.

(f) Nothing in this MOU is intended to, or will, be construed to restrict the Signatory Agencies from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

(g) This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(h) Any information furnished between the Signatory Agencies under this MOU may be subject to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (FOIA). The Signatory Agencies agree to consult one another prior to releasing potentially privileged or exempt documents.

(i) All press releases and public statements issued by the Signatory Agencies concerning or characterizing this MOU will be jointly reviewed and agreed to by delegated staff representing each of the undersigned signatories.

(j) All participants agree to resolve disputes expeditiously. If a dispute arises among the Signatory Agencies regarding the terms or the implementation of this MOU that does not involve a project-specific schedule under Section V(d) of this MOU, identification of a Co-Lead Agency under Section VI(b) of this MOU, or an appeal under section VII of this MOU, the following steps will be taken:

(i) The Signatory Agency that seeks resolution will provide a written statement of its dispute, along with any rationale or supporting documents, to the other Signatory

Agencies within 10 working days. The Signatory Agencies will engage in discussions in an attempt to arrive at a consensus and resolve the dispute;

(ii) If no resolution is reached within 10 working days of receipt of the statement of dispute, the dispute may be elevated in writing, along with any rationale or supporting documents, to the relevant Signatory Agencies' respective headquarters-level officials or their designees and CEQ. The principal contacts for the parties will engage in discussions to seek consensus;

(iii) If consensus is not reached by the headquarters-level officials within fifteen working days of their receipt of the written statement of the dispute, the Signatory Agencies will promptly elevate the matter to the principal policy makers for the respective Signatory Agencies and the CEQ Chair who will endeavor to resolve the matter within 20 working days;

(iv) The time limits in paragraph (2) may be extended on the agreement of the parties to the dispute. The parties may employ an agency dispute resolution services office to assist in the resolution of disputes. Disputes will be resolved within sufficient time to enable completion of decisions within the deadlines established by DOE under Section V of this MOU; and

(v) Any Signatory Agency that learns of an applicant or state's intent to appeal any matter under subsection 216(h)(6) of the FPA will immediately notify the principal policy makers of the affected Signatory Agencies, the Chair of CEQ, and the Director of OMB who will engage the applicant or state in discussions to resolve the matter.

(k) Periodic meetings of the Signatory Agencies will be scheduled to review progress and identify opportunities for advancing the purposes of this MOU.

(l) A Signatory Agency may terminate participation in this MOU 120 days after providing written notice to the other Signatory Agencies.

(m) A Signatory Agency may amend or modify this MOU through agreement among all Signatory Agencies.

(n) This MOU is not intended to authorize the siting of any electric transmission facility within the boundaries of any unit of the National Wildlife Refuge System, National Wilderness Preservation System, National Park System, or National Marine Sanctuary System.

(o) This MOU is not intended nor will it be interpreted to alter or diminish the consultation responsibilities of Federal agencies including under section 7(a)(2) of the ESA or under the NHPA.

(p) Other Federal agencies may participate in this MOU at any time while the MOU is in effect. Participation will be evidenced by an agency official signature on the MOU, following which the agency joining the MOU will be considered a Signatory Agency, Participating Agency, and Cooperating Agency for purposes of this MOU as defined in Section III. When an agency joins the MOU under this provision, the MOU will be amended so that the additional agency is


identified in the title of the MOU, identified in the first sentence of the MOU, and identified along with applicable authorities in Section X.

(q) Pursuant to 41 U.S.C. § 22, no member of or delegate to Congress may benefit from this MOU, either directly or indirectly.

(r) This MOU may be signed in counterparts by the Signatory Agencies and becomes effective when it is executed by all the Signatory Agencies.

(s) This MOU may be terminated with the written agreement of all Signatory Agencies.

XII. SIGNATORIES



Thomas J. Vilsack
Secretary
Department of Agriculture

Gina M. Raimondo
Secretary
Department of Commerce

Lloyd J. Austin
Secretary
Department of Defense

Jennifer M. Granholm
Secretary
Department of Energy

Michael S. Regan
Administrator
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Brenda Mallory
Chair
Council On Environmental Quality

Christine Harada
Executive Director
Federal Permitting Improvement Steering Council

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Department of Defense

Jennifer M. Granholm
Secretary
Department of Energy

Michael S. Regan
Administrator
Environmental Protection Agency

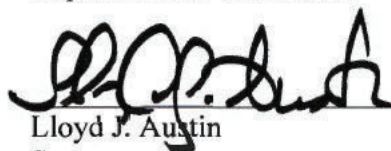
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Chair
Council On Environmental Quality

Christine Harada
Executive Director
Federal Permitting Improvement Steering Council

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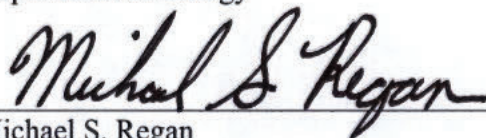
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Deb Haaland
Secretary
Department of the Interior

Shalanda D. Young
Director
Office of Management and Budget

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