



**NATIONAL ASSOCIATION
OF TRIBAL HISTORIC
PRESERVATION OFFICERS**

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September 29, 2023

Ms. Maria Robinson
Director, Grid Deployment Office
U.S. Department of Energy
1000 Independence Ave. SW, 4H-065
Washington DC 20585

RE: DOE-HQ-2023-0050

Dear Director Robinson,

The National Association of Tribal Historic Preservation Officers (NATHPO) has the following comments regarding the Department of Energy's (DOE) proposed a rule to establish the Coordinate Interagency Transmission Authorization and Permits (CITAP) Program to accelerate Federal environmental review and permitting processes for qualifying onshore electric transmission facilities.

NATHPO is the only national organization devoted to supporting Tribal historic preservation programs. Founded in 1998, NATHPO is a 501(c)(3) non-profit membership association of Tribal government officials who implement federal and Tribal preservation laws. NATHPO empowers Tribal preservation leaders protecting culturally important places that perpetuate Native identity, resilience, and cultural endurance. Connections to cultural heritage sustain the health and vitality of Native peoples.

Our members strongly support efforts to ensure that American households and communities have reliable and affordable electricity. They also believe that Tribal sovereignty does not need to be compromised nor do Tribal Nations' cultural resources and sacred places need to be damaged or destroyed in order to provide reliable and affordable electricity. The way this rule has been drafted and presented is an affront to Tribal sovereignty and because of its opaqueness it is completely unclear if the rule represents a threat to Tribal Nations' cultural resources and sacred places.

The rule should be immediately withdrawn. As noted, the rule is opaque, so our understanding is based on the text combined with statements by Grid Deployment Office staff during webinars. Based on our interpretation, there are numerous fundamental flaws in the proposed rule. Two examples are within § 900.6, requiring project proponents to develop thirteen resource reports:

- "Resource Report 9—Communities of Interest." Grid Deployment Office staff stated that the Communities of Interest reports would fulfill National Historic Preservation Act Section 106 responsibilities for determining the impact of projects on Tribal Nations' cultural resources and sacred places. The inclusion of Tribal Nations in "Communities of Interest" fails to recognize that as sovereign nations, Tribal Nations should not be categorized with other communities. There are distinct nation-to-nation responsibilities that federal agencies have when engaging Tribal Nations and the rule fails to recognize those responsibilities. Additionally, these proposed Resource Reports are not a Program Alternative approved by the Advisory Council on Historic Preservation under 36 CFR 800 and cannot lawfully be used to fulfill DOE's responsibilities under NHPA Section 106.

PROTECTING NATIVE PLACES

- “Resource Report 13—Tribal Interests.” DOE staff explicitly said that these reports would not include the effect of projects on Tribal Nations’ cultural resources. This section of the proposed rule says, *“To the extent Indian Tribes are willing to communicate and share resource information, this report should discuss the potential impacts of project construction, operation, and maintenance on Indian Tribes and Tribal interests, including impacts related to enumerated resources and areas identified in the resource reports listed in this section (for instance, water rights, access to property, wildlife and ecological resources, etc.)”* This reflects a fundamental lack of understanding about what is a Tribal Cultural Resource. For Tribal Nations water rights, access to property, wildlife, and ecological resources are cultural resources.

Even if the proposed rule was not opaque and from what we can determine badly flawed, the process for reaching out to Tribal Historic Preservation Officers (THPOs) was unsatisfactory. Department staff failed to effectively engage THPOs during the drafting of the proposed rule or during the comment period. Furthermore, the material presented in the webinars was unintelligible to participants, resulting in an absence of comments or questions – which does not indicate lack of THPO concern or interest in potential impacts of this proposed rule.

The DOE Grid Deployment Office’s CITAP rule is flawed and the process for promulgating the rule failed to respect the sovereignty of Tribal Nations and the important role that THPOs play in preserving and protecting Tribal Nations’ cultural resources and sacred places. We respectfully request that the rule be withdrawn.

Sincerely,

A handwritten signature in black ink that reads "Valerie J. Grussing". The signature is written in a cursive, flowing style.

Valerie J. Grussing, PhD
Executive Director