

**(b) Fair market value rental determination for linear rights-of-way**

The fair market value rent of a linear right-of-way across public lands or National Forest System lands issued under section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) or section 185 of title 30 shall be determined in accordance with subpart 2806 of title 43, Code of Federal Regulations, as in effect on August 8, 2005 (including the annual or periodic updates specified in the regulations), and as updated in accordance with subsection (a).

(Pub. L. 109–58, title III, §367, Aug. 8, 2005, 119 Stat. 726.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended. Title V of the Act is classified generally to subchapter V (§1761 et seq.) of chapter 35 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

**§ 15926. Energy right-of-way corridors on Federal land**

**(a) Western States**

Not later than 2 years after August 8, 2005, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior (in this section referred to collectively as “the Secretaries”), in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of governments as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall—

- (1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven contiguous Western States (as defined in section 1702(o) of title 43;<sup>1</sup>
- (2) perform any environmental reviews that may be required to complete the designation of such corridors; and
- (3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans.

**(b) Other States**

Not later than 4 years after August 8, 2005, the Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested persons, shall jointly—

- (1) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in States other than those described in subsection (a); and
- (2) schedule prompt action to identify, designate, and incorporate the corridors into the applicable land use plans.

**(c) Ongoing responsibilities**

The Secretaries, in consultation with the Federal Energy Regulatory Commission, affected

utility industries, and other interested parties, shall establish procedures under their respective authorities that—

- (1) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated as necessary; and
- (2) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.

**(d) Considerations**

In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

- (1) improve reliability;
- (2) relieve congestion; and
- (3) enhance the capability of the national grid to deliver electricity.

**(e) Specifications of corridor**

A corridor designated under this section shall, at a minimum, specify the centerline, width, and compatible uses of the corridor.

(Pub. L. 109–58, title III, §368, Aug. 8, 2005, 119 Stat. 727.)

TRANSFORMING OUR NATION’S ELECTRIC GRID THROUGH IMPROVED SITING, PERMITTING, AND REVIEW

Memorandum of President of the United States, June 7, 2013, 78 F.R. 35539, provided:

Memorandum for the Heads of Executive Departments and Agencies

Our Nation’s electric transmission grid is the backbone of our economy, a key factor in future economic growth, and a critical component of our energy security. Countries that harness the power of clean, renewable energy will be best positioned to thrive in the global economy while protecting the environment and increasing prosperity. In order to ensure the growth of America’s clean energy economy and improve energy security, we must modernize and expand our electric transmission grid. Modernizing our grid will improve energy reliability and resiliency, allowing us to minimize power outages and manage cyber-security threats. By diversifying power sources and reducing congestion, a modernized grid will also create cost savings for consumers and spur economic growth.

Modernizing our Nation’s electric transmission grid requires improvements in how transmission lines are sited, permitted, and reviewed. As part of our efforts to improve the performance of Federal siting, permitting, and review processes for infrastructure development, my Administration created a Rapid Response Team for Transmission (RRTT), a collaborative effort involving nine different executive departments and agencies (agencies), which is working to improve the efficiency and effectiveness of transmission siting, permitting, and review, increase interagency coordination and transparency, and increase the predictability of the siting, permitting, and review processes. In furtherance of Executive Order 13604 of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), this memorandum builds upon the work of the RRTT to improve the Federal siting, permitting, and review processes for transmission projects. Because a single project may cross multiple governmental jurisdictions over hundreds of miles, robust collaboration among Federal, State, local, and tribal governments must be a critical component of this effort.

<sup>1</sup> So in original. A closing parenthesis probably should follow “title 43”.

An important avenue to improve these processes is the designation of energy right-of-way corridors (energy corridors) on Federal lands. Section 368 of the Energy Policy Act of 2005 (the “Act”) (42 U.S.C. 15926), requires the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior (Secretaries) to undertake a continued effort to identify and designate such energy corridors. Energy corridors include areas on Federal lands that are most suitable for siting transmission projects because the chosen areas minimize regulatory conflicts and impacts on environmental and cultural resources, and also address concerns of local communities. Designated energy corridors provide an opportunity to co-locate projects and share environmental and cultural resource impact data to reduce overall impacts on environmental and cultural resources and reduce the need for land use plan amendments in support of the authorization of transmission rights-of-way. The designation of energy corridors can help expedite the siting, permitting, and review processes for projects within such corridors, as well as improve the predictability and transparency of these processes. Pursuant to the Act, in 2009, the Secretaries of the Interior and Agriculture each designated energy corridors for the 11 contiguous Western States, as defined in section 368 of the Act. Energy corridors have not yet been designated in States other than those identified as Western States. It is important that agencies build on their existing efforts in a coordinated manner.

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

**SECTION 1. Principles for Establishing Energy Corridors.**

(a) In carrying out the requirements of this memorandum regarding energy corridors, the Secretaries shall:

(i) collaborate with Member Agencies of the Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee), established by Executive Order 13604, which shall provide prompt and adequate information to ensure that additional corridor designations and revisions are consistent with the statutory responsibilities and activities of the Member Agencies and enable timely actions by the Secretaries;

(ii) focus on facilitating renewable energy resources and improving grid resiliency and comply with the requirements in section 368 of the Act, by ensuring that energy corridors address the need for upgraded and new electric transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the national grid to deliver electricity;

(iii) use integrated project planning and consult with other Federal agencies, State, local, and tribal governments, non-governmental organizations, and the public early in the process of designating the energy corridors, so as to avoid resource conflicts to the extent practicable and make strategic decisions to balance policy priorities;

(iv) collaborate with State, local, and tribal governments to ensure, to the extent practicable, that energy corridors can connect effectively between Federal lands;

(v) minimize the proliferation of dispersed and duplicative rights-of-way crossing Federal lands while acting consistent with subsection (a)(ii) of this section;

(vi) design energy corridors to minimize impacts on environmental and cultural resources to the extent practicable, including impacts that may occur outside the boundaries of Federal lands, and minimize impacts on the Nation’s aviation system and the mission of the Armed Forces; and

(vii) develop interagency mitigation plans, where appropriate, for environmental and cultural resources potentially impacted by projects sited in the energy corridors to provide project developers predictability on how to seek first to avoid, then attempt to minimize any negative effects from, and lastly to mitigate such impacts, where otherwise unavoidable. Mitigation plans shall:

(A) be developed at the landscape or watershed scale with interagency collaboration, be based on conservation and resource management plans and regional environmental and cultural resource analyses, and identify priority areas for compensatory mitigation where appropriate;

(B) be developed in consultation with other Federal agencies, State, local, and tribal governments, non-governmental organizations, and the public;

(C) include clear and measurable mitigation goals, apply adaptive management methods, and use performance measures to evaluate outcomes and ensure accountability and the long-term effectiveness of mitigation activities;

(D) include useful mechanisms, such as mitigation banks and in lieu fee programs, where appropriate for achieving statutory and regulatory goals; and

(E) be considered in the energy corridor designation process.

(b) The Secretary of Energy shall assess and synthesize current research related to the requirements set forth in subsection (a)(ii) of this section, such as transmission planning authority studies, congestion studies, and renewable energy assessments. Based on that analysis, the Secretary of Energy shall provide to the Steering Committee a Transmission Corridor Assessment Report (Report) that provides recommendations on how to best achieve the requirements set forth in subsection (a)(ii) of this section. Where research is available, the Report shall include an assessment of whether investment in co-locating with or upgrading existing transmission facilities, distributed generation, improved energy efficiency, or demand response may play a role in meeting these requirements. In preparing the Report, the Secretary of Energy shall consult with Federal, State, local, and tribal governments, affected industries, environmental and community representatives, transmission planning authorities, and other interested parties. The Report shall be provided in two parts. The first part, which shall provide recommendations with respect to the Western States, shall be provided by December 1, 2013, and the second part, which shall provide recommendations with respect to States other than the Western States, shall be provided by April 1, 2014.

**SEC. 2. Energy Corridors for the Western States.** (a) The Secretaries shall strongly encourage the use of designated energy corridors on Federal land in the Western States where the energy corridors are consistent with the requirements in this memorandum and other applicable requirements, unless it can be demonstrated that a project cannot be constructed within a designated corridor due to resource constraints on Federal lands. Additionally, the Secretaries, pursuant to section 368 of the Act, shall continue to evaluate designated energy corridors to determine the necessity for revisions, deletions, or additions to those energy corridors. Also, the Secretaries, coordinated by the Secretaries of the Interior and Agriculture, shall:

(i) by July 12, 2013, provide to the Steering Committee a plan for producing the Western corridor study and regional corridor assessments (as specified in subsection (a)(ii) and (a)(iii) of this section), which shall include descriptions of timelines and milestones, existing resources to be utilized, plans for collaborating with Member Agencies, and plans for consulting with other Federal agencies, State, local, and tribal governments, affected industries, environmental and community representatives, and other interested parties;

(ii) within 12 months of completion of the plan pursuant to subsection (a)(i) of this section, provide to the Steering Committee a Western corridor study, which shall assess the utility of the existing designated energy corridors;

(iii) provide to the Steering Committee regional corridor assessments, which shall examine the need for additions, deletions, and revisions to the existing energy corridors for the Western States by region. The regional corridor assessments shall evaluate energy corridors based on the requirements set forth in sub-

section (a) of section 1, the Report issued pursuant to subsection (b) of section 1, and the Western corridor study. The regional corridor assessments shall be completed promptly, depending on resource availability, with at least the first assessment completed within 12 months of completion of the plan pursuant to subsection (a)(i) of this section;

(iv) by November 12, 2014, provide to the Steering Committee and the Office of Management and Budget (OMB) an implementation plan for achieving the requirements set forth in subsections (a)(v) and (a)(vi) of this section based on the regional corridor assessments. The implementation plan shall include timelines and milestones that prioritize coordinated agency actions and a detailed budget;

(v) promptly after the completion of the regional corridor assessments and prioritized based on the availability of resources, undertake coordinated land use planning and environmental and cultural resource review processes to consider additions, deletions, or revisions to the current Western energy corridors, consistent with the requirements set forth in subsection (a) of section 1, the Report required issued pursuant to subsection (b) of section 1, and the Western corridor study; and

(vi) as appropriate, after completing the required environmental and cultural resource analyses, promptly incorporate the designated Western corridor additions, deletions, or revisions and any mitigation plans developed pursuant to subsection (a)(vii) of section 1 into relevant agency land use and resource management plans or equivalent plans prioritized based on the availability of resources.

(b) The Member Agencies, where authorized, shall complete any required land use planning, internal policy, and interagency agreements to formalize the designation of energy corridors implemented pursuant to subsection (a)(vi) of this section. The Secretaries and Member Agencies shall also develop and implement a process for expediting applications for applicants whose projects are sited primarily within the designated energy corridors in the Western States, and who have committed to implement the necessary mitigation activities, including those required by the interagency mitigation plans required by subsection (a)(vii) of section 1.

**SEC. 3. Energy Corridors for the Non-Western States.** The Secretaries, in collaboration with the Member Agencies, shall continue to analyze where energy corridors on Federal land in States other than those identified as Western States may be necessary to address the recommendations in the Report issued pursuant to subsection (b) of section 1 and the requirements set forth in subsection (a) of section 1, and to expedite the siting, permitting, and review of electric transmission projects on Federal lands in those States. By September 1, 2014, the Secretaries shall provide the Steering Committee with updated recommendations regarding designating energy corridors in those States.

**SEC. 4. Improved Transmission Siting, Permitting, and Review Processes.** (a) Member Agencies shall develop an integrated, interagency pre-application process for significant onshore electric transmission projects requiring Federal approval. The process shall be designed to: promote predictability in the Federal siting, permitting, and review processes; encourage early engagement, coordination, and collaboration of Federal, State, local, and tribal governments, non-governmental organizations, and the public; increase the use of integrated project planning early in the siting, permitting, and review processes; facilitate early identification of issues that could diminish the likelihood that projects will ultimately be permitted; promote early planning for integrated and strategic mitigation plans; expedite siting, permitting, and review processes through a mutual understanding of the needs of all affected Federal agencies and State, local, and tribal governments; and improve environmental and cultural outcomes.

By September 30, 2013, Member Agencies shall provide to the Chief Performance Officer (CPO) and the Chair of

the Council on Environmental Quality a plan, including timelines and milestones, for implementing this process.

(b) In implementing Executive Order 13604, Member Agencies shall:

(i) improve siting, permitting, and review processes for all electric transmission projects, both onshore and offshore, requiring Federal approval. Such improvements shall include: increasing efficiency and interagency coordination; increasing accountability; ensuring an efficient decision-making process within each agency; to the extent possible, unifying and harmonizing processes among agencies; improving consistency and transparency within each agency and among all agencies; improving environmental and cultural outcomes; providing mechanisms for early and frequent public and local community outreach; and enabling innovative mechanisms for mitigation and mitigation at the landscape or watershed scale; and

(ii) facilitate coordination, integration, and harmonization of the siting, permitting, and review processes of Federal, State, local, and tribal governments for transmission projects to reduce the overall regulatory burden while improving environmental and cultural outcomes.

**SEC. 5. General Provisions.** (a) The Secretaries and the Member Agencies shall coordinate the activities required by this memorandum with the Steering Committee and shall report to the Steering Committee their progress on meeting the milestones identified pursuant to this memorandum, consistent with the plans developed pursuant to sections 2 and 4 of this memorandum. The CPO shall report on the implementation of this memorandum in the report to the President submitted pursuant to section 2(e) of Executive Order 13604.

(b) In carrying out their responsibilities under this memorandum, Member Agencies shall consult relevant independent agencies, including the Federal Energy Regulatory Commission.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum shall be implemented consistent with Executive Order 13175 of November 6, 2000 (Consultation and Coordination with Indian Tribal Governments) and my memorandum of November 5, 2009 (Tribal Consultation).

(e) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(f) This memorandum 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.

(g) The Director of OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## § 15927. Oil shale, tar sands, and other strategic unconventional fuels

### (a) Short title

This section may be cited as the “Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005”.

### (b) Declaration of policy

Congress declares that it is the policy of the United States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be