



This document is scheduled to be published in the Federal Register on 01/16/2025 and available online at <https://federalregister.gov/d/2025-00888>, and on <https://govinfo.gov>

DEPARTMENT OF ENERGY  
Federal Energy Regulatory Commission

18 CFR Part 376

[Docket No. RM25-6-000; Order No. 905]

Continuity of Operations Plan

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, the Commission revises its Continuity of Operations Plan regulations to include, in its hierarchy of delegation of Commission authority, the Director and other staff of the Office of Energy Infrastructure Security, who were not included when the regulations were earlier revised.

**DATES:** This rule will become effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:**

Mark Hershfield  
Office of the General Counsel  
Federal Energy Regulatory Commission  
888 First St., NE  
Washington, DC 20426  
(202) 502-8597  
[mark.hershfield@ferc.gov](mailto:mark.hershfield@ferc.gov)

Christopher Macfarlane  
Office of the General Counsel  
Federal Energy Regulatory Commission  
888 First St., NE  
Washington, DC 20426  
(202) 502-6761  
christopher.macfarlane@ferc.gov

#### **SUPPLEMENTARY INFORMATION:**

1. This final rule revises the Commission's Continuity of Operations Plan (COOP) regulations<sup>1</sup> to incorporate the Director and other staff of the Office of Energy Infrastructure Security (OEIS) into the hierarchy of delegation of Commission authority during emergency conditions, and also to revise that hierarchy.

#### **Discussion**

2. In September 2012, the Commission announced the creation of OEIS, which both then and today focuses on identifying, communicating and seeking comprehensive solutions to significant potential cyber and physical security risks to the energy infrastructure under the Commission's jurisdiction and coordinating and collaborating with federal, state and industry representatives.

3. The Commission's COOP regulations were last updated in April 2013. Although OEIS was established as a front-facing office in September 2012, it was not included in the hierarchy of delegation of Commission authority during emergency conditions in Order No. 778.<sup>2</sup> Since this time, both natural and human-caused threats against energy infrastructure have significantly increased in frequency and severity. In addition, COOP may be initiated by circumstances that fall within OEIS' responsibilities, and where the

---

<sup>1</sup> 18 CFR 376.204.

<sup>2</sup> *Continuity of Operations Plan*, Order No. 778, 78 FR 21245, (Apr. 10, 2013), 143 FERC ¶ 61,014 (2013).

office is responsible for leading and/or assisting with FERC's Mission Essential Functions.<sup>3</sup>

4. This final rule revises the Commission's COOP regulations to expand the hierarchy list to incorporate the Director and other staff of OEIS who were not included when the regulations were last revised in April 2013.

### **Regulatory Flexibility Act**

5. The Regulatory Flexibility Act of 1980 (RFA)<sup>4</sup> generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. This final rule concerns a matter of internal agency procedure, and it will not have such an impact. An analysis under the RFA is not required. The Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

### **Information Collection Statement**

6. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.<sup>5</sup> This final rule

---

<sup>3</sup> DHS/FEMA, Federal Continuity Directive 2, Federal Executive Branch Mission Essential Functions and Candidate Primary Mission Essential Functions Identification and Submission Process (Washington, DC: DHS/FEMA, June 2017), Annex I-1 & n.12, quoting PPD-40, p. 2. Accessed Oct. 10, 2024. [https://www.fema.gov/sites/default/files/2020-07/Federal\\_Continuity\\_Directive2\\_June132017.pdf](https://www.fema.gov/sites/default/files/2020-07/Federal_Continuity_Directive2_June132017.pdf). *See also* DHS/FEMA, Federal Continuity Directive, Continuity Planning Framework for the Federal Executive Branch (Washington, DC: DHS/FEMA, Dec. 2023). Accessed Oct. 10, 2024. [https://www.fema.gov/sites/default/files/documents/fema\\_federal-continuity-directive-planning-framework.pdf](https://www.fema.gov/sites/default/files/documents/fema_federal-continuity-directive-planning-framework.pdf).

<sup>4</sup> 5 U.S.C. 601-12.

<sup>5</sup> 5 CFR 1320.12.

contains no new information collections. Therefore, OMB review of this final rule is not required.

### **Environmental Analysis**

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>6</sup> Rules that are procedural, ministerial, or internal administrative and management actions are categorically excluded from this requirement.<sup>7</sup> This final rule is procedural in nature and therefore falls within this categorical exclusion in the Commission's regulations.

### **Document Availability**

8. In addition to publishing the full text of this document in the *Federal Register*, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>).

9. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits (i.e., the subdocket number – e.g., 000, 001, 002, etc.) in the docket number field.

10. User assistance is available for eLibrary and the Commission's web site during normal business hours. For assistance, please contact Online Support at 1-866-208-3676

---

<sup>6</sup> *Reguls. Implementing the Nat'l Env't Policy Act*, Order No. 486, 52 FR 47897 (Dec. 10, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

<sup>7</sup> 18 CFR 380.4(a)(1); *see also* Order No. 486, FERC Stats. & Regs. ¶ 30,783.

(e-mail at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov)), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659 (e-mail at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

### **Effective Date and Congressional Notification**

11. The provisions of 5 U.S.C. section 801 regarding Congressional review of final rules do not apply to this final rule because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

12. These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The Commission finds that notice and public comments are unnecessary because this rule concerns only agency procedure or practice. Therefore, the Commission finds good cause to waive the notice period otherwise required before the effective date of a final rule.

### **List of Subjects in 18 CFR Part 376**

Civil defense, Organization and functions (Government agencies).

By the Commission.

Issued: January 3, 2025.

Debbie-Anne A. Reese,  
Secretary.

In consideration of the foregoing, the Commission amends part 376, chapter I, Title 18, *Code of Federal Regulations*, as follows:

**Part 376 – ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS**

1. The authority citation for part 376 continues to read as follows:

**Authority:** 5 U.S.C. 553; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. Section 376.204 is revised to read as follows:

**§ 376.204 Delegation of Commission authority during emergency conditions**

(a) *Delegation of authority to one or two Commissioners.* During emergency conditions, the Commission shall function as usual, if a quorum of the Commission is available and capable of acting. If by reason of such conditions a quorum of the Commission is not available and capable of acting, all functions of the Commission are delegated to the Commissioner or Commissioners who are available and capable of acting.

(b) *Delegation of authority to Commission staff.* (1) When, by reason of emergency conditions, there is no Commissioner available and capable of acting, the functions of the Commission are delegated to the first seven members of the Commission staff on the list set forth in paragraph (b)(2) of this section who are available and capable of acting.

(2) The list referred to in paragraph (b)(1) of this section is:

(i) General Counsel;

(ii) Executive Director;

(iii) Director of the Office of Energy Market Regulation;

(iv) Director of the Office of Energy Projects;

(v) Director of the Office of Electric Reliability;

(vi) Director of the Office of Enforcement;

(vii) Director of the Office of Energy Infrastructure Security;

(viii) Deputy General Counsels, in order of seniority;

- (ix) Deputy Directors, Office of Energy Market Regulation, in order of seniority;
- (x) Deputy Directors, Office of Energy Projects, in order of seniority;
- (xi) Deputy Directors, Office of Electric Reliability, in order of seniority;
- (xii) Deputy Directors, Office of Enforcement, in order of seniority;
- (xiii) Deputy Directors, Office of Energy Infrastructure Security, in order of seniority;
- (xiv) Associate General Counsels and Solicitor, in order of seniority;

(xv) In order of seniority, Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; Assistant Directors and Division heads, Office of Enforcement; Assistant Directors and Division heads, Office of Energy Infrastructure Security;

(xvi) In order of seniority, Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices; and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.

(3) For purposes of paragraph (b)(2)(viii)-(xvi) of this section, order of seniority shall be based on the highest grade and longest period of service in that grade and, furthermore, for purposes of paragraph (b)(2)(xv)-(xvi) of this section, order of seniority shall be without regard to the particular Office or Division or Branch or Group to which the member of staff is assigned.

*(c) Devolution of authority to Commission staff during emergencies affecting the National Capital Region.* (1) To the extent not otherwise provided by this section, during emergency conditions when the Chairman is not available and capable of acting, when no Commissioner is available and capable of acting, and when no person listed in paragraph (b)(2)(i)-(xvi) of this section who is located in the National Capital Region is available and capable of acting, the functions of the Commission are delegated, in order of seniority (as described in paragraph (b)(3) of this section), to Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.

(2) Such delegation shall continue until such time as the Chairman is available and capable of acting, one or more Commissioners are available and capable of acting, or persons listed in paragraph (b)(2)(i)-(xvi) of this section who are located in the National Capital Region are available and capable of acting.

*(d) Reconsideration of staff action taken under delegations.* Action taken pursuant to the delegations provided for in this section shall be subject to reconsideration by the

Commission, acting with a quorum, within thirty days after the date upon which public notice is given that a quorum of the Commission has been reconstituted and is functioning.

[FR Doc. 2025-00888 Filed: 1/15/2025 8:45 am; Publication Date: 1/16/2025]