



DEPARTMENT OF ENERGY

10 CFR Part 205

[DOE-HQ-2025-0011]

RIN 1901-AB68

Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries

AGENCY: Department of Energy (DOE); Grid Deployment Office.

ACTION: Direct final rule (“DFR”); request for comments.

SUMMARY: This DFR rescinds regulations regarding the applications for a presidential permit authorizing construction, connection, operation, and maintenance of facilities for transmission of electric energy at international boundaries.

DATES: The final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], unless significant adverse comments are received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the *Federal Register* before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0011. Follow the instructions for submitting comments. The docket for this final rule, which includes Federal Register notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index.

However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0011. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding the application process codified in 10 CFR 205.320 through 10 CFR 205.329. Authority for these sections can be found at EO 10485 as amended by EO 12038. Extensive regulations established in response to these EOs impose economic, administrative and procedural burdens on applicants. Such burdens impede private enterprise and entrepreneurship and run contrary to the President's goal of unleashing American energy. EO 14154.

Further, Executive Order 14192 Unleashing Prosperity Through Deregulation explicitly makes it “the policy of the executive branch ... to alleviate unnecessary regulatory burdens placed on the American people.” Such burdens “are often difficult for the average person or business to understand, as they require synthesizing the collective meaning not just of formal regulations but also rules, memoranda, administrative orders, guidance documents, policy statements, and interagency agreements that are not subject to the Administrative Procedure Act, further increasing compliance costs and the risk of costs of non-compliance.” *Id.* The Secretary is therefore proposing to reduce regulatory burden wherever possible.

Additionally, as the authority for the aforementioned sections rests in Executive Order, it is at the discretion of the Executive branch as to how the order is applied.

Accordingly, DOE removes the aforementioned sections from regulation to reduce burden and remove out of date requirements while simultaneously bolstering American energy dominance by reducing barriers in the construction of facilities on the border. The rule rescission should help increase exports and subsequently the reliance of foreign nations on American energy. DOE seeks comment on all aspects of the rule, including but not limited to the prior rule’s consistency with statutory authority and the Constitution, national security, whether the prior rules are out of date, the prior rule’s costs and benefits, and the prior rule’s effect on small business, entrepreneurship and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent

feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons set forth herein, this regulatory action is consistent with these principles.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed the amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates requirements. Therefore, DOE concludes that the impacts thereof would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This amendment imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 et seq.).

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this amendment and has determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather

than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this amendment meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA.

62 FR 12820. DOE's policy statement is also available at

www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this amendment according to UMRA and its statement of policy and determined that the amendment does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This amendment would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department->

energy-information-quality-guidelines. DOE has reviewed this amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rulemaking and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,”; E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comments.

List of Subjects in 10 CFR Part 205

Administrative practice and procedure, Electric power, Electric utilities, Energy, Environmental protection, Exports, Foreign relations.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on May 9, 2025

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons in the preamble, DOE amends part 205 of chapter II, title 10 of the Code of Federal Regulations, as set forth:

PART 205 –ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. The authority-citation for part 205 continues to read as follows:

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275 (88 Stat. 96; E.O. 11790, 39 FR 23185); 42 U.S.C. 7101 et seq., unless otherwise noted. Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101); Pub. L. 66-280, 41 Stat. 1063 (16 U.S.C. Section 792 et seq.); E.O. 10485, 18 FR 5397, 3 CFR, 1949-1953, Comp., p. 970 as amended by E.O. 12038, 43 FR 4957, 3 CFR 1978 Comp., p. 136; Department of Energy Delegation Order No. 00-002.00Q (Nov. 1, 2018).

§§ 205.320 through 205.329 [Removed and Reserved]

2. Remove the undesignated center heading “Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries” above § 205.320, and remove and reserve §§ 205.320 through 205.329.

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