



## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

**18 CFR Parts 2, 5, 36, 131, 153, 156, 157, 287, 300, 366, 375, and 385**

**[Docket No. RM25-14-000]**

### **Implementation of the Executive Order Entitled “Zero-Based Regulatory Budgeting to Unleash American Energy”**

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is proposing to amend its regulations to insert a conditional sunset date into certain regulations in response to Executive Order (E.O.) 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy.”

**DATES:** Comments are due **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Comments, identified by docket number, may be filed in the following ways. Electronic filing through <http://www.ferc.gov>, is preferred.

- Electronic Filing: Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
  - Mail via U.S. Postal Service Only: Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, N.E., Washington, DC 20426.
  - Hand (including courier) delivery: Deliver to: Federal Energy Regulatory

Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

**FOR FURTHER INFORMATION CONTACT:** Richard Lehfeltdt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502-6592, richard.lehfeltdt@ferc.gov.

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**SUPPLEMENTARY INFORMATION:**

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) acts to provide for consideration of any significant adverse comments submitted in response to a companion direct final rule, issued concurrently with this NOPR. The direct final rule inserts, into the specific regulations identified therein, a sunset provision that establishes a conditional sunset date that is one year after the effective date of that rule, and provides that the Commission will offer the public an opportunity to comment on the costs and benefits of the regulations to be conditionally sunset prior to the sunset date. Following the sunset date, the Commission will consider sunset regulations to no longer be effective, will not seek to enforce sunset regulations, and will remove the sunset regulations from the *Code of Federal Regulations* and make necessary conforming changes. This NOPR ensures that the Commission has a proceeding through which it can consider any significant adverse comments that might be filed in response to the direct final rule and determine whether to proceed with finalizing specific sunset regulations. Through this action and the companion direct final rule, the Commission responds to Executive Order (E.O.) 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” and sunsets outdated and unnecessary regulations to eliminate unwarranted regulatory burdens and better harmonize the Commission’s regulations with its underlying statutory authorities.

### **I. Rulemaking Procedure**

2. The Commission is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. Because the Commission does not anticipate significant public comments on this action and considers it to be non-controversial, the direct final rule will become effective on

**[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL***

**REGISTER]**. However, if the Commission receives significant adverse comments on any part of the direct final rule by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, then the Commission will publish a document that withdraws any such part of the direct final rule and will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the Commission will not initiate a second comment period on this action.

3. A significant adverse comment is a comment where the commenter explains why the rule (or part of the rule) would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

- 1) The comment opposes the rule (or part of the rule) and provides a reason sufficient to require a substantive response in a notice-and-comment process.

For example, a substantive response is required when:

- a) The comment causes the Commission to reevaluate (or reconsider) its position or to conduct additional analysis;
  - b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or
  - c) The comment raises a relevant issue that was not previously addressed or considered by the Commission.
- 2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the Commission to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

## II. Background

4. Executive Order (E.O.) 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,”<sup>1</sup> directs the Commission to issue a rule inserting a conditional sunset date into each of its regulations that are in effect as of the date of the E.O. and were issued in whole or in part pursuant to the following statutes, as amended: the Federal Power Act of 1935, the Natural Gas Act of 1938, and the Powerplant and Industrial Fuel Use Act of 1978.<sup>2</sup> The E.O. describes the conditional sunset date for covered regulations to be one year after the effective date of the rule. The E.O. directs the Commission to issue the rule “to the extent consistent with applicable law” and provides that the E.O. does not apply to “regulatory permitting regimes authorized by statute.” This rule identifies regulations ripe for sunset that do not fit into one or more of the following three categories as covered by the E.O.: (1) regulations that cannot be sunset “consistent with applicable law” because they are necessary to fulfill the Commission’s statutory mandates to ensure reliable, safe, secure, and economically efficient energy for

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<sup>1</sup> 90 FR 15643 (Apr. 9, 2025).

<sup>2</sup> E.O. 14270 also directs the Commission, to the maximum extent consistent with law, to include a conditional sunset date in new regulations that would be covered by the E.O. Thus, the Commission will include a conditional sunset date in future regulations to which the E.O. would apply, consistent with the approach taken herein.

consumers at a reasonable cost; (2) regulations that are part of the Commission’s “regulatory permitting regimes authorized by statute;”<sup>3</sup> or (3) regulations that implement statutes other than the three specific statutes identified in the E.O.

5. Consistent with the goals of the E.O., this rule also identifies regulations that fall into one or more of the above three categories, but similarly, are not being used or no longer serve their original purpose. As explained in section III, “Discussion,” of the companion direct final rule, the Commission will also add a sunset provision to those regulations. A sunset date will allow these unused regulations to roll off the books. At the same time, if evidence emerges in the interim indicating a continued need for these regulations, the Commission can extend the sunset date as appropriate. Importantly, the Commission is also continuing its regulatory reform efforts through activities consistent with other executive orders, including E.O. 14192 (“Unleashing Prosperity Through Deregulation”) and E.O. 14154 (“Unleashing American Energy”).

6. The sunset provision will establish a conditional sunset date that is one year after the effective date of the direct final rule and provide that the Commission will offer the public an opportunity to comment on the costs and benefits of the regulations to be conditionally sunset prior to the sunset date. Following the sunset date, the Commission will consider sunset regulations to no longer be effective, will not seek to enforce sunset regulations, and will remove the sunset regulations from the *Code of Federal Regulations* and make necessary conforming changes. However, following the opportunity provided by the direct final rule and this proposed rule for the public to comment on the

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<sup>3</sup> For purposes of implementing this E.O., regulations that provide standards and requirements for Commission license and permit holders or applicants constitute the Commission’s “regulatory permitting regime.”

regulations' costs and benefits, the Commission may extend the conditional sunset date if warranted.

### **III. Information Collection Statement**

7. Information collection requirements are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995. OMB's regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

8. This direct final rule does not implement any changes to the identified collections. In the event of any resultant regulatory changes that affect information collections, the Commission will implement changes to the collections through regular information collection processes, which include public comment opportunities.

### **IV. Environmental Analysis**

9. 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>4</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being

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<sup>4</sup> *Reguls. Implementing the Nat'l Env't Pol'y Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

amended. The actions proposed herein fall within this categorical exclusion in the Commission's regulations. To the extent that the amendments to any of the regulations herein (or future rescissions of the regulations) are not procedural in nature, the amendments may fall within other categorical exclusions in the Commission's regulations.<sup>8</sup> Therefore, no Environmental Assessment or Environmental Impact Statement is required in connection with this rule.

## **V. Regulatory Flexibility Act**

10. The Regulatory Flexibility Act of 1980 (RFA)<sup>5</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to perform this sort of analysis if the proposed activities within the final rule would not have such an effect. This rulemaking would add a "sunsetting provision" to certain regulations, many of which are outdated seldomly used, or duplicative with other regulations, and therefore the impact is minimal.

11. Accordingly, pursuant to section 605(b) of the RFA,<sup>6</sup> the Commission certifies that the regulations proposed herein should not have a significant economic impact on a substantial number of small entities.

## **VI. Regulatory Planning and Review**

12. E.O. 12866 (Regulatory Planning and Review), as amended by E.O. 14215 (Ensuring Accountability for All Agencies) and reaffirmed by E.O.13563 (Improving Regulation and Regulatory Review), directs agencies to assess the costs and benefits of

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<sup>5</sup> 5 U.S.C. 601-612.

<sup>6</sup> 5 U.S.C. 605(b).

available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined this proposed regulatory action is a “significant regulatory action,” under section 3(f) of E.O. 12866, as amended, though not economically significant under section 3(f)(1). Accordingly, OIRA has reviewed this proposed regulatory action for compliance with the analytical requirements of E.O. 12866. In general, this regulatory action is intended to simplify and improve stakeholders’ interactions with the Commission by eliminating outdated, redundant, or unnecessarily burdensome requirements in the Commission’s existing regulations. In addition, this final rule is considered a deregulatory action under E.O. 14192 (Unleashing Prosperity Through Deregulation).

## **VII. Comment Procedures**

13. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including the costs and benefits of the regulations to be conditionally sunset. Comments are due **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must refer to Docket No. RM25-14-000, and must include the commenter’s name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission’s public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below.

Commenters on this proposal are not required to serve copies of their comments on other commenters.

14. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

15. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

### **VIII. Document Availability**

16. 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>).

17. 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 of this document in the docket number field.

18. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

By direction of the Commission.

Issued: October 1, 2025.

**Debbie-Anne A. Reese,**

*Secretary.*

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