

138 FERC ¶ 61,032
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 1b, 2, 3a, 4, 5, 11, 12, 131, 157, 284, 376, 380, and 385

(Docket No. RM11-30-000; Order No. 756)

Technical Corrections to Commission Regulations

(Issued January 19, 2012)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Commission is issuing this Final Rule to make minor changes to its regulations. This Final Rule revises a number of references that have become outdated for various reasons or contain typographical errors. Generally, these changes add or delete language in the current regulations by eliminating obsolete information, incorporating reference to updated electronic filing options, modernizing language, and correcting incorrect citations and clerical mistakes. The revisions are intended to be ministerial and/or informational in nature.

EFFECTIVE DATE: The rule will become effective [insert date of publication in the *Federal Register*].

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SUPPLEMENTARY INFORMATION:

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Technical Corrections to Commission Regulations

Docket No. RM11-30-000

ORDER NO. 756

FINAL RULE

(Issued January 19, 2012)

I. Introduction

1. The Commission is issuing this Final Rule to make minor changes to its regulations. This Final Rule revises a number of references that have become outdated for various reasons or contain typographical errors. Generally, these changes add or delete language in the current regulations by eliminating obsolete information, incorporating reference to updated electronic filing options, modernizing language, and correcting incorrect citations and clerical mistakes. The revisions are intended to be ministerial and/or informational in nature.

II. Discussion

A. Minor Revisions to Correct References and Outdated Nomenclature

2. In Part 3a of Title 18 of the Code of Federal Regulations, this Final Rule corrects references, where appropriate, to the “FPC” and the “Federal Power Commission” (the predecessor to the Federal Energy Regulatory Commission) to read “FERC” or “Federal

Energy Regulatory Commission.” Additionally, the Commission’s contact information is updated and corrected in Part 380.

3. In Parts 2, 3a, 4, 12, and 284, references to outdated titles, positions, and technologies are revised.

4. In Parts 1b, 2, 4, 5, 131, 157, 284, 376, and 380, multiple outdated and incorrect references to Commission regulations, guidelines, the Federal Register, and federal statutes are removed or corrected.

B. Corrections to Grammatical, Typesetting, and Typographical Mistakes

5. In Parts 1b, 2, 4, 157, 380, and 385, this Final Rule corrects grammatical, typesetting, and typographical mistakes in the Commission’s regulations to improve the clarity and accuracy of the regulations.

C. Renumbering of Disjointed Section Numbering

6. As a result of the deletions and corrections made to references to the Commission’s regulations in this and previous rulemakings, the ordering and numbering of regulations in Part 5 are disjointed. This Final Rule corrects this problem.

D. Minor Revisions By Referencing to Website Language

7. Part 11 of the Commission’s regulations pertain to annual charges. In § 11.2(b), reference is made to the outdated fee schedule for FY 2010. Therefore, in order to reference the most current fee schedule, the Final Rule removes outdated language from the regulations and replaces it with reference to the current language provided on the Commission’s website.

III. Information Collection Statement

8. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.¹ This Final Rule contains no new information collections and makes no changes to existing information collections that would require a formal OMB review.² Therefore, the Commission will submit this Final Rule to OMB for informational purposes only.

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.³ Excluded from this requirement are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations

¹ See 5 CFR 1320.12.

² Two changes to Commission regulations are made to conform them to current Commission practice. First, the rule removes 18 CFR 4.34(b)(5)(iv) concerning new requests for water quality certification if an application to amend an existing license or an application to amend a pending application for a license would have a material adverse impact on the water quality in the discharge from the project or proposed project. The Commission has not enforced the information collection requirement in § 4.34(b)(5)(iv) for many years based on current practice and court precedent (*Alabama Rivers Alliance v. FERC*, 325 F.3d 290 (D.C. Cir. 2003)). Second, the modification to § 284.270 reflects current practice for submitting the required documentation since the telegraph is no longer used. Therefore, the changes to the regulations are being made to reflect current practice.

³ See *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 Fed. Reg. 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

being amended.⁴ Because this Final Rule only eliminates obsolete information, incorporates updated electronic filing options, clarifies ambiguous language, and corrects clerical and citation references, it is not an action that has a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. This rule is procedural in nature and therefore falls within this exception; consequently, no environmental consideration is necessary.

V. Regulatory Flexibility Act Certification

10. The Regulatory Flexibility Act of 1980 (RFA)⁵ generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. Because this Final Rule only provides clarification and corrects the Commission's regulations, the Commission does not anticipate that it will have an impact on any small entities. Therefore, the Commission certifies that this Final Rule will not have significant economic impact on a substantial number of small entities.

VI. Document Availability

11. 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 website (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal

⁴ See 18 CFR 380.4(a)(2).

⁵ 5 U.S.C. 601-12.

business hours (8:30 a.m. to 5:00 p.m. Eastern Standard Time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

12. From the Commission's homepage on the Internet, this information is available in the Commission's document management system, 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.

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

VII. Effective Date and Congressional Notification

14. These regulations are effective on the date of issuance. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It makes minor revisions with respect to matters of internal operations and is unlikely to affect the rights of persons appearing before the Commission. There is therefore no reason to make this rule effective at a later time.

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

16. The Commission is issuing this Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a

rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public.

List of subjects

18 CFR Part 1b

Rules relating to Investigations

18 CFR Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements

18 CFR Part 3a

Classified information

18 CFR Part 4

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements, Water resources

18 CFR Part 5

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements

18 CFR Part 11

Administrative practice and procedure, Dams, Electric power, Public lands, Reporting and recordkeeping requirements, Water resources

18 CFR Part 12

Administrative practice and procedure, Dams, Electric power, Public lands, Reporting and recordkeeping requirements, Water resources

18 CFR Part 131

Accounting, Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements

18 CFR Part 157

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements

18 CFR Part 284

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements

18 CFR Part 376

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements

18 CFR Part 380

Administrative practice and procedure, Electric power, Historic preservation, Natural gas, Natural resources, Pipelines, Reporting and recordkeeping requirements

18 CFR Part 385

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission is revising Parts 1b, 2, 3a, 4, 5, 11, 12, 131, 157, 284, 376, 380, and 385, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 1b—RULES RELATING TO INVESTIGATIONS

1. The authority citation for Part 1b is revised to read as follows:

Authority: 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 792-828c, 2601-2645; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988); E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. In § 1b.11, remove the phrase “Section 2.72 of the rules is specifically not applicable to private investigations conducted by the Commission or its staff.”

3. In § 1b.12, remove the phrase “This provision supersedes § 385.1904(b) of this chapter.”

4. In § 1b.14(a), remove the phrase “shall be made by the investigating officer” and add the phrase “shall be made by the investigating officer” in its place.

PART 2—GENERAL POLICY AND INTERPRETATIONS

5. The authority citation for Part 2 is revised to read as follows:

Authority: 5 U.S.C. 601; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 792-828c, 2601-2645; 42 U.S.C. 4321-4370h, 7101-7352.

§ 2.1 [Amended]

6. In § 2.1(a)(1)(xi)(E), remove the phrase “pursuant to § 3.5(a)(26) of this subchapter.”

7. In § 2.1(a)(1)(xi)(F), correct the reference “§ 3.75.302(j)” to read “§ 385.2008.”

§ 2.9 [Amended]

8. In § 2.9(a), remove the sentence “The forms and their revisions are published in the Federal Power Commission reports and citations thereto are listed below” and add the sentence “The forms and their revisions are published on the Commission’s website (www.ferc.gov/industries/hydropower/gen-info/comp-admin/l-forms.asp)” in its place.

9. Revise § 2.9(b) to read as follows:

(b) Forms currently in use may be obtained on the Commission’s website or from Federal Energy Regulatory Commission, Washington, DC 20426.

10. Remove § 2.9(c).

§ 2.13 [Amended]

11. Remove § 2.13(b) and redesignate § 2.13(c) as § 2.13(b).

12. In § 2.13(c), remove the phrase “including compliance with the Commission’s ‘Guidelines for the Protection of Natural, Historic, Scenic, and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities.’”

§ 2.55 [Corrected]

13. In § 2.55(a)(2)(iii), correct the phrase “On and at the same time as” to read “On, or at the same time as.”

PART 3a— NATIONAL SECURITY INFORMATION

14. The authority citation for Part 3a is revised to read as follows:

Authority: 15 U.S.C. 717o; 16 U.S.C. 825h.

§§ 3a.1, 3a.12, and 3a.51 [Amended]

15. Remove the words “Federal Power Commission” and add, in their place, the words “Federal Energy Regulatory Commission” in the following places:

- a. Section 3a.1;
- b. Section 3a.12(c)(2); and
- c. Section 3a.51(a).

§§ 3a.12, 3a.13, 3a.22, 3a.23, 3a.41, 3a.71, 3a.81 [Amended]

16. Remove the word “FPC” and add, in its place, the word “FERC” in the following places:

- a. Section 3a.12(e);
- b. Section 3a.13(a) and (f);
- c. Section 3a.22(a), (c), (d), (f), (f)(2), and (g)(3)(i);
- d. Section 3a.23(a), (e), (f), and (i);
- e. Section 3a.41(d);
- f. Section 3a.71(c), (d), (d)(3); and
- g. Section 3a.81(a), (c), (d), (e), and (g).

§ 3a.23 [Amended]

17. In § 3a.23(b), remove the words “Office of the Secretary, Federal Power Commission, Washington, DC 20426” and add the words “Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426” is inserted in its place. The footnote in the phrase is also removed.

18. In § 3a.23(b), (c), (g), and (h), remove the words “FPC Review Committee” and add, in their place, the words “FERC Review Committee.”

§ 3a.51 [Amended]

19. In § 3a.51(a), remove the words “FPC Security Officer” and add, in their place, the words “FERC Security Officer.”

§ 3a.61 [Amended]

20. In § 3a.61(c)(3), remove the words “FPC Top Secret Control Officer” and add, in their place, the words “FERC Top Secret Control Officer.”

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

21. The authority citation for Part 4 is revised to read as follows:

Authority: 16 U.S.C. 792-828c, 2601-2645; 42 U.S.C. 7101-7352.

§ 4.32 [Corrected]

22. In § 4.32(a)(4)(i), correct the reference “paragraph (a)(3)(ii)” to read “paragraph (a)(4)(ii).”

23. In § 4.32(c)(1), correct the words “Every application for a licensee” to read “Every applicant for a license” and correct the reference “§ 4.38(b)(1)(vi)” to read “§ 4.38(b)(2)(vi).”

§ 4.34 [Removed]

24. Remove § 4.34(b)(5)(iv).

§ 4.35 [Corrected]

25. In § 4.35(a), correct the phrase “the amendment to the applicant was filed” to read “the amendment to the application was filed.”

§ 4.38 [Corrected]

26. In § 4.38(a)(1), correct the reference “paragraph (a)(4)” to “paragraph (a)(6).”

§ 4.39 [Amended]

27. In § 4.39(b), add the phrase “Each map must have:” after the last sentence on line 10.

§ 4.81 [Amended]

28. In § 4.81(b)(5), correct the reference “paragraph (e)(3)” to read “paragraph (d)(3)(i)” and add the words “(FERC Form 587)” after the words “such lands must be identified on a completed land description form” in the second sentence.

§ 4.106 [Corrected]

29. In the section history of § 4.106, correct the phrase “47 FR 4246” to read “47 FR 4232.”

30. In § 4.106(h), remove the phrase “is subject to the following provisions of 18 CFR part 12, as it may be amended: (1) Section 12.4(b)(1)(i) and (ii), (b)(2)(i) and (iii), (b)(iv), and (b)(v); (2) Section 12.4(c); (3) Section 12.5; (4) Subpart C; and (5) Subpart D.” and add, in its place, the phrase “is subject to Part 12 of the Commission’s regulations, part 12 of this title (as they may be amended from time to time).”

31. In § 4.106(i), add the words “*Article 9.*” to the beginning of the paragraph.

§ 4.201 [Corrected]

32. In § 4.201(d)(1), correct the words “If an applicant for license” to read “If an applicant for license amendment,” correct the reference “§ 385.207(c)(4)” to read “§ 385.207” and correct the term “Division by Hydropower Licensing” to read “Division of Hydropower Compliance and Administration.”

§ 4.301 [Corrected]

33. In § 4.301(b), correct the reference “§ 4.38(b)(2)(iv)” to read “§ 4.38(c)(5).”

PART 5—INTEGRATED LICENSE APPLICATION PROCESS

34. The authority citation for Part 5 is revised to read as follows:

Authority: 16 U.S.C. 792-828c, 2601-2645; 42 U.S.C. 7101-7352.

§ 5.17 [Corrected]

35. In § 5.17(e)(1), correct the reference “§ 4.38(b)(1)(vi)” to read “§ 4.38(b)(2)(vi).”

§ 5.18 [Amended]

36. Remove § 5.18(b)(5)(ii)(H)(2) and redesignate it as § 5.18(b)(5)(iii).

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

37. The authority citation for Part 11 is revised to read as follows:

Authority: 16 U.S.C. 792-828c; 42 U.S.C. 7101-7352.

§ 11.2 [Amended]

38. In § 11.2(b), remove the words “as set out in Appendix A of this part” and add, in their place, the words “as set out on the Commission’s website (www.ferc.gov).”

Appendix A to Part 11 [Removed]

39. Remove Appendix A to Part 11—Fee Schedule for FY 2010.

PART 12—SAFETY OF WATER POWER PROJECTS AND PROJECT WORKS

40. The authority citation for Part 12 is revised to read as follows:

Authority: 16 U.S.C. 792-828c; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

§ 12.4 [Corrected]

41. In § 12.4(a), correct the words “Director of Energy Projects Licensing” to read “Director of the Office of Energy Projects.”

PART 131—FORMS

42. The authority citation for Part 131 is revised to read as follows:

Authority: 16 U.S.C. 792-828c, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

§ 131.70 [Corrected]

43. In § 131.70, correct the reference “§ 11.24” to read “§ 11.6.”

**PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC
CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND
APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS
ACT**

44. The authority citation for Part 157 is revised to read as follows:

Authority: 15 U.S.C. 717-717z.

§ 157.6 [Corrected]

45. In § 157.6(a)(5), correct the reference “§§ 385.213 and 385.214” to read “§§ 385.215 and 385.216.”

§ 157.21 [Corrected]

46. In § 157.21(a)(1), correct the reference “33 U.S.C. 127.007” to read “33 C.F.R. § 127.007.”

§ 157.37 [Corrected]

47. In § 157.37, correct the word “necessity” to read “necessary.”

§ 157.205 [Corrected]

48. In § 157.205(e)(1), correct the sentence “Any person or the Commission’s staff may a protest prior to the deadline” to read “Any person or the Commission’s staff may file a protest prior to the deadline.”

**PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS
UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED
AUTHORITIES**

49. The authority citation for Part 284 is revised to read as follows:

Authority: 15 U.S.C. 717-717z, 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

§ 284.102 [Amended]

50. In § 284.102(c), remove the phrase “and § 284.106.”

§ 284.122 [Corrected]

51. In § 284.122(a), correct the words “Subject to paragraphs (d) and (e) of this section” to read “Subject to paragraph (d) of this section.”

§ 284.270 [Amended]

52. In § 284.270(a), remove the word “telegraph” and add, in its place, the words “email, facsimile.”

53. In § 284.270(b) and (c), remove the word “telegram” and add, in its place, the words “email, facsimile.”

**PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS
DURING EMERGENCY CONDITIONS**

54. 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

§ 376.209 [Corrected]

55. In § 376.209(e), correct the reference “section 6(e) of the Interstate Commerce Act” to read “section 6(3) of the Interstate Commerce Act.”

**PART 380—REGULATIONS IMPLEMENTING THE NATIONAL
ENVIRONMENTAL POLICY ACT**

56. The authority citation for Part 380 is revised to read as follows:

Authority: 42 U.S.C. 4321-4370h, 7101-7352; E.O. 12009, 3 CFR 1978 Comp.,
p. 142.

§ 380.1 [Amended]

57. In § 380.1, add the word “(NEPA)” after the words “the National Environmental Policy Act of 1969” in the first sentence and remove the year “(1986)” from the second sentence.

§ 380.3 [Corrected]

58. In § 380.3(a)(1), correct the word “and” to read “an.”

§ 380.4 [Corrected]

59. In § 380.4(a)(27), correct the word “requires” to read “require.”

§ 380.5 [Corrected]

60. In § 380.5(b)(7), correct the reference “§§ 4.30(b)(27) and 4.101-4.106” to read “§§ 4.30(b)(29) and 4.101-4.108.”

§ 380.6 [Corrected]

61. In § 380.6(a)(3), correct the words “right-of-way” to read “rights-of-way.”

§ 380.8 [Amended]

62. In § 380.8, remove the words “Council on Environmental Quality” and add, in their place, the word “Council” and remove the telephone number “(202) 219-8700” and add, in its place, the telephone number “(202) 502-8700.”

§ 380.12 [Amended]

63. In § 380.12(b)(1) and (b)(5), remove the period at the end of the sentence for each paragraph and add, in their place, a semi-colon.

64. In § 380.12(e)(3), correct the phrase “affected acreage” to read “acreage.”

65. In § 380.12(f), correct the words “In order to prepare” to read “In preparing.”

66. In § 380.12(f)(2), change the “D” in the word “Documentation” on the second line to a lower case letter “d.”

67. In § 380.12(i)(5), move the comma following the closing quotation mark for the phrase “*Upland Erosion Control, Revegetation and Maintenance Plan*” inside the closing quotation mark to read as “*Upland Erosion Control, Revegetation and Maintenance Plan,*”.

68. In § 380.12(o)(12), remove the word “of” from the words “Identify of all codes.”

§ 380.13 [Corrected]

69. In § 380.13(b)(2)(iii), correct the phrase “Projectsand” to read “Projects and.”

70. In § 380.13(b)(5)(iv), correct the phrase “Projectsfor” to read “Projects for.”

§ 380.14 [Corrected]

71. In § 380.14(a), correct the words “Commission take” to read “Commission to take.”

§ 380.15 [Corrected]

72. In § 380.15(f)(5), correct the word “above-ground” to read “aboveground.”

PART 385—RULES OF PRACTICE AND PROCEDURE

73. The authority citation for Part 385 is revised to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 792-828c, 2601-2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352, 16441, 16451-16463; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

§ 385.2201 [Corrected]

74. In § 385.2201(c)(1), italicize the words “Contested on-the-record proceeding.”