



## 6450 01-P

### DEPARTMENT OF ENERGY

#### 2 CFR Chapter IX

#### 5 CFR Chapter XXIII

#### 10 CFR Chapters II, III and X

#### 41 CFR Chapter 109

#### 48 CFR Chapter 9

### Reducing Regulation and Controlling Regulatory Costs

**AGENCY:** Office of the Secretary, Department of Energy.

**ACTION:** Request for information (RFI).

**SUMMARY:** As part of its implementation of Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” issued by the President on January 30, 2017, the Department of Energy (DOE) is seeking comments and information from interested parties to assist DOE in identifying existing regulations, paperwork requirements and other regulatory obligations that can be modified or repealed, consistent with law, to achieve meaningful burden reduction while continuing to achieve the Department’s statutory obligations.

**DATES:** Written comments and information are requested on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are encouraged to submit comments, identified by “Regulatory Burden Reduction RFI,” by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [Regulatory.Review@hq.doe.gov](mailto:Regulatory.Review@hq.doe.gov). Include “Regulatory Burden RFI” in the subject line of the message.

*Mail:* U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue, SW, Room 6A245, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Daniel Cohen, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585.

Telephone: (202) 586-5000. E-mail: [Regulatory.Review@hq.doe.gov](mailto:Regulatory.Review@hq.doe.gov)

**SUPPLEMENTARY INFORMATION:** On January 30, 2017, the President issued Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward that end, for fiscal year 2017, EO 13771 requires:

- 1) “Unless prohibited by law, whenever an executive department or agency . . . publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.” Sec. 2(a).
- 2) “For fiscal year 2017, . . .the heads of all agencies are directed that the total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Director of the Office of Management and Budget . . . .”  
Sec. 2(b).

- 3) “In furtherance of the requirement of subsection (a) of this section, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.” Sec. 2(c).

Further, the Executive Order requires that for fiscal year 2018, and for each fiscal year thereafter, the head of each agency shall identify, for each regulation that increases incremental cost, offsetting regulations, and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation. During the Presidential budget process beginning in fiscal year 2018 and for each year thereafter, the Director of the Office of Management and Budget (Director) will identify to each agency a total amount of incremental costs that will be allowed for such agency in issuing new regulations and repealing regulations for the next fiscal year. No regulations exceeding the agency's total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the Director. The total incremental cost allowance may allow an increase or require a reduction in total regulatory cost.

Additionally, on February 24, 2017, the President issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda.” The Order required the head of each agency designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, EO 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force will make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force shall attempt to identify regulations that:

- (i) Eliminate jobs, or inhibit job creation;

- (ii) Are outdated, unnecessary, or ineffective;
- (iii) Impose costs that exceed benefits;
- (iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- (v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- (vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

Finally, on March 28, 2017, the President signed Executive Order 13783, entitled “Promoting Energy Independence and Economic Growth. Among other things, EO 13783 requires the heads of agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review does not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth elsewhere in that order.

Executive Order 13783 defined burden for purposes of the review of existing regulations to mean to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.

To implement these Executive Orders, the Department is taking two immediate steps. *First*, as described further below, the Department is issuing this Request for Information (RFI) seeking public comment on how best to achieve meaningful burden reduction while continuing to achieve the Department's regulatory objectives. *Second*, the Department has created an email in-box at [Regulatory.Review@hq.doe.gov](mailto:Regulatory.Review@hq.doe.gov), which interested parties can use to identify to DOE—on a continuing basis—existing regulations, paperwork requirements and other regulatory obligations that can be modified or repealed, consistent with law. Together, these steps will help the Department ensure it acts in a prudent and financially responsible manner in the expenditure of funds, from both public and private sources, and manages appropriately the costs associated with private expenditures required for compliance with DOE regulations.

#### Request for Information

Pursuant to the Executive Orders, the Department is, through this request for information, seeking input and other assistance, as permitted by law, from entities significantly affected by regulations of the Department of Energy, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and manufacturers and their trade associations. The Department's goal is to create a systematic method for identifying those existing DOE rules that are obsolete, unnecessary, unjustified, or simply no longer make sense.

Consistent with the Department's commitment to public participation in the rulemaking process, the Department is beginning this process by soliciting views from the public on how best to conduct its analysis of existing DOE rules. It is also seeking views from the public on specific rules or Department imposed obligations that should be altered or eliminated. While the Department promulgates rules in accordance with the law and to the best of its analytic capability, it is difficult to be certain of the consequences of a rule, including its costs and benefits, until it has been tested.

Because knowledge about the full effects of a rule is widely dispersed in society, members of the public are likely to have useful information and perspectives on the benefits and burdens of existing requirements and how regulatory obligations may be updated, streamlined, revised, or repealed to better achieve regulatory objectives, while minimizing regulatory burdens, consistent with applicable law. Interested parties may also be well-positioned to identify those rules that are most in need of reform, and, thus, assist the Department in prioritizing and properly tailoring its review process. In short, engaging the public in an open, transparent process is a crucial first step in DOE's review of its existing regulations.

#### List of Questions for Commenters

To allow DOE to more effectively evaluate suggestions, the Department is requesting comments include:

- Supporting data or other information such as cost information
- Specific suggestions regarding repeal, replacement, or modification.

The following list of questions represents a preliminary attempt by DOE to identify rules/obligations on which it should immediately focus. This non-exhaustive list is meant to assist in the formulation of comments and is not intended to restrict the issues that may be addressed. In addressing these questions or others, DOE requests that commenters identify with specificity the regulation or reporting requirement at issue, providing legal citation where available. The Department also requests that the submitter provide, in as much detail as possible, an explanation why a regulation or reporting requirement should be modified, streamlined, or repealed, as well as specific suggestions of ways the Department can do so while achieving its regulatory objectives.

- (1) How can DOE best promote meaningful regulatory cost reduction while achieving its regulatory objectives, and how can it best identify those rules that might be modified, streamlined, or repealed?
- (2) What factors should DOE consider in selecting and prioritizing rules and reporting requirements for reform?
- (3) How can DOE best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data DOE can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.
- (4) Are there regulations that simply make no sense or have become unnecessary, ineffective, or ill-advised and if so what are they? Are there rules that can simply be repealed without impairing DOE's statutory obligations and, if so, what are they?
- (5) Are there rules or reporting requirements that have become outdated and, if so, how can they be modernized to better accomplish their objective?
- (6) Are there rules that are still necessary, but have not operated as well as expected such that a modified, or slightly different approach at lower cost is justified?
- (7) Are there rules of the Department that unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources?
- (8) Does DOE currently collect information that it does not need or use effectively?

- (9) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve statutory obligations in more efficient ways?
- (10) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?
- (11) Does the methodology and data used in analyses supporting DOE's regulations meet the requirements of the Information Quality Act?

The Department notes that this RFI is issued solely for information and program-planning purposes. While responses to this RFI do not bind DOE to any further actions related to the response, all submissions will be made publicly available on [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC on May 19, 2017.

Daniel R Simmons  
Chair  
Department of Energy Regulatory Reform Task Force  
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