

Supporting Statement for
FERC-512: Application for Preliminary Permit
(Three-year extension requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of FERC-512, “Application for Preliminary Permit”, for three years. FERC-512 is an existing data collection whose filing requirements are contained in Title 18 C.F.R. Section 4.31-33 and 4.81 and 4.83 and sections 4(f), 5 and 7 of the Federal Power Act.

A. JUSTIFICATION

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission is responsible for licensing nonfederal hydropower projects if they are on land or waters subject to Congressional authority. Part I of the Federal Power Act¹ (FPA) gives the Commission the authority to issue licenses for hydroelectric projects on these waters. The Commission issues licenses for terms up to 50 years for projects “best adapted to a comprehensive plan” for improving a waterway for beneficial public purposes. Benefits are in areas of power generation, irrigation, flood control, navigation, fish and wildlife, municipal water supply, and recreation. Preliminary permits, issued for three years, reserve the right to study the feasibility of hydropower development at a specific site, but do not authorize construction of any facilities. The application for preliminary permit process is pursuant to the Commission’s defined role, as mandated under Sections 4(f), 5 and 7 of the Federal Power Act.

The purpose of obtaining a preliminary permit is to maintain priority status for an application for a license while the applicant conducts site examinations and surveys to prepare maps, plans, specifications, and estimates. This period of time also provides the applicant with the opportunity to conduct engineering, economic and environmental feasibility studies; plus make the financial arrangements for funding the construction of the project. During the term of the permit, no other application for a preliminary permit or application for license submitted by another party can be accepted.

The Commission has seen a continued increase of interest in new hydroelectric technologies that would utilize ocean waves, tides, and currents from free-flowing rivers as evidenced by a surge in applications for preliminary permits to study such projects. There are currently 70 preliminary permits in effect for projects of this type; 27 are for proposed tidal projects and 8 are for proposed ocean wave energy. Over 80 preliminary

¹ 16 U.S.C. Sections 797, 798 and 800. (2000).

permit applications for hydrokinetic projects are currently pending before the Commission.

These hydroelectric technologies, in various stages of development, are to produce electric power in ways different from the traditional hydropower model involving hydraulic head developed by use of a dam or other diversion structure. These new technologies have significant potential: it has been estimated that the potential for wave and current power could be over 350-terawatt hours per year, which would more than double current hydropower production. The Commission anticipates further exploration of how these technologies can fit within the national energy infrastructure in terms of the amount of potential energy that can be developed, its reliability, environmental and safety implications, and its commercial viability. The Commission wants to reduce regulatory barriers to the development of new technologies, where possible, and has exhibited the maximum flexibility permitted by law in regulating these projects.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE IS THE INFORMATION TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

The information collected by FERC is in the format of a written application for a preliminary permit that is used by the Commission's staff to assess the scope of the proposed project, the technology to be used, and jurisdictional aspects of the project. The staff assessment includes a review of the proposed hydro development for conflicts with other permits or existing projects and public notice of the application to solicit public and agency comments.

An application for a preliminary permit includes an initial statement and three numbered exhibits. The initial statement includes information on the applicant, the project, the requested term of the permit, affected political jurisdictions, and a verification of the facts presented.

Exhibit One is a description of the proposed project and includes a characterization of the project structures, transmission facilities and reservoir; estimates of energy and capacity; identification of affected United States lands; and information on how the proposed development of the water resource would be in the public interest.

Exhibit Two is a description of project studies, either completed or planned, for the purpose of assessing project feasibility, determining environmental impacts, and preparing an application for license including a proposed schedule for completing each study. The exhibit includes a statement of costs and financing that includes an estimate of the costs of doing the project studies described above and the source of funding for these studies.

Exhibit Three includes a map or series of maps that clearly show the location of the project, the location and relationship of the principal project features, a proposed boundary for the project, and areas which are specially protected.

A permit holder is not required to file a license application. Likewise, a developer may study a project without holding a preliminary permit. However, the holding of a permit does give a developer first-in-time preference over any competitors who file applications for projects at the same site during the permit term. As noted above, a permit does not authorize ground-disturbing activities or other project construction nor does it allow the use of eminent domain to acquire lands for the project.

In contrast, a license issued by the Commission gives the licensee the authority to construct and operate a project. Standard license Article 5 requires licensees to acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of a project. Where licensees cannot obtain such rights through contract, they may use eminent domain to do so. In consequence, before issuing any license, the Commission conducts a full, searching public interest inquiry, and the licensing process is completely distinct from the permit process.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND THE TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

There is an ongoing effort to determine the potential and value of improved information technology to reduce burden. The primary improvement in this area involves FERC's electronic filing option which eliminates the cost of filing permit applications on paper.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

This is a specific use of information to make an application for a preliminary permit as required under Part 1 of the Federal Power Act and not a general collection of information. Because each application pertains to a unique site on a body of water, each application is site-specific. There are no similar sources of information available that can be used or modified for use

5. METHODS USED TO MINIMIZE THE BURDEN IN THE COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

The reporting requirements associated with FERC-512 are basic filing requirements pertaining to all applications for a preliminary permit. The data required impose the least possible burden on applicants, while collecting information required to process the information.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

If the information contained in the FERC-512 were not collected, the potential license applicant(s) would have no means to establish priority for future development of the site (i.e. hold the site while studies are conducted to determine the feasibility of hydropower development). The lack of priority would place potential license applicants at greater financial risk in pursuing hydropower, and could cause developers not to pursue hydropower. The collection could not be made less frequently since it is made only once upon the filing of the permit application. The Commission cannot limit the applicants who apply for projects and cannot limit the number of such applications which fall under the FERC's authority.

7. EXPLAIN ANY CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The FERC-512 application may be eFiled through FERC's EFiled system. [See <http://www.ferc.gov/docs-filing-efiling.asp> for more information]

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

Pursuant to the review required by 5 CFR 1320.8 the Commission issued a Notice in the Federal Register (76 FR 30930, 05/27/2011) requesting public comments. No comments were received in response to this notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The information submitted to the Commission is public information and therefore is not considered confidential. Specific requests for confidential treatment to the extent submitted by law will be entertained pursuant to 18 C.F.R. Section 388.110.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE

No data of a sensitive nature is requested.

12. ESTIMATED BURDEN OF THE COLLECTION OF INFORMATION

The estimated average annual public reporting burden for FERC-512 follows:

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
200	1	37 hours	7,400 hours

There is no change of the burden hours or reporting requirements.

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimated cost burden to respondents is \$508,000; [i.e., (7 hours @\$200 an hour (legal) x 200 respondents) + (30 hours @\$38 an hour (technical) x 200 respondents)] per year equals \$508,000]. The average annual cost burden per respondent is \$2,540 (\$508,000/200 = \$2,540).

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal government for FERC-512 follows:

	No. of Employees (FTEs)²	Estimated Annual Federal Cost in (\$)
Total FERC costs	5	\$711,860 ³
Forms Clearance		\$1,575
FERC total		\$713,435

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

² FTE is "Full-Time Equivalent", or the amount of time one employee works per year (2,080 hours).

³ This figure is calculated by multiplying the number of FTEs (5) by the cost per employee per year (\$142,372), which includes benefits and overhead. Therefore, 5 times \$142,372 = \$711,860.

The only change in burden involves using an updated estimated cost per person. This results in a nominal increase in total annual cost to respondents of \$58,365 per year as compared to the same figure in the supporting statement from the last submission to OMB.

16. TIME SCHEDULE FOR INFORMATION COLLECTION AND PUBLICATION

There are no tabulations, statistical analysis, or publication plans for the information collection. The data are used for regulatory purposes.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collected pursuant to Sections 4(f) 5 and 7 of the Federal Power Act and Part 4 of the Commission's regulations. The information submitted to the Commission is not collected on a standard preprinted form which would avail itself to display. Rather, applicants for declaring their intention prepare and submit information that reflects the unique or specified circumstances related to jurisdictional transaction. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the filing requirement.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The data collected for this reporting requirement is not used for statistical purposes. The information collected is case specific to each respondent.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. This collection of information does not employ statistical methodology.