

Supporting Statement for
FERC-515 (Declaration of Intention)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-515, Declaration of Intention (OMB Control Number 1902-0079), for a three-year period. FERC-515 is an existing data collection with reporting requirement in 18 Code of Federal Regulations (CFR) Parts 9 and 24.1.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Part 1 of the Federal Power Act¹ (FPA) gives the Commission authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction. Section 23(b)² of the FPA provides that any person intending to construct project works on a non-navigable commerce clause water must file a declaration of their intention to do so with the Commission. Section 23(b) further provides that upon the filing of a Declaration of Intent, the Commission will investigate the proposed project, and, if it finds that the “interests of interstate or foreign commerce would be affected” by the proposed project, then the person intending to construct the project must obtain a Commission license before starting construction. Submission of the data is necessary for the Commission to make a required determination as to jurisdiction over the proposed project.

The respondent universe that would submit a declaration of intention can be defined and is limited to potential developers of hydropower projects at sites where the Commission’s jurisdiction may be in question. Such sites are generally on streams other than those defined as U.S. navigable waters (for which Congress has jurisdiction under its authority to regulate foreign and interstate commerce).

The owner of a project constructed before 1935 that is not subject to the Commission’s mandatory licensing jurisdiction need not file a declaration of intent to repair, maintain, or rehabilitate the project as long as there has been no post-1935 abandonment.³

A proposed project does not require licensing merely because of the possibility that, after issuance of an order finding licensing not required, the developer may alter the project’s design or operation from that described in its declaration of intention. Should the project be constructed or operated differently than described, interested parties may petition the

¹ 16 U.S.C. Sections 791a et seq. (2018)

² 16 U.S.C. Section 817. (2018)

³ See *Puget Sound Hydro LLC, 109 FERC 61,039 at P 56 (2004)(JR02, Noosack Falls.)*

Commission to assess de novo whether the project requires a license.⁴

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

The information collected by FERC is in the format of a declaration of the applicant's intent filed with the Commission. The information consists of a:

- I. Brief description of the proposed project and its purposes, including such data as maximum height of the dams,
- II. A storage capacity curve of the reservoir or reservoirs showing the maximum average, and minimum operating pool levels
- III. The initial and ultimate installed capacity of the project, the rated horsepower and head on the turbines,
- IV. A curve of turbine discharge versus output at average and minimum operating heads.
- V. A general map of any convenient size and scale, showing the stream or streams to be utilized and the approximate location and the general plan of the project
- VI. A detailed map of the proposed project area showing all Federal lands, and lands owned by States.
- VII. A profile of the river within the vicinity of the project showing the location of the proposed project and any existing improvements in the river.
- VIII. A duration curve and hydrograph for the natural and proposed regulated flows at the dam site.

This information is used by the Commission's staff to research the jurisdictional aspects of the proposed project. Commission staff conducts a systematic review of the declaration with supplemental documentation provided in the filing. The research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. The submitted documents allow for a full and complete analysis of a proposed project and provide sufficient data to make a jurisdictional decision. A finding of non-jurisdiction by the

⁴ See *Alaska Power Co.*, 82 FERC 61,331 (1998) (change in underlying facts can mean that project affects commerce and so requires a license).

Commission can result in the elimination of a substantial paperwork burden⁵ for an applicant who might otherwise have to file a license or exemption application.

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

The FERC-515 application may be eFiled through the Commission's website: <http://www.ferc.gov/docs-filing/efiling.asp>. An estimated 40% of private sector applicants and 0% of municipalities file their declaration of intent electronically.

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.

Filings are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of the data has been found. The information is case specific to the applicant and project.

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

The data required impose the least possible burden on applicants, while collecting the information required in processing the application for the Declaration of Intent. The minimization of impact on small business would not be applicable. The burden will vary among applicants, since the application should be specific to each applicant.

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

It is not possible to collect the data less frequently. The data collected is necessary to process the application for Declaration of Intent and are collected only when an application for Declaration of Intent is needed. If the collection were conducted less

⁵ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

frequently, the Commission would have difficulty performing its mandated oversight and review responsibilities.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

There are no special circumstances related to the information collection.

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

In accordance with OMB requirements, the Commission published a 60-day notice⁶ to the public regarding this information collection on October 16, 2019. Within the public notice, the Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the collections of data. The Commission received no comments.

The Commission published a 30-day notice (84 FR 71919, 12/30/2019) in the Federal Register providing another opportunity for public comments.

FERC did not otherwise consult with members of the public concerning this information collection pursuant to 5 CFR 1320.8(d)(1).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

The Commission does not make payments or provide gifts to respondents related to FERC-515.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The information submitted to the Commission is public information and therefore is not considered confidential. However, a company may request confidential treatment of some or all parts of the FERC-515 requirements under the Freedom of Information Act and Commission regulations at 18 C.F.R. 388.112. Each request for confidential treatment will be reviewed by the Commission on a case-by-case basis.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND

⁶84 FR 55313

ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE

There are no questions of a sensitive nature in FERC-515.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

FERC-515 (Declaration of Intention)⁷					
Number of Respondents⁸ (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost (\$) Per Response (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)	Cost (\$) per Respondent (5)÷(1)
6	1	6	80 hrs.; \$6,400	480 hrs.; \$38,400	\$6,400

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The Commission bases its cost estimate of the “Analysis and Processing of filings” to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

⁷ Commission staff estimates that the industry’s skill set and cost (for wages and benefits) for FERC-515 are approximately the same as the Commission’s average cost. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is \$167,091/year (or \$80.00/hour).

⁸ ROCIS has 2 different ICs for the number of responses in FERC-515. One IC represents 1 respondent (municipality) and the other IC represents 5 respondents in the private sector.

The Paperwork Reduction Act (PRA) Administrative Cost is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

FERC-515	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of Filings ⁹	1.5	\$250,636
PRA ¹⁰ Administrative Cost		\$4,832
FERC Total		\$255,468

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

No program changes are being made to the reporting or record keeping requirements in the FERC-515

The following table shows the annual total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system’s “Information Collection Request Summary of Burden” for the metadata.

FERC-515	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	6	6	0	0
Annual Time Burden (Hours)	480	480	0	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There is no publication of data associated with FERC-515 information.

17. DISPLAY OF EXPIRATION DATE

⁹ Based upon 2019 FTE average annual salary plus benefits (\$167,091).

¹⁰ Paperwork Reduction Act of 1995 (PRA).

FERC-515 (OMB Control No. 1902-0079)

Docket No. IC-19-35-000

Updated 3/11/2020

The expiration date is displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.