

Supporting Statement for
**FERC-517, as proposed in Docket Nos. RM20-9, and AD20-20, -21, -22, and -23,
on Safety of Water Power Projects and Project Works**

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission regulates non-federal hydropower projects on navigable waters and federal lands pursuant to Part I of the Federal Power Act (FPA).¹

Section 4(e) of the FPA (16 U.S.C. 797(e)) authorizes the Commission to issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States, or for the purpose of utilizing the surplus water or water power from any Government dam, with exceptions.

Section 10(c) of the FPA (16 U.S.C. 803(c)) requires licensees to maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, to make all necessary renewals and replacements, to establish and maintain adequate depreciation reserves for such purposes, to maintain, and operate said works as not to impair navigation, and to conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property.

The Federal Energy Regulatory Commission (Commission or FERC) requests an OMB Control Number for proposed FERC-517, which is comprised of information collection activities in:

- A Notice of Proposed Rulemaking (NOPR) titled, “Safety of Water Power Projects and Project Works,” 85 FR 45032 (July 24, 2020), (RIN 1902-AF71, Docket No. RM20-9-000); and
- The following four sets of Draft Engineering Guidelines for the Evaluation of Hydropower Projects, which are available on the Commission’s eLibrary system and for which the Commission has published the indicated notices:
 - Chapter 15 — Supporting Technical Information Document; *see* Notice of Availability, 85 FR 44972 (July 24, 2020) (Docket No. AD20-20-000);
 - Chapter 16 — Part 12D² Program, *see* Notice of Availability; *see* 85 FR 44871 (July 24, 2020) (Docket No. AD20-21-000);

¹ 16 U.S.C. Subchapter I (Sections 791a-825g).

² “Part 12D” is an abbreviation for 18 CFR Part 12, Subpart D.

- o Chapter 17 — Potential Failure Modes Analysis; *see* Notice of Availability, 85 FR 44882 (July 24, 2020) (Docket No. AD20-22-000); and
- o Chapter 18 — Level 2 Risk Analysis; *see* Notice of Availability, 85 FR 44880 (July 24, 2020)(Docket No. AD20-23-000).

The Paperwork Reduction Act (PRA) aspects of the proposed rule include a minor revision of Subpart B (Reports and Records), a major overhaul of Subpart D (Review, Inspection, and Assessment by Independent Consultant), and the addition of a new Subpart F (Owner’s Dam Safety Program) to 18 CFR Part 12.

The PRA aspects of the proposed Engineering Guidelines consist of details pertaining to the PRA aspects of the proposed rule. The burden estimates in the proposed rule include the PRA burdens in the proposed Engineering Guidelines.

The proposals pertaining to 18 CFR Part 12 and the new Engineering Guidelines would outline the provisions and reporting requirements for the evaluation of safety of water power projects and project works and apply to:

- (1) Any project licensed under Part I of the Federal Power Act;
- (2) Any unlicensed constructed project for which the Commission has determined that an application for license must be filed under Part I of the Act; and
- (3) Any project exempted from licensing under Part I of the Federal Power Act, pursuant to subparts J or K of 18 CFR Part 4, to the extent that the Commission has conditioned the exemption on compliance with any particular provisions of 18 CFR Part 12.

In addition, some of the proposals apply to applicants for hydropower licenses.

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

Respondents would use the proposed information collection activities in their assessment of the safety of water power projects and project works licensed by the Commission, and to report the results of such assessments to the Commission. The Commission would use the proposed information collection activities to evaluate project-specific dam and public safety assessments, determine whether those assessments are sufficient for the protection of life, health, and property, and to ensure that project works are being maintained in an adequate condition of repair.

The information is necessary in order to determine the urgency, priority, and scope of potential safety improvements or risk reduction measures that might be needed for the protection of life, health, and property.

18 CFR Part 12, Subpart B (Reports and Records)

Subpart B - Proposed PRA Activity

Written Reports of Project-Related Deaths, Serious Injuries, or Rescues

At present, 18 CFR 12.10(a) and (b) require applicants and licensees to report promptly to the Regional Engineer³ any incident resulting in death or serious injury that occurs at the relevant project. Section 12.10(a) requires an oral report to the Regional Engineer by telephone of any condition affecting the safety of a project or projects works, “as soon as practicable after that condition is discovered.” Section 12.10(b) requires a written report that includes a description of the cause and location of the accident, which must be submitted within the time specified by the Regional Engineer.

Revisions of 18 CFR 12.10(a) and (b) would add requirements to report any incident resulting in a rescue. In addition, proposed section 12.10(a) would state that the oral report would be made “preferably within 72 hours.” Like existing section 12.10(b)(2), proposed section 12.10(b)(2) would apply to reports of an incident that is considered or alleged to be “project-related.”⁴ Such reports must describe any remedial actions taken or proposed to avoid or reduce the chance of similar occurrences in the future and must be verified in accordance with section 12.13.⁵

Like existing section 12.10(b)(3), proposed section 12.10(b)(3) would provide that accidents that are not project-related may be reported by providing a copy of a clipping from a newspaper article, if available.

18 CFR Part 12, Subpart D (Review, Inspection, and Assessment by Independent Consultant)

Overview of Subpart D

³The Regional Engineer is a member of the Commission’s staff.

⁴Section 12.10(b)(4) provides that the term “project-related” includes any deaths or serious injuries involving a dam, spillway, intake, or power line, or which take place at or immediately above or below a dam. Proposed section 12.10(b)(4) would provide that the term “project-related” includes rescues, as well as deaths or serious injuries. In addition, proposed section 12.10(b)(4) would revise the definition of “project-related.” Currently, § 12.10(b)(4) defines “project-related,” as “any deaths or serious injuries involving a dam, spillway, intake, or power line, or which take place at or immediately above or below a dam.” In the Commission’s experience, the existing definition of project-related has sometimes led licensees to report as project-related those deaths or serious injuries that occur near a dam but are wholly unrelated to the project or its operation. In order to more clearly communicate the Commission’s intentions, the revised definition would limit “project-related” incidents to those that occur at project works, involve changes in water levels resulting from operations of project works, or are otherwise attributable to the project or its operation.

⁵Section 12.13 specifies how to verify the authenticity of a document submitted in accordance with 18 CFR Part 12. This regulation would not be revised in the proposed rule.

Existing and proposed regulations at 18 CFR Part 12 Subpart D pertain to project safety inspections by independent consultants. Proposed Subpart D would revise the existing subpart substantially.

Proposed Subpart D would require two tiers of inspections for licensed project developments that meet the criteria shown at section 12.30.⁶ At present, Subpart D requires an inspection of project works on a five-year interval by at least one independent consultant to identify any actual or potential deficiencies, whether in the condition of those project works or in the quality or adequacy of project maintenance, surveillance, or methods of operation, that might endanger public safety.

The two-tier structure in proposed Subpart D would include two types of inspections: a comprehensive assessment and a periodic inspection. Each type of inspection would be performed at a ten-year interval, with the periodic inspection occurring midway between comprehensive assessments. The proposed structure would maintain the current five-year interval between part 12 inspections (alternating between a comprehensive assessment and a periodic inspection).

Subpart D - Proposed PRA Activities

Independent Consultant Team Proposals and Reports

At present, 18 CFR 12.34 requires licensees to submit, for approval by the Commission's Director of the Office of Energy Projects, a resume describing the independent consultant's experience. This submission is required 60 days before initiating a Subpart D inspection.

Proposed section 12.34(a), which would require that the licensee obtain written approval of the independent consultant team prior to performing a periodic inspection or comprehensive assessment. While in practice the Office of Energy Projects Division of Dam Safety and Inspections (D2SI) has granted approval of independent consultants prior to inspections, the regulation as currently written does not stipulate that D2SI approval must be obtained.

Proposed section 12.34(b), which would require that the licensee submit a detailed independent consultant team proposal to the Director of D2SI at least 180 days prior to performing a periodic inspection or comprehensive assessment, includes two major changes. First, the existing regulations require the detailed resume to be submitted 60 days in advance. The proposed increase in the time period from 60 days to 180 days does not represent a change in practice. D2SI staff routinely issue reminder letters to licensees approximately 18 months in advance of any inspection required under subpart D, and for several years have requested that independent consultants' resumes be submitted six months in advance to ensure that all parties are aware of

⁶ The substance of proposed section 12.30 is nearly the same as the substance of existing section 12.30. Existing section 12.30 provides that Subpart D applies to projects that have a dam, and meet one of the following criteria: (a) Is more than 32.8 feet (10 meters) in height above streambed; (b) Impounds an impoundment with a gross storage capacity of more than 2,000 acre-feet (2.5 million cubic meters); or (c) Has a high hazard potential and it determined by the Commission representative to require inspection by an independent consultant.

their roles and responsibilities, and have sufficient time to prepare for the inspection. The proposed regulation codifies D2SI's current practice.

Second, existing section 12.34 requires that resumes be submitted only for any independent consultant. Proposed section 12.34(b) would require that the licensee submit documentation of the experience and qualifications for all members of the independent consultant team, including one or more independent consultants and additional contributing members, as needed. The regulation includes separate paragraphs that apply depending on whether the independent consultant team comprises one or multiple persons. This change would enable Commission staff to evaluate the breadth and depth of the team's experience and ensure that it is commensurate with the scale, complexity, and technical disciplines of the project and type of review being performed. The Commission intends for a comprehensive assessment to require a higher level of experience and expertise than a periodic inspection, due to the broader scope of the comprehensive assessment.

Proposed section 12.34(c) would authorize the Director of D2SI to disapprove an independent consultant team member, regardless of demonstrated experience and qualifications, for good cause, such as having a report rejected by the Commission within the preceding five years. This provision would allow the Commission to ensure that independent consultants' inspections are performed by qualified parties.

Engineering Guidelines – Proposed Chapters 15 & 16

Proposed Chapter 15 of the Engineering Guidelines would expand and clarify previous guidance on a Supporting Technical Information Document (STID) previously included in Chapter 14 of the Engineering Guidelines. An STID serves as a compendium of knowledge and information about a project and greatly facilitates the review and evaluation of the safety and performance of project works by licensees, consultants, and Commission staff. The STID would consist of a hard copy and a digital reference.

The STID summarizes the project elements and details that, except in the event of detailed studies or construction, would not change significantly over time. The digital reference (e.g., a CD, DVD, or other form of electronic media) includes a compilation of all available source material and additional supporting information, formatted so that the licensee, Commission staff, or consultants can identify and retrieve the information they need. A searchable electronic version of the hard copy material must be included on the digital reference. The licensee is responsible for compiling the information for the STID and creating and maintaining the document for use by themselves, the Part 12D independent consultants, and Commission staff.

Proposed Chapter 16 of the Engineering Guidelines would require licensees to submit a detailed Part 12D Inspection Plan prior to conducting either type of inspection (i.e., a periodic inspection [PI] or comprehensive assessment [CA]) that describes the scope of the inspection, proposes an Independent Consultant Team, and establishes the proposed schedule. Section 16-3.3.1 of proposed Chapter 16 of the Engineering Guidelines provides that the Part 12D Inspection Plan must include the following information:

- Project name, FERC number, and state(s) where the project is located;
- Type of Part 12D Inspection (Comprehensive Assessment or Periodic Inspection), and whether a Risk Analysis is included for a Comprehensive Assessment;
- A brief description of the project features;
- A proposed team of Independent Consultants, including the identification and assessment of technical disciplines to be represented on the team of Independent Consultants; the names and resumes for the Independent Consultants; a list of supporting team member roles and their intended areas of expertise; and the names and resumes of facilitators for any Potential Failure Modes Analysis or Risk Analysis as needed; and
- A schedule for Part 12D Inspection-related activities.

Under proposed Chapter 16, members of the Independent Consultant Team would be required to prepare a Pre-Inspection Preparation Report to document their initial findings from their review of project documentation, instrumentation data, and other information prior to the field inspection. Proposed Chapter 16 would provide an outline for this PRA activity.

Chapter 16 also would provide outlines for and describe the scope of the periodic inspections and comprehensive assessment that would be required in proposed 18 CFR Part 12 Subpart D. Proposed Chapters 17 and 18 provide additional details and licensee guidance for conducting a Potential Failure Mode Analysis and a Level 2 Risk Analysis, which would be required as part of comprehensive assessment.

Exemption Requests

Proposed 18 CFR 12.33(a) would allow licensees to submit a written request to be excluded from the requirements of 18 CFR Part 12 Subpart D. The Director of D2SI has the authority to grant such a request in extraordinary circumstances that clearly establish good cause for an exemption. Proposed 18 CFR 12.33(c) would revoke all previously granted exemptions from the requirements of Subpart D. To ensure the consistency of Subpart D exemptions with current dam safety practices, any entity previously granted an exemption from Subpart D would be required to resubmit an exemption request.

18 CFR Part 12, Subpart F (Owner's Dam Safety Program)

Overview of Proposed Subpart F

Proposed new Subpart F would codify a letter issued by Commission staff to licensees in August 2012. The letter states that all owners of high and significant hazard potential dams⁷

⁷ Hazard potential is a classification based on the potential consequences in the event of failure or misoperation of the dam, canal, or water conveyance, and is subdivided into categories (e.g., Low, Significant, High).

- High hazard potential generally indicates that failure or misoperation of the project feature will probably cause loss of human life.
- Significant hazard potential and low hazard potential generally indicate that failure or misoperation will probably not cause loss of human life but may have some amount of economic, environmental, or other consequences.

must submit an Owner's Dam Safety Program (ODSP).⁸ The Commission's staff expects to prepare, and propose for public comment, a new Chapter 19 of the Engineering Guidelines that will provide additional detail.

Those licensees who are required at present to prepare an ODSP have already done so. There are, however, certain circumstances that may arise in which Commission staff determines preparation of an ODSP is warranted. For example, if a project's hazard-potential classification increases from low to either significant or high (e.g., due to a new housing development within the hypothetical inundation area), Commission staff may require the licensee to prepare and submit an ODSP if the licensee does not already have one in place. Similarly, if the Commission approves a transfer of an existing license, Commission staff may require the new licensee to submit an ODSP if the licensee does not already have one in place.

Because licensees that would be required to prepare an ODSP due to their project's hazard potential classification have already done so, the Commission estimates no added incremental burden or cost from the proposed addition of 18 CFR Part 12 subpart F. However, in the interest of disclosure, we provide the following information about the required contents of an Owner's Dam Safety Program.

Proposed PRA Activity Under 18 CFR Part 12 Subpart F

Contents of an Owner's Dam Safety Program

Proposed 18 CFR 12.63 would list the following minimum contents of an Owner's Dam Safety Program:

- (a) Dam safety policy, objectives, and expectations;
- (b) Responsibilities for dam safety;
- (c) Dam safety training program;
- (d) Communication, coordination, reporting, and reports;
- (e) Record keeping and databases;
- (f) Continuous improvement; and
- (g) Other information to be described in the future in Chapter 19 of the Engineering Guidelines.

Additional information is in an outline at

<https://www.ferc.gov/sites/default/files/2020-04/outline-with-discussion.pdf>.

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

Hazard classifications are based solely on the consequences of dam failure and do not in any way reflect the condition of the rated dams.

⁸ See Commission staff's August 15, 2012 letter to owners of high and significant hazard potential dams, <http://www.ferc.gov/industries/hydropower/safety/initiatives/odsp/letter-submit-odsp.pdf>.

The Commission continually considers the use of improved information technology to reduce burden in the filing requirements for submission of information. All the information that is reported to the Commission in this collection may be submitted electronically, through the Commission's eFiling system (as described at <http://www.ferc.gov/docs-filing/efiling.asp>).

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

The Commission periodically reviews filing requirements concurrently with OMB review or as the Commission deems necessary to eliminate duplicative filing and to minimize the filing burden. No similar information is available to satisfy the requirements of the proposed regulations or the proposed Engineering Guidelines.

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

The Commission recognizes that small entities, for the most part, have smaller and generally less complex projects than other entities. These projects do not take the same effort and resources as larger, more complex projects. Recognizing this, the NOPR and proposed Engineering Guidelines incorporate a site-specific approach to developing a proposed team to conduct the Independent Consultant Inspection. The estimated burden and costs for these efforts (distinguishing between "Simple" and "Complex" categories of hydroelectric facilities) are reflected in the estimated costs provided in the sections below.

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

Collection of the information on a less frequent basis would increase the interval between reporting periods that could lead to an increase in the frequency of dam safety incidents and failures. The Federal Emergency Management Agency (FEMA) has published the Federal Guidelines for Dam Safety⁹ that recommend a minimum frequency not to exceed five years for periodic reviews and comprehensive assessments of dams. That information was used in developing the frequency of inspections and reviews for reporting, as proposed in the NOPR and in the proposed Engineering Guidelines.

If the information were not collected, the Commission would not be able to fulfill the requirements of the FPA in ensuring that a project is being maintained in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the

⁹ Federal Emergency Management Agency, "Federal Guidelines for Dam Safety", at page 42, prepared by the ad hoc Interagency Committee on Dam Safety, Federal Coordinating Council for Science Engineering and Technology, Washington, DC, June 25, 1979. Available at: <https://www.fema.gov/media-library/assets/documents/2639>.

development and transmission of power, and is in conformance with rules and regulations established by the Commission for the protection of life, health, and property.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to these information collections.

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

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register, thereby providing the public, including public utilities and licensees, state commissions, and Federal agencies, an opportunity to submit data, views, comments or suggestions concerning the proposed collections of data.

On July 24, 2020, the NOPR and the notices of four proposed sets of Engineering Guidelines were published in the *Federal Register*:

- Notice of Proposed Rule, RIN 1902-AF71, Docket No. RM20-9, 85 FR 45032 (July 24, 2020);
- Notice of Availability of Draft Engineering Guidelines for the Evaluation of Hydropower Projects: Chapter 15 — Supporting Technical Information Document and Request for Comments, Docket No. AD20-20-000, 85 FR 44872 (July 24, 2020)¹⁰;
- Notice of Availability of Draft Engineering Guidelines for the Evaluation of Hydropower Projects: Chapter 16 — Part 12D Program and Request for Comments, Docket No. AD20-21-000, 85 FR 44871 (July 24, 2020)¹¹;
- Notice of Availability of Draft Engineering Guidelines for the Evaluation of Hydropower Projects: Chapter 17 — Potential Failure Modes Analysis and Request for Comments, Docket No. AD20-22-000, 85 FR 44882 (July 24, 2020)¹²; and
- Notice of Availability of Draft Engineering Guidelines for the Evaluation of Hydropower Projects: Chapter 18 — Level 2 Risk Analysis and Request for Comments, Docket No. AD20-23-000, 85 FR 44880 (July 24, 2020)¹³.

10 The eLibrary links for the Notice and Chapter 15 are <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586252> and <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586105>.

11 The eLibrary links for the Notice and Chapter 16 are <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586192> and <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586109>.

12 The eLibrary links for the Notice and Chapter 17 are <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586160> and <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586120>.

13 The eLibrary links for the Notice and Chapter 18 are <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586194> and <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586125>.

Public comments on Chapters 15 through 18 of the Draft Engineering Guidelines are due on September 14, 2020. Public comments on the NOPR are due on September 22, 2020.

The Commission conducted additional reviews following a dam safety incident at the Oroville Dam spillway in February of 2017. The Commission solicited, received, and reviewed expert opinions on the structure and implementation of the Commission’s dam safety program, particularly the provisions for independent consultants’ safety inspections, commonly referred to as Part 12 inspections, required under Title 18 CFR Part 12, Subpart D. Findings and recommendations were presented in two separate reports by the Oroville Independent Forensic Team (Oroville IFT)¹⁴ and the FERC After Action Panel (FAAP).¹⁵ The Proposed Rulemaking would address the recommendations of the Oroville IFT, FAAP, and to codify guidance promulgated by FERC’s Office of Energy Projects, Division of Dam Safety and Inspections (D2SI), over the past several years.¹⁶

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data to be confidential. However, certain actions have confidentiality provisions which prevent the disclosure of information relating to submittal of Critical Energy/Electric Infrastructure Information (CEII). A request for material to be treated as CEII or privileged may be made under 18 CFR Part 388.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

There are no questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

All of the following estimates apply to the incremental impact of the proposed regulations and proposed Engineering Guidelines.

¹⁴ “Independent Forensic Team Report, Oroville Dam Spillway Incident,” January 5, 2018. Available at: <https://damsafety.org/article/media/oroville-investigation-team>

¹⁵ “Assessment of Oroville Spillway Incident Causes and Recommendations to Improve Effectiveness of the FERC Dam Safety Program,” FERC After Action Panel, November 23, 2018. Available at: <https://www.ferc.gov/industries/hydropower/safety/projects/oroville/12-06-18/report.pdf>

¹⁶ The last technical content revision to 18 CFR Part 12 was almost 40 years ago. On January 21, 1981, the Commission issued FERC Order No. 122 revising the Part 12 regulations to revise the requirements of the inspection by independent consultants.

Table 12-1 itemizes the estimated annual burden¹⁷ and direct cost¹⁸ of the proposed changes due to this NOPR. Record keeping requirements are included in the burden and cost estimates for the development and collection of the data and reports.

¹⁷ “Burden” is 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. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

¹⁸ Direct costs are those costs (generally labor costs [burden hours]) associated with the applicant’s or licensee’s staff in the performance of the efforts related to the proposed rule change. These do not include the costs for professional services, although the direct costs do include the costs associated with the applicant’s or licensee’s administration and execution of contracts for professional services.

Table 12-1. Estimated Annual Burden and Direct Cost Changes Proposed by the NOPR in Docket No. RM20-9 and in Docket Nos. AD20-20, 20-21, 20-22, and 20-23¹⁹						
A. Type of Respondent	B. Type of Response	C. No. of Respondents	D. Avg. No. of Annual Responses per Respondent	E. Avg. Annual Burden Hrs. and Cost (\$) per Response	F. Total No. of Annual Responses (Col. C x Col. D)	G. Total Annual Burden Hrs. and Cost (\$) (Col. E x Col. F)
Applicant ²⁰ or Licensee ²¹	Reports of Project-Related Deaths, Serious Injuries, or Rescues ²²	65 ²³	2.14 ²⁴	2 hrs.; \$166	139	278 hrs.; \$23,074

¹⁹ The Commission staff believes that industry is similarly situated in terms of cost for wages and benefits. Therefore, we are using the FERC 2020 average cost (for wages plus benefits) for one FERC full-time equivalent (FTE) of \$172,329 (or \$83.00 per hour).

²⁰ As defined by 18 CFR 12.1(a)(2).

²¹ As defined by 18 CFR 12.1(a)(1) and (a)(3).

²² Proposed revisions of 18 CFR 12.10(b)(1), 12.10(b)(2), and 12.10(b)(4) for written reports of project-related deaths, serious injuries, or rescues at project works or involving project operations.

²³ Commission staff assumes the average number of respondents who will file an 18 CFR 12.10(b) public safety incident report documenting a rescue at a hydroelectric project will equal the average number of respondents who filed a 12.10(b) public safety incident report documenting a death or serious injury over the 10-year period from January 1, 2009 through December 31, 2018.

²⁴ Commission staff assumes the average number of 18 CFR 12.10(b) public safety incident reports documenting rescues at hydroelectric projects will equal the average number of 12.10(b) reports for deaths and serious injuries over the 10-year period from January 1, 2009 through December 21, 2018.

Licensee of Simple Hydro Facility ²⁵	Ind. Cons. Team Proposals and Reports on PIs and CAs ²⁶	375 ²⁷	0.1 ²⁸	0 hrs.; \$0	37.5	0 hrs.; \$0
Licensee of Complex Hydro Facility	Ind. Cons. Team Proposals and Reports on PIs and CAs ²⁹	375 ³⁰	0.1	0.6 ³¹ hrs.; \$49.80	37.5	22.5 hrs.; \$1,867.50
Licensee	Exemption Requests ³²	10	1	2 hrs.; \$166	10	20 hrs.; \$1,660
Licensee of Dam or Other Project Feature with a High or Significant Hazard Potential	Owner's Dam Safety Program Submittals ³³	Staff estimates no incremental change in direct costs due to proposed changes in the NOPR and Engineering Guidelines as compared to the current burden and costs.				
Totals		825			224	320.5 hrs.; \$26,601.50

25 Commission staff estimates no incremental change in direct costs due to the proposed rule change as compared to the current burden and costs.

26 Includes direct costs associated with the preparation and submittal of Independent Consultant Team Proposals (proposed 18 CFR 12.34) and Reports for Periodic Inspections and Comprehensive Assessments (proposed 18 CFR 12.36 and 12.38).

27 Approximately 750 project developments licensed by the Commission are subject to the

28 As previously noted, this table defines a single response as the consolidated filings associated with the typical ten-year cycle for Independent Consultant's Safety Inspections. Therefore, the number of annual responses is averaged over the ten-year period, or 0.1 responses on average per year.

29 See *supra* note 26.

30 See *supra* note 27.

31 Burden costs include hourly wages estimated based on complexity of project, scope of inspection, experience and number of assigned staff, and were compared to industry estimates provided by fewer than nine industry representatives who were contacted by Commission staff.

32 Proposed 18 CFR 12.33(a) includes a provision for licensees to submit a written request to be excluded from the requirements of 18 CFR Subpart D in extraordinary circumstances.

33 Includes direct costs associated with the preparation and submittal of Owner's Dam Safety Program Document (proposed 18 CFR 12.60 and 12.63), Statements of Qualifications for External Audit or Peer Review (proposed 18 CFR 12.65(b)), and Reports of Audits or Peer Review (proposed 18 CFR 12.65(c)).

Table 12-2 itemizes the estimated annual burden and annual contracting costs (indirect costs) for professional services³⁴ of the information collection that would be affected by this NOPR and the proposed chapters of the Engineering Guidelines. Record keeping requirements are included in the burden and direct cost estimates for the development and collection of the data and reports, but indirect costs are not included in the total burdens in Table 12-3 because they involve submission of information from consultants to respondents.

A. Type of Respondent	B. Type of Response	C. No. of Respondents	D. Avg. No. of Annual Responses per Respondent	E. Avg. Annual Burden Hrs. and Cost (\$ per Response	F. Total No. of Annual Responses (Col. C x Col. D)	G. Total Annual Burden Hrs. and Cost (\$) (Col. E x Col. F)
Applicant ³⁵ or Licensee ³⁶	Reports of Project-Related Deaths, Serious Injuries, or Rescues ³⁷	There are no anticipated costs for contracted professional services due to proposed changes in the NOPR and Engineering Guidelines.				
Licensee of Simple Hydro Facility	Ind. Consult. Team Proposals and Reports on PIs and CAs ³⁸	375 ³⁹	0.1 ⁴⁰	12 hrs.; ⁴¹ \$2,524.40	37.5	450 hrs.; \$94,665

34 Contracting costs include costs for professional services, including labor, travel and subsistence, and other indirect costs incurred by the contractor or consultant. Contracting costs do not include direct costs incurred by the applicant or licensee in the administration or execution of the contract for professional services; those are included in the previous table, as applicable.

35 As defined by 18 CFR 12.1(a)(2).

36 As defined by 18 CFR 12.1(a)(1) and (a)(3).

37 Proposed revisions of 18 CFR 12.10(b)(1), (b)(2), and (b)(4) for written reports of project-related deaths, serious injuries, or rescues at project works or involving project operations.

38 Includes contracting costs for professional services associated with the preparation and submittal of Independent Consultant Team Proposals (proposed 18 CFR 12.34) and Reports for Periodic Inspections and Comprehensive Assessments (proposed 18 CFR 12.36 and 12.38).

39 Approximately 750 project developments licensed by the Commission are subject to the reporting requirements. This table defines a single response as the consolidated filings associated with the typical ten-year cycle for Independent Consultant’s Safety Inspections, which would take effect following implementation of a final rule. A single response would

Licensee of Complex Hydro Facility	Ind. Consult. Team Proposals and Reports on PIs and CAs	375 ³⁹	0.1 ⁴⁰	32 hrs.; \$6,979.90 ⁴¹	37.5	1,200 hrs.; \$261,746. 25
Licensee	Exemption Requests ⁴²	There are no anticipated costs for contracted professional services due to proposed changes in the NOPR and Engineering Guidelines.				
Licensee of Dam or Other Project Feature with a High or Significant Hazard Potential	Owner's Dam Safety Program Submittals ⁴³	Commission staff estimates no incremental change in costs for contracted professional services due to proposed changes in the NOPR and Engineering Guidelines as compared to the current burden and costs.				
Totals		750				1,650 hrs.; \$356,411. 25

Table 12-3 itemizes the estimated annual burden and total cost (direct costs [from Table 12-1] and costs for contracted professional services (indirect costs [from Table 12-2]), of the proposed

include one each of the reports and other filings required under the scope of a Periodic Inspection and a Comprehensive Assessment. Thus, the total number of responses over a ten-year period will be the number of projects (750), divided equally between the “Simple” and “Complex” categories of hydroelectric facilities.

40 As previously noted, this table defines a single response as the consolidated filings associated with the typical ten-year cycle for Independent Consultant’s Safety Inspections. Therefore, the number of annual responses is averaged over the ten-year period, or 0.1 responses on average per year.

41 Burden costs include hourly wages estimated based on complexity of project, scope of inspection, experience and number of assigned staff, and were compared to industry estimates provided by fewer than nine industry representatives.

42 Proposed 18 CFR 12.33(a) includes a provision for licensees to submit a written request to be excluded from the requirements of 18 CFR Subpart D in extraordinary circumstances.

43 Includes costs for contracted professional services associated with the preparation and submittal of Owner’s Dam Safety Program Document (proposed 18 CFR 12.60 and 12.63), Statements of Qualifications for External Audit or Peer Review (proposed 18 CFR 12.65(b)), and Reports of Audits or Peer Review (proposed 18 CFR 12.65(c)).

changes due to this NOPR. Record keeping requirements are included in the burden and cost estimates for the development and collection of the data and reports.

A. Type of Respondent	B. Type of Response	C. No. of Respondents	D. Avg. No. of Annual Responses per Respondent	E. Avg. Annual Burden Hrs. and Cost per Response	F. Total No. of Annual Response s (Col. C x Col. D)	G. Total Annual Burden Hrs. and Cost (Col. E x Col. F)
Applicant ⁴⁴ or Licensee ⁴⁵	Reports of Project- Related Deaths, Serious Injuries, or Rescues ⁴⁶	65	2.14	2 hrs.; \$166	139	278 hrs.; \$23,074
Licensee of Simple Hydro Facility ⁴⁷	Ind. Cons. Team Proposals and Reports on PIs and CAs ⁴⁸	375	0.1	12 hrs.; \$2,524.40	37.5	450 hrs.; \$94,665
Licensee of Complex Hydro Facility ⁴⁹	Ind. Cons. Team Proposals and Reports on PIs and CAs	375	0.1	32.6 hrs.; \$7,029.70	37.5	1,222.5 hrs.; \$263,613. 75
Licensee	Exemption Requests ⁵⁰	10	1	2 hrs.; \$166	10	20 hrs.; \$1,660

44 As defined by 18 CFR 12.1(a)(2).

45 As defined by 18 CFR 12.1(a)(1) and (a)(3).

46 Proposed revisions of 18 CFR 12.10(b)(1), (b)(2), and (b)(4) for written reports of project-related deaths, serious injuries, or rescues at project works or involving project operations.

47 Includes direct and contracting burden and cost.

48 Includes direct costs associated with the preparation and submittal of Independent Consultant Team Proposals (proposed 18 CFR 12.34) and Reports for Periodic Inspections and Comprehensive Assessments (proposed 18 CFR 12.36 and 12.38).

49 Includes direct and contracting burden and cost.

50 Proposed 18 CFR 12.33(a) includes a provision for licensees to submit a written request to be

Licensee of Dam or Other Project Feature with a High or Significant Hazard Potential	Owner's Dam Safety Program Submittals ⁵¹	Staff estimates no incremental change in direct costs due to proposed changes in the NOPR and Engineering Guidelines as compared to the current burden and costs.				
Total for Direct Costs and Contracting (Indirect) Costs due to NOPR in RM20-9-000, & AD20-20, -21, -22, & -23	—	825	—	—	224	1,970.5 hrs.; \$383,012.75

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

This includes contracting of professional services and non-labor, as detailed in Table 12-2 above. There are no start-up or other non-labor costs.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for “analysis and processing of filings” is based 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 collections. The estimates for the ‘analysis and processing of filings’ are for the proposed incremental changes to 18 CFR Part 12 and the proposed Engineering Guidelines and do not represent the entire effort or cost associated with the complete requirements of 18 CFR Part 12 and the Engineering Guidelines.

The 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 excluded from the requirements of 18 CFR Subpart D in extraordinary circumstances.

⁵¹ Includes direct costs associated with the preparation and submittal of Owner’s Dam Safety Program Document (proposed 18 CFR 12.60 and 12.63), Statements of Qualifications for External Audit or Peer Review (proposed 18 CFR 12.65(b)), and Reports of Audits or Peer Review (proposed 18 CFR 12.65(c)).

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.

The estimated annualized cost to the Federal Government follows.

18 CFR Part 12 and Proposed Engineering Guidelines	Estimated Number of Annual Filings (1)	Annualized Estimated Incremental Hours/Filing (2)	Annualized Estimated Incremental Cost/Filing⁵² (3)	Annualized Estimated Incremental Federal Cost (1)x(3)=(4)
Analysis and Processing of Filings – Subpart B	139	1.0 ⁵³	\$83.00	\$11,537
Analysis and Processing of Filings – Subpart D				
Simpler	37.5	1.1 ⁵⁴	\$91.30	\$3,423.75
More Complex	37.5	1.8 ⁵⁵	\$149.40	\$5,602.50
Exemption Requests	10	1.0	\$83.00	\$11,537
Analysis and Processing of Filings – Subpart F	N/A	0 ⁵⁶	\$0	\$0
PRA Administrative Cost	N/A		N/A	\$6,475 ⁵⁷
FERC Total	224			\$38,575.25

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

⁵²The estimate uses the FERC’s FY 2020 average annual salary plus benefits of one FERC full-time equivalent (FTE): \$172,329 per year, or \$83.00 per hour.

⁵³Based on staff estimates.

⁵⁴Based on staff estimates. For simpler projects, a new Periodic Inspection would be 14 hours of reduced effort from existing reports, and a new Comprehensive Assessment would be 25 hours of additional effort from existing reports, for an incremental effort of 11 hours of additional effort divided by a 10-year cycle equals 1.1 hours/filing.

⁵⁵Based on staff estimates. For more complex projects, a new Periodic Inspection would be 12 hours of reduced effort from existing reports, and a new Comprehensive Assessment would be 30 hours of additional effort from existing reports, for an incremental effort of 18 hours of additional effort divided by a 10-year cycle equals 1.8 hours/filing.

⁵⁶ There are no incremental costs for federal efforts affected by the proposed changes in the NOPR and Engineering Guidelines. No net increase in effort or hours is projected above current efforts.

⁵⁷This was last updated May 2020.

The proposed PRA activities in the proposed regulations and proposed Chapters of the Engineering Guidelines would be program changes. They represent an increase in the total burden of PRA activities pertaining to the safety of water power projects and project works.⁵⁸

The program changes would include all of the estimated burdens of this PRA request, as shown in Tables 12-1 through 12-3. These new and revised information collection activities are necessary in order to promote the safe operation, effective maintenance, and efficient repair of licensed hydropower projects and project works to ensure the protection of life, health, and property in surrounding communities.

Specifically, the new and revised information collection activities would assist the Commission in correcting shortcomings documented by the FERC After Action Panel Report after the incident at the Oroville Dam Project. The revisions of reporting in connection with the inspection process, the codification of Owner's Dam Safety Programs, and the increased scope of incident-reporting to include rescues all are expected to increase the likelihood that design and operational deficiencies are detected far in advance of a major incident.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There is no publication of data.

17. DISPLAY OF EXPIRATION DATE

The Commission expects to post the relevant expiration date at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.

⁵⁸ The Commission's staff expects to seek a control number for existing requirements not affected by the NOPR and proposed Engineering Guidelines.

