

ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 18: Conservation of Power and Water Resources

[PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS](#)

[Subpart B—Applications for Projects Subject to Sections 14 and 15 of the Federal Power Act](#)

§16.7 Information to be made available to the public at the time of notification of intent under section 15(b) of the Federal Power Act.

(a) **Applicability.** This section applies to a licensee of an existing project subject to sections 14 and 15 of the Federal Power Act.

(b) **Requirement to make information available.** A licensee must make the information specified in paragraph (d) of this section reasonably available to the public for inspection and reproduction, from the date on which the licensee notifies the Commission pursuant to §16.6(b) of this part until the date any relicensing proceeding for the project is terminated.

(c) **Requirement to supplement information.** A licensee must supplement the information it is required to make available under the provisions of paragraph (d) with any additional information developed after the filing of a notice of intent.

(d) **Information to be made available.** (1) A licensee for which the deadline for filing a notification of intent to seek a new or subsequent license is on or after July 23, 2005 must, at the time it files a notification of intent to seek a license pursuant to §5.5 of this chapter, provide a copy of the pre-application document required by §5.6 of this chapter to the entities specified in that paragraph.

(2) A licensee for which the deadline for filing a notification of intent to seek a new or subsequent license is prior to July 23, 2005, and which elects to seek a license pursuant to this part must make the following information regarding its existing project reasonably available to the public as provided in paragraph (b) of this section:

(i) The following construction and operation information:

(A) The original license application and the order issuing the license and any subsequent license application and subsequent order issuing a license for the existing project, including

- (1) Approved Exhibit drawings, including as-built exhibits,
- (2) Any order issuing amendments or approving exhibits,
- (3) Any order issuing annual licenses for the existing project;

(B) All data relevant to whether the project is and has been operated in accordance with the requirements of each license article, including minimum flow requirements, ramping rates, reservoir elevation limitations, and environmental monitoring data;

(C) A compilation of project generation and respective outflow with time increments not to exceed one hour, unless use of another time increment can be justified, for the period beginning five years before the filing of a notice of intent;

(D) Any public correspondence related to the existing project;

(E) Any report on the total actual annual generation and annual operation and maintenance costs for the period beginning five years before the filing of a notice of intent;

(F) Any reports on original project costs, current net investment, and available funds in the amortization reserve account;

(G) A current and complete electrical single-line diagram of the project showing the transfer of electricity from the project to the area utility system or point of use;
and

(H) Any bill issued to the existing licensee for annual charges under Section 10 (e) of the Federal Power Act.

(ii) The following safety and structural adequacy information:

(A) The most recent emergency action plan for the project or a letter exempting the project from the emergency action plan requirement;

(B) Any independent consultant's reports required by part 12 of this chapter and filed on or after January 1, 1981;

(C) Any report on operation or maintenance problems, other than routine maintenance, occurring within the five years preceding the filing of a notice of intent or within the most recent five-year period for which data exists, and associated costs of such problems under the Commission's Uniform System of Accounts;

- (D) Any construction report for the existing project; and
- (E) Any public correspondence relating to the safety and structural adequacy of the existing project.

(iii) The following fish and wildlife resources information:

- (A) Any report on the impact of the project's construction and operation on fish and wildlife resources;
- (B) Any existing report on any threatened or endangered species or critical habitat located in the project area, or affected by the existing project outside the project area;
- (C) Any fish and wildlife management plan related to the project area prepared by the existing licensee or any resource agency; and
- (D) Any public correspondence relating to the fish and wildlife resources within the project area.

(iv) The following recreation and land use resources information:

- (A) Any report on past and current recreational uses of the project area;
- (B) Any map showing recreational facilities and areas reserved for future development in the project area, designated or proposed wilderness areas in the project area; Land and Water Conservation Fund lands in the project area, and designated or proposed Federal or state wild and scenic river corridors in the project area.
- (C) Any documentation listing the entity responsible for operating and maintaining any existing recreational facilities in the project area; and
- (D) Any public correspondence relating to recreation and land use resources within the project area.

(v) The following cultural resources information:

(A) Except as provided in paragraph (d)(2)(v)(B) of this section, a licensee must make available:

- (1) Any report concerning documented archeological resources identified in the project area;
- (2) Any report on past or present use of the project area and surrounding areas by Native Americans; and
- (3) Any public correspondence relating to cultural resources within the project area.

(B) A licensee must delete from any information made available under paragraph (d)(2)(v)(A) of this section, specific site or property locations the disclosure of which would create a risk of harm, theft, or destruction of archeological or Native American cultural resources or to the site at which the resources are located, or would violate any Federal law, including the Archeological Resources Protection Act of 1979, 16 U.S.C. 470w-3, and the National Historic Preservation Act of 1966, 16 U.S.C. 470hh.

(vi) The following energy conservation information under section 10(a)(2)(C) of the Federal Power Act related to the licensee's efforts to conserve electricity or to encourage conservation by its customers including:

(A) Any plan of the licensee;

(B) Any public correspondence; and

(C) Any other pertinent information relating to a conservation plan.

(3)-(6) [Reserved]

(7)(i) If paragraph (d) of this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined in §388.113(c) of this chapter, to any person, the applicant shall omit the CEII from the information made available and insert the following in its place:

(A) A statement that CEII is being withheld;

(B) A brief description of the omitted information that does not reveal any CEII; and

(C) This statement: “Procedures for obtaining access to Critical Energy Infrastructure Information (CEII) may be found at 18 CFR 388.113. Requests for access to CEII should be made to the Commission's CEII Coordinator.”

(ii) The applicant, in determining whether information constitutes CEII, shall treat the information in a manner consistent with any filings that applicant has made with the Commission and shall to the extent practicable adhere to any previous determinations by the Commission or the CEII Coordinator involving the same or like information.

(iii) The procedures contained in §§388.112 and 388.113 of this chapter regarding designation of, and access to, CEII, shall apply in the event of a challenge to a CEII designation or a request for access to CEII. If it is determined that information is not CEII or that a requester should be granted access to CEII, the applicant will be directed to make the information available to the requester.

(iv) Nothing in this section shall be construed to prohibit any persons from voluntarily reaching arrangements or agreements calling for the disclosure of CEII.

(e) Form, place, and hours of availability, and cost of reproduction. (1) A licensee must make the information specified in paragraph (d) of this section, or the pre-application document, as applicable, available to the public for inspection:

- (i) At its principal place of business or at any other location or locations that are more accessible to the public, provided that all of the information is available in at least one location;
- (ii) During regular business hours; and
- (iii) In a form that is readily accessible, reviewable, and reproducible.

(2) Except as provided in paragraph (d)(3) of this section, a licensee must make requested copies of the information specified in paragraph (c) of this section available either:

- (i) At its principal place of business or at any other location or locations that are more accessible to the public, after obtaining reimbursement for reasonable costs of reproduction; or
- (ii) Through the mail, after obtaining reimbursement for postage fees and reasonable costs of reproduction.

(3) A licensee must make requested copies of the information specified in paragraph (d) of this section available to the United States Fish and Wildlife Service, the National Marine Fisheries Service, Indian tribes, and the state agency responsible for fish and wildlife resources without charge for the costs of reproduction or postage.

(f) Unavailability of required information. Anyone may file a petition with the Commission requesting access to the information specified in paragraph (d) of this section if it believes that a licensee is not making the information reasonably available for public inspection or reproduction. The petition must describe in detail the basis for the petitioner's belief.

(g) Public correspondence. A licensee may compile and make available in one file all the public correspondence required to be made available for inspection and reproduction by §16.7(d)(1)(iv), (d)(2)(v), (d)(3)(iv), (d)(4)(iv), and (d)(6)(ii).

[Order 496, 53 FR 15810, May 4, 1988. Redesignated by Order 513, 54 FR 23807, June 2, 1989; Order 513-C, 55 FR 10768, Mar. 23, 1990; Order 2002, 68 FR 51139, Aug. 25, 2003; Order 643, 68 FR 52095, Sept. 2, 2003]

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