

ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 18: Conservation of Power and Water Resources

[PART 7—EXPEDITED LICENSING PROCESS FOR QUALIFYING NON-FEDERAL HYDROPOWER PROJECTS AT EXISTING NONPOWERED DAMS AND FOR CLOSED-LOOP PUMPED STORAGE PROJECTS](#)

§7.1 Applicability and definitions.

(a) Applicability of the expedited licensing process. This part applies to the processing of applications for original licenses for qualifying non-federal hydropower projects at existing nonpowered dams and for closed-loop pumped storage projects pursuant to sections 34 and 35 of the Federal Power Act.

(b) Applicability of existing regulations. Except where superseded by the expedited licensing process set forth in this part, the regulations governing license applications under parts 4 and 5 of this chapter, as applicable, also apply to license applications filed under this part.

(c) Definitions. The definitions in §4.30(b) of this chapter apply to this part. In addition, for the purposes of this part—

(1) Qualifying nonpowered dam means any dam, dike, embankment, or other barrier—

(i) The construction of which was completed on or before October 23, 2018;

(ii) That is or was operated for the control, release, or distribution of water for agricultural, municipal, navigational, industrial, commercial, environmental, recreational, aesthetic, drinking water, or flood control purposes; and

(iii) That, as of October 23, 2018, was not generating electricity with hydropower generating works that were licensed under, or exempted from the license requirements contained in, Part I of the Federal Power Act.

(2) Qualifying facility means a facility that is determined under section 34 of the Federal Power Act to meet the qualifying criteria for non-federal hydropower projects at existing nonpowered dams.

(3) Qualifying criteria for closed-loop pumped storage projects means criteria that a pumped storage project must meet in order to qualify as a closed-loop pumped storage project eligible for the expedited process established under this part. These criteria require that the pumped storage project:

(i) Cause little to no change to existing surface and groundwater flows and uses;

(ii) Is unlikely to adversely affect species listed as a threatened species or endangered species, or designated critical habitat of such species, under the Endangered Species Act of 1973;

(iii) Utilize only reservoirs situated at locations other than natural waterways, lakes, wetlands, and other natural surface water features; and

(iv) Rely only on temporary withdrawals from surface waters or groundwater for the sole purposes of initial fill and periodic recharge needed for project operation.

(d) Who may file. Any citizen, association of citizens, domestic corporation, municipality, or state that develops and files a license application under 18 CFR parts 4 and 5, as applicable, may request expedited processing under this part.

(e) Use of expedited licensing process. An applicant wishing to use this expedited licensing process must apply for and receive authorization from the Commission under this part. An applicant under this part may elect to use the licensing process provided for in 18 CFR part 5 (i.e., integrated license application process), or as provided under 18 CFR 5.1:

(1) 18 CFR part 4, subparts D-H (i.e., traditional process); or

(2) Section 4.34(i) of this chapter, Alternative procedures.

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