

Federal Energy Regulatory Commission

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(11) *Water conveyance* means any canal, penstock, tunnel, flowline, flume, siphon, or other project work, constructed or natural, which facilitates the movement of water for the generation of hydropower, environmental benefit, or other purpose required by the project license.

(12) *Owner's Dam Safety Program* means the written document that formalizes a licensee's dam safety program, including, but not limited to, the licensee's dam safety policies; objectives; expectations; responsibilities; training program; communication, coordination, and reporting; record keeping; succession planning; continuous improvement; and audits and assessments.

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

(i) *High hazard potential* generally indicates that failure or misoperation will probably cause loss of human life.

(ii) *Significant hazard potential* generally indicates that failure or misoperation will probably not cause loss of human life but may have some amount of economic, environmental, or other consequences.

(iii) *Low hazard potential* generally indicates that failure or misoperation will probably not cause loss of human life but may have some amount of economic, environmental, or other consequences, typically limited to project facilities.

(14) *Act* means the Federal Power Act.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984; Order 647, 69 FR 32438, June 10, 2004; 87 FR 1513, Jan. 11, 2022; 87 FR 8411, Feb. 15, 2022]

§ 12.4 Staff administrative responsibility and supervisory authority.

(a) *Administrative responsibility.* The Director of the Office of Energy Projects is responsible for administering the Commission's project safety program and reports directly to the Chairman of the Federal Energy Regulatory Commission.

(b) *Supervisory authority of the Regional Engineer or other authorized representative.* (1) Any water power project and the construction, operation, maintenance, use, repair, or modification of any project works are subject to the inspection and the supervision of the Regional Engineer or any other authorized Commission representative for the purpose of:

(i) Achieving or protecting the safety, stability, security, and integrity of the project works or the ability of any project work to function safely for its intended purposes, including navigation, water power development, or other beneficial public uses; or

(ii) Otherwise protecting life, health, or property.

(2) For the purposes set forth in paragraph (b)(1) of this section, a Regional Engineer or other authorized Commission representative may:

(i) Test or inspect any water power project or project works or require that the applicant or licensee perform such tests or inspections or install monitoring instruments;

(ii) Require an applicant or a licensee to submit reports or information, regarding:

(A) The design, construction, operation, maintenance, use, repair, or modification of a water power project or project works; and

(B) Any condition affecting the safety of a project or project works or any death, serious injuries, or rescues that occur at, or might be attributable to, the water power project;

(iii) Require an applicant or a licensee to modify:

(A) Any emergency action plan filed under subpart C of this part;

(B) Any Owner's Dam Safety Program filed under subpart F of this part;

(C) Any plan of corrective measures, including related schedules, submitted after the report of an independent consultant pursuant to § 12.36 or § 12.38 or any other inspection report; or

(D) Any public safety plan filed under § 12.52(b).

(iv) Require an applicant or licensee to take any other action with respect to the design, construction, operation, maintenance, repair, use, or modification of the project or its works that is,

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in the judgment of the Regional Engineer or other authorized Commission representative, necessary or desirable.

(v) Establish the time for an applicant or licensee to provide a schedule for or to perform any actions specified in this paragraph.

(c) *Appeal, stay, rescission, or amendment of order or directive.* (1) Any order or directive issued under this part by a Regional Engineer or other authorized Commission representative may be appealed to the Commission under § 385.207 of this chapter.

(2) Any order or directive issued under this part by a Regional Engineer or other authorized Commission representative is immediately effective and remains in effect until:

(i) The Regional Engineer or other authorized Commission representative who issued the order or directive rescinds or amends that order or directive or stays its effect; or

(ii) The Commission stays the effect of the order or directive, or amends or rescinds the order or directive on appeal.

(3) An appeal or motion for rescission, amendment, or stay of any order or directive issued under this part must contain a full explanation of why granting the appeal or the request for rescission or amendment of the order or directive, or for stay for the period requested, will not endanger life, health, or property.

(d) *Failure to comply.* If a licensee fails to comply with any order or directive issued under this part by the Commission, a Regional Engineer, or other authorized Commission representative, the licensee may be subject to sanctions, including, but not limited to, civil penalties, orders to cease generation, or license revocation.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 49 FR 29370, July 20, 1984; Order 756, 77 FR 4894, Feb. 1, 2012; 87 FR 1514, Jan. 11, 2022; 87 FR 2702, Jan. 19, 2022]

§ 12.5 Responsibilities of licensee or applicant.

A licensee or applicant must use sound and prudent engineering practices in any action relating to the design, construction, operation, mainte-

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nance, use, repair, or modification of a water power project or project works.

Subpart B—Reports and Records

§ 12.10 Reporting safety-related incidents.

(a) *Conditions affecting the safety of a project or its works—(1) Initial reports.* An applicant or licensee must report by email or telephone to the Regional Engineer any condition affecting the safety of a project or projects works, as defined in § 12.3(b)(4). The initial report must be made as soon as practicable after that condition is discovered, preferably within 72 hours, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency action procedure.

(2) *Written reports.* Following the initial report required in paragraph (a)(1) of this section, the applicant or licensee must submit to the Regional Engineer a written report on the condition affecting the safety of the project or project works verified in accordance with § 12.13. The written report must be submitted within the time specified by the Regional Engineer and must contain any information the Regional Engineer directs, including:

(i) The causes of the condition;

(ii) A description of any unusual occurrences or operating circumstances preceding the condition;

(iii) An account of any measure taken to prevent worsening of the condition;

(iv) A detailed description of any damage to project works and the status of any repair;

(v) A detailed description of any personal injuries;

(vi) A detailed description of the nature and extent of any private property damages; and

(vii) Any other relevant information requested by the Regional Engineer.

(3) The level of detail required in any written report must be commensurate with the severity and complexity of the condition.

(b) *Deaths, serious injuries, or rescues—(1) Initial reports.* An applicant or licensee must report to the Regional Engineer any drowning or other incident resulting in death, serious injury, or rescue that occurs at the project works