



[6450-01-P]

**DEPARTMENT OF ENERGY**

**Wind and Water Power Program:**

**Guidance and Application for Hydroelectric Incentive Payments**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of availability of guidance and open application period.

**SUMMARY:** The U.S. Department of Energy (DOE) is publishing Guidance for the EPAct 2005 Section 242 Program. The guidance describes the hydroelectric incentive payment requirements and explains the type of information that owners or authorized operators of qualified hydroelectric facilities can provide DOE when applying for hydroelectric incentive payments. This incentive is available for electric energy generated and sold for a specified 10-year period as authorized under section 242 of the Energy Policy Act of 2005. In Congressional appropriations for Federal fiscal year 2014, DOE received funds to support this hydroelectric incentive program for the first time. At this time, DOE is only accepting applications from owners and authorized operators of qualified hydroelectric facilities for hydroelectricity generated and sold in calendar year 2013.

**DATES:** DOE is currently accepting applications from [INSERT DATE OF FEDERAL REGISTER PUBLICATION] through [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Applications

information must be sent to [hydroincentive@ee.doe.gov](mailto:hydroincentive@ee.doe.gov) by midnight EDT, [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE REGISTER**], or they will not be considered timely filed for calendar year 2013 incentive payments.

**ADDRESSES:** Written correspondence may be sent to the Office of Energy Efficiency and Renewable Energy (EE-4), by e-mail at [hydroincentive@ee.doe.gov](mailto:hydroincentive@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Mr. Steven Lindenberg, Office of Energy Efficiency and Renewable Energy (EE-4), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-2783, [hydroincentive@ee.doe.gov](mailto:hydroincentive@ee.doe.gov). Electronic communications are recommended for correspondence and required for submission of application information.

**SUPPLEMENTARY INFORMATION:** In the Energy Policy Act of 2005 (EPAc 2005; Public Law 109-58), Congress established a new program to support the expansion of hydropower energy development at existing dams and impoundments through an incentive payment procedure. Under section 242 of EPAc 2005, the Secretary of Energy is directed to provide incentive payments to the owner or authorized operator of qualified hydroelectric facilities for electric energy generated and sold by a qualified hydroelectric facility for a specified 10-year period (See 42 U.S.C. 15881). The conference report to the Fiscal Year 2014 Omnibus Appropriations bill includes \$3,600,000 for conventional hydropower under section 242 of EPAc 2005.

In response, DOE developed and announced draft guidance intended to describe the application process and the information necessary for DOE to make a determination of eligibility under section 242. See 79 FR 37733 (July 2, 2014). The final guidance is available at: <http://energy.gov/eere/water/water-power-program>.

DOE accepted public comments on the guidance on two separate occasions in July and October 2014. In response to these comments, DOE developed a summary of comments and DOE's response which can be found with the final guidance, which is available at: <http://energy.gov/eere/water/water-power-program>.

When submitting information to DOE for the Section 242 program, it is recommended that applicants carefully read and review the complete content of the Guidance for this process. The terms defined in the Guidance shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or non-governmental entity, and without regard to whether the facility began operation on or after October 1, 2005.

As an aid to supporting the hydropower industry, DOE has developed the following checklist for application related to calendar year 2013 power production. This checklist is provided to aid the applicant and does not necessarily include all requirements stated in the Guidance.

## **Applicant Checklist**

### **Administrative Requirements**

- The application must be received by DOE between **[INSERT DATE OF FEDERAL REGISTER PUBLICATION]** and **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. The application must be sent to [hydroincentive@ee.doe.gov](mailto:hydroincentive@ee.doe.gov) by midnight, **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, or it will not be considered for calendar year 2013 incentive payments.
- The application must include all information required in the Application Requirements, “Sec. V”, in the Guidance.
- An owner or authorized operator must be applying on behalf of: a) a FERC-jurisdictional hydroelectric facility as the holder of a license or exemption issued by FERC, or b) a non-FERC jurisdictional hydroelectric facility as the holder of exclusive rights to beneficial use of a facility, including legal title.
- The application for an incentive payment must be signed by an authorized executive official of the owner or operator claiming the payment.
- In the event that DOE has clarification questions on the application and DOE requests additional information, such information must be received at [hydroincentive@ee.doe.gov](mailto:hydroincentive@ee.doe.gov) within 10 business days after the DOE request.
- DOE strongly encourages applicants to apply early for the Federal System for Award Management (SAM) account required for submitting request for payment

to the Federal Government. This process can take 10 days or more and the information must be included in the application.

### **Equipment Requirements**

- The new turbine or other generating device must be owned or solely operated by a non-federal entity.
- Operation of the new turbine or other generating device must have been initiated on or after October 1, 2005.
- The new turbine and other electric generation devices must include conventional or new and innovative technologies capable of continuous operation.

### **Facility Requirements**

- The new turbine or other generating device must have been added to an existing dam or conduit, the construction of which was completed before August 8, 2005.
- Construction of the new turbine or other generating device must have involved only modifications with no construction or enlargement of impoundment or diversion structures (other than repair or reconstruction). Construction should not require any permanent enlargement of impoundment or diversion structure when installed.

### **Power Production (energy requirements)**

- The claimed electricity production and sale must be net electric energy and must have occurred in the calendar year January 1 through December 31, 2013, inclusive. Applicants for the production incentive will be considered only for the energy produced during this timeframe; no payments for previous years of generation will be awarded.

- A metering device should have been used to measure net electric energy generated and sold.
- The metering device must meet generally accepted industry standards, be maintained in proper working order according to instructions of its manufacturer, and be calibrated to generally accepted industry standards.
- In the event that a project's eligible production is not specifically metered, a project must submit a reasonable, reliable, alternative method to document eligible production. Alternative methodologies must be reviewed, confirmed, and documented by a third party with valid and relevant industry experience and credentials and be submitted along with the application to DOE. DOE reserves the right to determine whether the alternative methodology sufficiently identifies the net electric energy generated to qualify under this program.
- Metered energy data must match the amount of energy claimed in the application.
- The claimed energy must have been sold, where sale means a transfer of currency between two unrelated parties in exchange for delivered electrical current, except that not-for-profit electric cooperatives or municipal utilities and their members shall be considered unrelated parties for purposes of hydroelectric production incentive payments.

Each application will be reviewed based on the Guidance at <http://energy.gov/eere/water/water-power-program>. DOE may corroborate the information provided with information that DOE finds through FERC e-filings, contact with power off-taker, and other due diligence measures carried out by reviewing officials.

DOE may require the applicant to conduct and submit an independent audit at its own expense, or DOE may conduct an audit to verify the number of kilowatt-hours claimed to have been generated and sold by the qualified hydroelectric facility and for which an incentive payment has been requested or made.

Issued in Washington, DC, on January 14, 2015.

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Renewable Power

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