



DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM26-3-000]

Authorizations for Certain Post-Licensing Activities at Hydroelectric Projects

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is inviting comments on whether certain activities can be implemented without case-specific authorization from the Commission under Part I of the Federal Power Act and on what changes, if any, the Commission should make to its processes for reviewing and authorizing post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure.

DATES: Comments are due **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

ADDRESSES: Comments, identified by docket number, may be filed in the following ways. Electronic filing through <http://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
 - **Mail via U.S. Postal Service Only:** Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.

- Hand (including courier) delivery: Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. In this Notice of Inquiry, the Federal Energy Regulatory Commission (Commission) is inviting comments on whether certain activities can be implemented without case-specific authorization from the Commission under Part I of the Federal Power Act (FPA) and on what changes, if any, the Commission should make to its processes for reviewing and authorizing post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure.

I. Background

A. Statutory Framework

2. Section 4(e) of the FPA authorizes the Commission to issue licenses “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, transmission, and utilization of power.”¹ In issuing these hydroelectric licenses, the Commission is required to consider power and development purposes and “give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.”² After considering power and environmental considerations, the Commission will include in a license conditions that ensure that the project is best adapted to a comprehensive plan for improving or developing a waterway.³

¹ 16 U.S.C. 797(e).

² *Id.*

³ 16 U.S.C. 803(a)(1). Section 10(a)(1) of the FPA requires that any project, for which the Commission issues a license be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or

3. After issuance of a license, projects require ongoing maintenance and often require modification during the term of the license. With respect to post-licensing activities, section 10(b) of the FPA states “except when emergency shall require for the protection of navigation, life, health, or property, *no substantial alteration or addition not in conformity with the approved plans* shall be made to any dam or other project works . . . *without the prior approval of the Commission*” (emphasis added).⁴ Similarly, pursuant to section 23(b)(1) of the FPA, a licensee may not “commence any *significant* modification of any [licensed] project . . . unless such modification is authorized in accordance with terms and conditions of such license . . . and the applicable requirements of [Part I of the FPA]” (emphasis added).⁵ The Commission understands these provisions to allow licensees to make alterations that are not “substantial” or “significant” without further authorization. Post-licensing activities that do not fit within these categories, including some maintenance, repairs, and upgrades, require Commission approval before implementation.

4. Applicants for post-licensing activities must also comply with federal laws for the protection of environmental resources, such as the National Environmental Policy Act

foreign commerce; for the improvement and use of waterpower development; for the adequate protection, mitigation, and enhancement of fish and wildlife; and for other beneficial public uses, including irrigation, flood control, water supply, recreation, and other purposes.

⁴ 16 U.S.C. 803(b). For conditions affecting the safety of a project or its works, should emergency modifications be necessary at the project, licensees are required to report the incident and details of the modification according to certain reporting requirements. 18 CFR 12.11 and 18 CFR 12.10(a).

⁵ 16 U.S.C. 817(2). In order to ensure dam safety, the Commission’s dam safety regulations also require licensees to report modifications of the project or project works to the applicable Commission Regional Engineer in writing. 18 CFR 12.11.

(NEPA),⁶ Endangered Species Act of 1973, the National Historic Preservation Act, and the Clean Water Act.⁷

B. Commission Regulations for Amendment Applications

5. Commission regulations require amendment applications when a licensee seeks to: make a change in the physical features of the project or its boundary, or make an addition, betterment, abandonment, or conversion, of such character as to constitute an alteration of the license; or make a change in the plans for the project under license.⁸

Requirements regarding these applications vary depending on whether the application is for a capacity or non-capacity amendment.⁹

6. Commission regulations require specific information to be submitted as part of a capacity-related amendment application.¹⁰ For non-capacity-related amendments, the

⁶ On July 23, 2025, the Commission adopted two categorical exclusions from the United States Bureau of Reclamation, for “[m]aintenance, rehabilitation, and replacement of existing facilities which may involve a minor change in size, location, and/or operation” and for “[m]inor safety of dam construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of the construction activities.” *See Adopting Categorical Exclusions under the Nat’l Env’t Pol’y Act*, 192 FERC ¶ 61,019, at P 2 (2025) (first citing Fiscal Responsibility Act of 2023, Pub. L. 118-5, 137 Stat. 10 (June 3, 2023), and then citing 42 U.S.C. 4336c); *id.* PP 4-5, 10-13, ordering para. (A).

⁷ Other federal statutes, such as the Marine Mammal Protection Act, may apply in particular cases.

⁸ 18 CFR 4.200.

⁹ A “capacity related amendment” is one where the applicant seeks “to amend a license for a hydropower project that involves additional capacity not previously authorized, and that would increase the actual or proposed total installed capacity of the project, would result in an increase in the maximum hydraulic capacity of the project of 15 percent or more, and would result in an increase in the installed name-plate capacity of 2 megawatts or more.” 18 CFR 4.201(b).

¹⁰ *Id.* (specifying required exhibits depending on the type of project).

Commission requires an applicant to submit revised versions of any exhibits (such as project maps) that require revision in light of the proposed amendment.¹¹ Additionally, to ensure that state and federal agencies and Indian Tribes have the opportunity to discuss the proposal with the applicant, the applicant must complete pre-filing consultation requirements for capacity-related amendments as well as specified non-capacity-related amendments.¹²

7. Ensuring the protection of human life, health, and property is a key aspect of the Commission's regulation of hydropower projects.¹³ Accordingly, the Commission's dam safety regulations set forth the authority of Commission staff in inspecting, reviewing, and requiring modifications to licensed projects for the purposes of ensuring the safety, stability, security, and integrity of the project works.

C. Minor Changes Authorized by License Articles

8. The Commission includes in every license two articles, Articles 2 and 3, which give licensees the ability to make minor changes without the need to obtain approval from the Commission. Article 2 provides:

No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, [t]hat if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the

¹¹ 18 CFR 4.201(c).

¹² These include amendments that would involve the construction of a new dam or diversion in a location where there is no existing dam or diversion; any repair, modification, or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or elevation of an existing impoundment; or the addition of new water power turbines other than to replace existing turbines. 18 CFR 4.38(a)(6)(iv)-(v); *see also* 18 CFR 4.38(a)(7).

¹³ *See* 16 U.S.C. 803(c).

Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.¹⁴

Article 3 provides:

The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.¹⁵

The Commission has explained that, pursuant to Article 3, “certain minor changes in the specifications approved in the license can be reflected in the as-built exhibit filings without prior Commission approval.”¹⁶ The Commission has emphasized that “the determination of whether a particular change is substantial must be made on a case-by-case basis.”¹⁷

¹⁴ See, e.g., Federal Energy Regulatory Commission, Form L-1, Article 2 (October 1975).

¹⁵ See, e.g., Federal Energy Regulatory Commission, Form L-1, Article 3 (October 1975).

¹⁶ *Int'l Falls Power Co.*, 66 FERC ¶ 61,086, at 61,116 (1994).

¹⁷ *Id.*

D. Current Processes for Post-Licensing Activities

9. Some activities do not require an amendment but may require review and authorization to start construction from Commission dam safety staff.¹⁸ Commission approval of an amendment may be needed for more complex activities. Other minor post-licensing activities may require an amendment if they are inconsistent with the project license. For example, if the proposed work would cause a temporary change to an impoundment elevation or minimum flow requirement, an amendment may be required.
10. For substantial changes to the specifications approved in the license, a licensee must file a license amendment. If a licensee is unsure whether an activity is authorized by the license or would require an amendment, the licensee may seek advice from Commission staff.¹⁹

E. Existing Commission Regulations Under the Natural Gas Act Authorizing Routine Activities by Interstate Natural Gas Pipeline Companies without Case-Specific Authorization

11. Under Part 157, Subpart F of the Commission's regulations,²⁰ interstate pipelines that hold a certificate of public convenience and necessity under section 7 of the Natural Gas Act (NGA) may apply for a one-time blanket certificate to undertake, without a case-specific authorization, certain activities automatically, subject only to annual reporting

¹⁸ Examples include in-kind replacements of racks/rakes/gates, flowlines, or turbines; generator rewinds; electrical equipment upgrades within a powerhouse; substation upgrades or rewiring; transmission line pole replacements; or minor repair of walls, tailraces, or spillways.

¹⁹ *See* 18 CFR 4.201(d)(2).

²⁰ 18 CFR part 157, subpart F.

requirements²¹ and certain other activities after prior notice.²² The blanket certificate program “provide[s] streamlined procedures which increase flexibility and reduce regulatory burden” for a generic class of routine activities with particular conditions and procedures for consistency with the Commission’s statutory obligations under the NGA and environmental statutes.²³

12. In 1982, in instituting the blanket certificate program, the Commission explained that:

[T]he final regulations divide the various actions that the Commission certifies into several categories. The first category applies to certain activities performed by interstate pipelines that . . . have relatively . . . little effect on pipeline operations. This first category also includes minor investments in facilities which are so well understood as an established industry practice that little scrutiny is required to determine their compatibility with the public convenience and necessity. The second category of activities provides for a notice and protest procedure and comprises certain activities in which various interested parties might have a concern. In such cases there is a need to provide an opportunity for a greater degree of review and to provide for possible adjudication of controversial aspects. Activities not authorized under the blanket certificate are those activities which . . . propose such important considerations that close scrutiny and case-specific deliberation by the Commission is warranted prior to the issuance of a certificate.²⁴

²¹ *Id.* 157.203(b), 157.208(a), (e).

²² *Id.* 157.203(c), 157.208(b).

²³ *Interstate Pipeline Certificates for Routine Transactions*, Order No. 234, 47 FR 24254, at 24256, 24263 (June 4, 1982), FERC Stats. & Regs. ¶ 30,368, at 30,201 (1982) (cross-referenced at 19 FERC ¶ 61,216); *see also Revisions to the Blanket Certificate Reguls. & Clarification Regarding Rates*, Order No. 686, 71 FR 63680 (Oct. 31, 2006), 117 FERC ¶ 61,074, at P 7 (2006) (“The blanket certificate program was designed to provide an administratively efficient means to authorize a generic class of routine activities, without subjecting each minor project to a full, case-specific NGA section 7 certificate proceeding.”).

²⁴ Order No. 234, FERC Stats. & Regs. ¶ 30,368 at 30,200.

13. The notice and protest procedures for prior notice projects allow anyone, including Commission staff, to protest a prior notice project within 60 days and, if a protest is not withdrawn or dismissed, the project is reviewed as an application for case-specific authorization under NGA section 7(c).²⁵

14. Blanket certificate activities are subject to the conditions in the Commission's regulations implementing NEPA,²⁶ as well as requirements that all blanket certificate activities be consistent with all applicable laws, including the Endangered Species Act, National Historic Preservation Act, Clean Water Act, Clean Air Act, and other applicable statutes relating to environmental concerns.²⁷

II. Subject of the Notice of Inquiry

15. The Commission is inviting comments on (A) what opportunities, if any, are there to streamline or improve the process for licensees for using their authority under FPA section 10(a) and standard license Articles 2 and 3 to undertake minor modifications at a hydropower facility and whether the Commission should develop processes to address these opportunities, and (B) what changes, consistent with the requirements of the FPA and other applicable statutes, the Commission could make to its processes for reviewing and authorizing through amendment proceedings post-licensing activities, including whether certain activities can be implemented without case-specific authorization. The Commission seeks comment on the following questions:

²⁵ 18 CFR 157.205(h).

²⁶ 18 CFR part 380. Certain activities undertaken pursuant to the blanket certificate are categorically excluded from NEPA review. 18 CFR 380.4(a)(21).

²⁷ 18 CFR 157.206.

A. Minor Post-Licensing Activities

- A1. What opportunities, if any, are there to streamline or improve the process for licensees for using their authority under FPA section 10(a) and standard license Articles 2 and 3 to undertake minor modifications at a hydropower facility that do not require an amendment?
- A2. Should the Commission create a process for identifying minor post-licensing activities that can be undertaken pursuant to FPA section 10 and Articles 2 and 3?
- A3. Are there categories of minor post-licensing activities that should not require prior Commission approval? If so, what specific types of minor activities should qualify under each category?
- A4. What documentation should the Commission require to verify and ensure that these activities do not result in potentially adverse environmental or safety impacts?
- A5. What activities that do not require amendments should still require consultation or dam safety review? For those activities, what standard information should licensees file to expedite review of the proposed activity?
- A6. What applicable federal laws, permits, and regulations could be relied upon to verify minimal or no significant environmental and safety impacts throughout construction and operation of minor post-licensing activities?
- A7. Should the Commission allow stakeholder input for activities not requiring an amendment? And if so, how should the comments be addressed?
- A8. Should specified maintenance activities be analyzed and approved during the licensing process as part of a life cycle approach to accepting, implementing, and maintaining a license for 30 to 50 years?

B. Post-Licensing Activities Requiring Amendments

Process-Related Questions

- B1. If the Commission promulgates rules to allow for post-licensing activities at hydropower facilities, including maintenance, repairs,

and upgrades to hydropower project infrastructure, without a case-specific authorization under Part I of the FPA, should the Commission require each licensee to apply for a blanket FPA authorization as it does for natural gas pipelines pursuant to Part 157, Subpart F (*see* 18 CFR 157.204(a)) or should all current and new licensees be automatically granted a blanket authorization?

- B2. Under the Commission's existing Part 157, Subpart F blanket certificate regulations for activities under NGA section 7, there is a two-tiered process whereby some activities are automatically authorized while others require prior notice (*see* 18 CFR 157.203(a)-(c)). Should the Commission adopt a similar tiered approach for post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure? If so, should there be additional or different tiers, and what specific types of activities should correspond to each tier?
- B3. If the Commission allows for post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure, automatically under a blanket FPA Part I authorization, should the Commission:
- a. require licensees to notify Commission staff of certain types of such activities prior to implementing them? And, if so, what amount of time would be sufficient?; and/or
 - b. require a licensee to file a semi-annual or annual report documenting the post-licensing maintenance, repairs, and/or upgrades to hydropower project infrastructure undertaken during the previous calendar year pursuant to the blanket authorization program? If so, what information should be included in such reports? Should reporting of blanket authorization activities be incorporated into any reporting already required by the Commission in a licensee's license articles?
- B4. If the Commission requires prior notice for some post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure, under a blanket FPA Part I authorization, should the Commission adopt the same notice requirements as those detailed in the Commission's blanket certificate regulations, including a 60-day notice period (*see* 18 CFR 157.205)?
- B5. Should the Commission adopt the same process concerning protests to prior notice post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure, as is currently in place for prior notice blanket

certificate pipeline projects (*see* 18 CFR 157.205) or should another process be required? If another process should be required, what types of protests should be dismissed?

- B6. What, if any, affected landowner notification requirements should the Commission adopt for post-licensing activities at hydropower facilities, including maintenance, repairs, and upgrades to hydropower project infrastructure, undertaken pursuant to a blanket authorization program?
- B7. Should the Commission require post-licensing maintenance, repairs, and/or upgrades to hydropower project infrastructure under a blanket Part I FPA authorization be constructed and placed into service within a specified timeframe? If so, what timeframe?
- B8. Are there processes that other federal or state agencies use to streamline review that the Commission could adapt?
- B9. What are the historic and estimated range of costs for preparation of an application for post-licensing amendments for maintenance, repairs, and upgrades at existing hydropower facilities?

Post-Licensing Activities That Could Fit a Blanket Program

- B10. If the Commission adopts a tiered approach similar to that in the natural gas blanket certificate regulations (18 CFR 157.203(b)-(c)), what categories of post-licensing activities should be eligible for automatic authorization? What categories of post-licensing activities should be eligible for prior notice authorization? How should the Commission divide these categories, e.g., based on anticipated environmental effects or based on safety or security concerns?
- B11. What categories of post-licensing activities would result in no adverse impacts to the environment or safety at authorized and existing licensed hydropower facilities? Specifically, what types of facility modifications, systems, or components would have no adverse environmental or safety impacts, or would provide beneficial impacts, to the following resources:
- Water Quality;
 - Water Resources;
 - Wetlands;
 - Fisheries and Wildlife, including Endangered Species
 - Vegetation;
 - Cultural Resources;

- Socioeconomics;
- Geology and Soils;
- Land Use;
- Recreation;
- Visual Resources; and
- Safety.

B12. What categories of post-licensing activities would provide equivalent or greater level of environmental protection and safety compared to the status quo? Specifically, what types of hydropower infrastructure modifications, systems, or components would result in different impacts but nevertheless provide an equivalent or greater level of protection to the resources listed in question B11?

B13. What categories of post-licensing activities would result in less than significant impacts to the environment and safety at licensed hydropower facilities such that the Commission could categorically determine that such activities are in the public interest under the section 10(a)(1) comprehensive development standard of the FPA? Specifically, what types of facility modifications, systems, or components would result in less than significant impacts to the resources listed in question B11?

16. While the Commission will consider all comments filed, the Commission may not, and is not required to, take further action.

III. Comment Procedures

17. The Commission invites interested persons to submit comments on the matters and issues identified in this notice. Comments are due **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must refer to Docket No. RM26-3-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

18. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

19. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

IV. Document Availability

20. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>).

21. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

22. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov.

By direction of the Commission.

Issued: November 20, 2025.

Debbie-Anne A. Reese,

Secretary.

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