

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, 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 or injury that occurs 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; or

(B) Any plan of corrective measures, including related schedules, submitted after the report of an independent consultant pursuant to §12.37 or any other inspection report;

(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, 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 section or under the provisions of subparts B through E of 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 section 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 section 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.

[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]

§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, maintenance, 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) Oral reports.* An applicant or licensee must report by 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 oral report must be made as soon as practicable after that condition is discovered, without unduly interfering with any necessary

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or appropriate emergency repair, alarm, or other emergency action procedure.

(2) *Written reports.* Following the initial oral report required in paragraph (a)(1), 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 or serious injuries.* (1) Promptly after becoming aware of any drowning or other accident resulting in death or serious injury that occurs at the project, the applicant or licensee must report that drowning or other accident to the Regional Engineer in writing, including a description of the cause and location of the accident.

(2) The written report of any death or serious injury considered or alleged to be project related must also describe any remedial actions taken or proposed to avoid or reduce the chance of similar occurrences in the future and be verified in accordance with § 12.13.

(3) Accidents that are not project-related may be reported by providing a copy of a clipping from a newspaper article, if available.

(4) For the purposes of this paragraph, *project-related* includes any deaths or serious injuries involving a

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dam, spillway, intake, or power line, or which take place at or immediately above or below a dam.

§ 12.11 Reporting modifications of the project or project works.

(a) *Reporting requirement.* Regardless of whether a particular modification is permitted without specific prior Commission approval, an applicant or licensee must report any modification of the project or project works to the Regional Engineer in writing, verified in accordance with § 12.13, at the time specified in paragraph (b) of this section.

(b) *Time of reporting.* (1) Any modification that is an emergency measure taken in response to a condition affecting the safety of the project or project works must be submitted with the report of that condition required by § 12.10(a)(2).

(2) In all other instances, the modification must be reported at least 60 days before work on the modification begins.

§ 12.12 Maintenance of records.

(a) *Kinds of records—(1) General rule.* Except as provided in paragraph (a)(2) of this section, the applicant or licensee must maintain as permanent project records in addition to those required in part 125 of this chapter, the following information:

(i) Engineering and geological data relating to design, construction, maintenance, repair, or modification of the project, including design memoranda and drawings, laboratory and other testing reports, geologic data (such as maps, sections, or logs of exploratory borings or trenches, foundation treatment, and excavation), plans and specifications, inspection and quality control reports, *as built* construction drawings, designers' operating criteria, photographs, and any other data necessary to demonstrate that construction, maintenance, repair, or modification of the project has been performed in accordance with plans and specifications;

(ii) Instrumentation observations and data collected during construction, operation, or maintenance of the project, including continuously maintained tabular records and graphs illustrating