

that no reasonably foreseeable project emergency would endanger life, health, or property, the Regional Engineer may exempt the applicant or licensee from filing an emergency action plan.

(b) *No exemption.* A licensee or applicant may not be exempted from the requirements of §12.22(c) for a radiological response plan.

(c) *Conditions of exemptions.* (1) An applicant or licensee who receives an exemption from filing an emergency action plan has the continuing responsibility to review circumstances upstream and downstream from the project to determine if, as a result of changed circumstances, a project emergency might endanger life, health, or property.

(2) Promptly after the applicant or licensee learns that, as a result of any change in circumstances, a project emergency might endanger life, health, or property, the applicant or licensee must inform the Regional Engineer of that changed condition without unduly delaying the preparation and implementation of the emergency action plan.

(3) Comprehensive review of the necessity for an emergency action plan must be conducted at least once each year.

(d) *Revocation of exemption.* (1) The Regional Engineer may revoke an exemption granted under this section if it is determined that, as a result of any change in circumstances, a project emergency might endanger life, health, or property.

(2) If an exemption is revoked, the applicant or licensee must file an emergency action plan within the time specified by the Regional Engineer.

§12.22 Contents of emergency action plan.

(a) *Contents—(1) The plan itself.* An emergency action plan must conform with the guidelines established, and from time to time revised, by the Director of the Office of Hydropower Licensing (available from the division of Inspections or the Regional Engineer) to provide:

(i) Instructions to project operators and attendants and other responsible personnel about the actions they are to take during a project emergency;

(ii) Detailed plans for notifying potentially affected persons, appropriate Federal, state, and local agencies, including public safety and law enforcement bodies, and medical units; and

(iii) Procedures for controlling the flow of water, including actions to reduce in-flows to reservoirs, such as limiting outflows from upstream dams or control structures, and actions to reduce downstream flows, such as increasing or decreasing outflows from downstream dams or control structures, on the waterway on which the project is located or its tributaries.

(2) *Appendix to the plan.* Each copy of the emergency action plan submitted to the Regional Engineer must be accompanied by an appendix conforming with the guidelines established by the Director of the Office of Hydropower Licensing that contains:

(i) Plans for training project operators, attendants, and other responsible personnel to respond properly during a project emergency, including instructions on the procedures to be followed throughout a project emergency and the manner in which the licensee will periodically review the knowledge and understanding that these personnel have of those procedures;

(ii) A summary of the study used for determining the upstream and downstream areas that may be affected by sudden release of water, including a summary of all criteria and assumptions used in the study and, if required by the Regional Engineer, inundation maps; and

(iii) Documentation of consultations with Federal, state, and local agencies, including public safety and law enforcement bodies, and medical units.

(b) *Special factors.* The applicant or licensee must take into account in its emergency action plan the time of day, particularly hours of darkness, in establishing the proper actions and procedures for use during a project emergency.

(c) *Additional requirements for projects near nuclear power plants—(1) Radiological response plan.* If the personnel operating any powerhouse or any spillway control facilities, such as gates or valves, of a project would be located within ten miles of a nuclear power plant reactor, the applicant or licensee

must file, separately or as a supplement to any required emergency action plan, a radiological response plan that provides for emergency procedures to be taken if an accident or other incident results in the release of radioactive materials from the nuclear power plant reactor.

(2) A radiological response plan must:

(i) To the maximum extent practicable, include sufficient procedural safeguards to ensure that, during or following an accident or other incident involving the nearby nuclear power plant reactor, the project may be safely operated and, if evacuation is necessary, the project may be left unattended without danger to the safety of any project dam or to life, health, or safety upstream or downstream from the project; and

(ii) Explain the provisions, developed after consultation with the direct purchasers of project power, for cessation, curtailment, or continuation of generation of electric power at the project during or following an accident or other incident involving the nearby nuclear power plant reactor.

(3) *Time of filing radiological response plan.* (i) For a constructed project with an otherwise acceptable emergency action plan on file, any radiological response plan required must be filed:

(A) If an operating license for the nuclear power plant has been issued on or before March 1, 1981, not later than three months from March 1, 1981; or

(B) In all other instances, not later than three months after the date an operating license for the nuclear power plant is issued.

(ii) For any project not described in § 12.22(c)(3)(i), any radiological response plan required must be filed contemporaneously with the emergency action plan or, if the project has been exempted from filing an emergency action plan, at the time the emergency action plan would otherwise have been required to be filed pursuant to § 12.23.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.23 Time for filing emergency action plan.

(a) *Unconstructed project.* (1) Except as set forth in paragraph (a)(2), the emergency action plan for an unconstructed

project must be filed no later than 60 days before the initial filling of the project reservoir begins.

(2) *Temporary impoundment during construction.* (i) For any unconstructed project, if a temporary impoundment would be created during construction, such as through construction of temporary or permanent cofferdams or large sediment control structures, and an accident to or failure of the impounding structures might endanger construction workers or otherwise endanger public health or safety, a temporary construction emergency action plan must be filed no later than 60 days before construction begins.

(ii) No later than 60 days before the initial filling of a project reservoir begins at a project for which a temporary emergency action plan has been filed the applicant or licensee must file modifications to that plan or a new plan, taking into account the differences in circumstances between the construction and post-construction periods.

(b) *Unlicensed constructed project.* (1) If the Commission has determined on or before March 1, 1981 that a license is required for an unlicensed constructed project, the emergency action plan for that project must be filed no later than:

(i) Six months after March 1, 1981; or

(ii) Any earlier date specified by the Commission or its authorized representative.

(2) Except as set forth in paragraph (b)(1) of this section, the emergency action plan for an unlicensed constructed project must be filed no later than the earliest of:

(i) Six months after the date that a license application is filed;

(ii) Six months after the date that the Commission issues an order determining that licensing is required; or

(iii) A date specified by the Commission or its authorized representative.

(c) *Licensed constructed project.* If a licensed constructed project does not have an acceptable emergency action plan on file on March 1, 1981 the emergency action plan must be filed no later than:

(1) Six months after March 1, 1981; or