

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 2, 4, 5, 9, 16, 375 and 385****[Docket No. RM02-16-000; Order No. 2002]****Hydroelectric Licensing Under the Federal Power Act**

July 23, 2003.

AGENCY: Federal Energy Regulatory Commission.**ACTION:** Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations pertaining to hydroelectric licensing under the Federal Power Act. The revisions create a new licensing process in which a potential license applicant's pre-filing consultation and the Commission's scoping pursuant to the National Environmental Policy Act (NEPA) are conducted concurrently, rather than sequentially. The revised rules also provide for increased public participation in pre-filing consultation; development by the potential applicant of a Commission-approved study plan; better coordination between the Commission's processes, including NEPA document preparation, and those of Federal and state agencies with authority to require conditions for Commission-issued licenses; encouragement of informal resolution of study disagreements, followed by dispute resolution, and schedules and deadlines.

The traditional licensing process is being retained, and modified by increased public participation and additional time before an application for water quality certification must be filed. No changes are being made to the Alternative Licensing Process (ALP).

For a period of two years from the date of issuance of the new rule, potential license applicants will be permitted to elect to use the traditional or the integrated licensing process, or to request authorization to use the ALP. Thereafter, the integrated process will become the default, and Commission approval will be required to use the traditional process or the ALP.

Under the revised rules, a new part 5 will be added to Title 18 of the Code of Federal Regulations and 18 CFR parts 2, 4, 9, 16, 375, and 385 will be amended to implement the new procedures.

EFFECTIVE DATE: The rule will become effective October 23, 2003.

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Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell.

I. Introduction

1. In this final rule, the Federal Energy Regulatory Commission (Commission) amends its regulations for licensing of hydroelectric power projects by establishing a new licensing process. The amendments are the culmination of efforts by the Commission, other Federal and state agencies, Indian tribes, licensees, and members of the public to develop a more efficient and timely licensing process, while ensuring that licensees provide appropriate resource protections required by the Federal Power Act (FPA) and other applicable laws.

2. The new licensing process is designed to create efficiencies by integrating a potential license applicant's pre-filing consultation with