

compliance, and generation, and information pertaining to dam and project safety would be located in the potential applicant's project files and would be provided to anyone who requested it at a reasonable cost of production.⁶⁹ Distribution of other generally uncontroversial information would be deferred until the license application is filed.⁷⁰ NHA contends that these changes would reduce the burden on applicants, make the document better suited to its purpose, and make it more accessible to stakeholders. Georgia Power and Duke support NHA's proposal.

67. NHA's concerns are shared and the essence of its proposal supported by many licensees. They acknowledge the importance of explaining the current license requirements based on the original license and any amendments, existing management plans, and other requirements, but state that the expense of producing, packaging and distributing the underlying licensing documents and existing studies to many recipients will be burdensome in general and enormous in some cases. They say that study results are generally useful only to a few stakeholders with appropriate expertise, such as resource agencies. The common thread of these comments is that general information about existing project facilities and operations would be broadly distributed, while more detailed information would be identified and made available on request, via the internet or another means of distribution.⁷¹

68. SCE has a somewhat different proposal. It recommends that the PAD be limited to: (1) A general description of the project, similar to existing Exhibit A;⁷² (2) monthly energy data for the prior five years;⁷³ (3) five years of existing streamflow data;⁷⁴ (4) a description of existing recreation facilities and use based on the most

recent Form 80, and of the applicant's policies, if any, with respect to management of project lands and waters; (5) a single line diagram showing the electrical path between all project components; (6) existing and available environmental data obtainable from resource agencies or in the applicant's possession.⁷⁵

69. Long View and Xcel recommend that the PAD have the same format as license application requirements for the classification of the project; *e.g.*, major unconstructed project, major project-existing dam, or major water power project-5 megawatts or less, with the gaps to be filled in as the pre-filing consultation and information gathering process proceeds.⁷⁶

70. Agency and NGO commenters appear to be less concerned with the format of the document than with its contents. They generally contend that the range of data and level of detail set forth in the NOPR should be affirmed in the final rule.

71. WPSR opposes having to provide the PAD at all. It recommends instead that the existing requirement to make public information viewable by the public in various locations, such as company headquarters and public libraries, be retained.

72. AW/FLOW states that internet or CD distribution is good in theory, but that people attending meetings generally have paper, so this means of distribution would unfairly force cash-strapped NGOs to bear the cost of printing materials.

73. The Documents Group agreed that it makes sense for a potential applicant to incorporate into the PAD by reference voluminous information such as raw data and existing studies. They agreed that the substantial effort and expense does not necessarily make the document more useful and may, owing to sheer volume, make it less useful. This information could be summarized in the relevant section of the PAD using appropriate methods. In addition, the PAD would contain an appendix describing all materials summarized in the text, and explaining how to obtain those materials from the potential applicant.

⁶⁹ See proposed 18 CFR 5.4(c)(2)(H), (I), (K), and (L). NHA adds that critical energy infrastructure information (CEII) would be viewable only at the potential applicant's offices. CEII is discussed in Section III. X below.

⁷⁰ See proposed 18 CFR 5.4(c)(2) (M) and (O), and (G)(xi).

⁷¹ PG&E, Suloway, Normandeau, M&H, Consumers, Long View, Reliant, AEP, Oroville, SCE.

⁷² See *e.g.*, 18 CFR 4.41(b).

⁷³ SCE states that licensee's methods of maintaining information on dependable capacity are not consistent and would therefore be misleading if required to be included. At the least, SCE suggests, the term should be defined if it is required to be reported.

⁷⁴ SCE does not specify how the required information would be reported; for instance the vintage of the data or its periodicity (*e.g.*, hourly, daily, monthly).

⁷⁵ SCE's rewrite of proposed 18 CFR 5.4 is at pp. 8–18 of its comments. SCE would also have us put language in the regulations encouraging agencies to cooperate in the development of the PAD by providing available environmental data to the applicant. Given the concerns expressed by agency commenters about the potential for an incomplete PAD and, in general, the importance of a quality evidentiary record, we think agencies and other potential participants have sufficient incentive to assist potential applicants in this regard.

74. The Documents Group agreed that the goal is to target insofar as is practicable the needs of various stakeholders, agencies, and Indian tribes. To that end, the potential applicant would have to deliver the summarized information upon request to any agency, Indian tribe, NGO, or other stakeholder within 20 days of the request, in a mutually agreeable format that does not require conversion by the potential applicant from paper to an electronic format. Potential applicants would have to be able to deliver electronically formatted materials in a variety of formats.

75. We are adopting requirements for the PAD that substantially incorporate the recommendations of the Documents Group. The purpose of the PAD is to provide the Commission and the consulted entities with existing information relevant to the project proposal that is in the potential applicant's possession or that it can obtain with the exercise of due diligence. Distribution of the information will enable the consulted entities to identify issues and related information needs, develop study requests and study plans, and help the Commission to analyze any application that may be filed. We will not require a potential applicant to conduct studies in order to generate information for inclusion in the PAD. The basic content requirements will be a description of the existing and proposed project facilities and operations, a description of the existing environment, existing data or studies relevant to the existing environment, and any known and potential impacts of the proposed project on relevant resources.

76. A potential applicant will not be required to include all of the studies and information sources on which the descriptions in the PAD are based, but will be required to provide these materials upon request to recipients of the PAD. Potential applicants and participants in pre-filing consultation are encouraged to accomplish such distribution by electronic means, including compact disks, but a requester is entitled to receive such materials in hard copy form. The PAD will also be required to include a process plan and schedule, a preliminary issues and studies list, and an appendix summarizing any contacts with agencies, Indian tribes, and others in obtaining relevant information. We think that the foregoing format, content, and distribution provisions should result in PADs that serve the purpose for which this document is established and