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Nonpowered Dams/Closed-Loop Pump Storage Projects: Federal Energy Regulatory Commission Rule Establishing Expedited Licensing Process

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The Federal Energy Regulatory Commission (“FERC”) published an April 24th Federal Register Notice establishing a final rule addressing licenses for qualifying facilities at existing nonpowered dams and closed-loop pump storage projects. See 84 Fed. Reg. 17064.

The final rule would establish an expedited process for issuing original licenses for qualifying facilities as required by Sections 3003 and 3004 of the America’s Water Infrastructure Act of 2018 (“AWIA”).

The AWIA requires the FERC to establish an expedited process for issuing and amending licenses for qualifying facilities at existing nonpowered dams and for closed-loop pump storage projects. An objective of the rule is to ensure that a final decision on a license application is issued no later than two years after a completed license application is received.

The regulations governing hydroelectric licensing under the Federal Power Act are the focus of the revisions. The final rule will be codified in a new Part 7. This section will be added to title 18 of the Code of Federal Regulations.

Besides providing the background for the final rule, along with the prior Notice Of Proposed Rule Making, the Federal Register preamble addresses:

- Scope of the Expedited Licensing Process
- Pre-filing process
- Relicense proceedings
- Amendment proceedings
- Expedited licensing process
- Applicability and Definitions
- Use of Expedited Licensing Process
- Statutory Criteria for Qualifying Facilities At Nonpowered Dams
- Qualifying Criteria For Closed-Loop Pump Storage Projects
- Commission-Defined Criteria For The Expedited Licensing Process
- Early Consultation With Agencies
- Clean Water Act Documentation

- Endangered Species Act Documentation
- National Historic Preservation Act Documentation
- Dam Owner Documentation
- Public Parks, Recreation Areas, and Wildlife Areas Documentation
- Adequacy Review of Application
- Additional Information
- Decision on Request to Use Expedited Licensing Process
- Notice of Acceptance and Ready for Environmental Analysis
- Amendment of Application
- Other Provisions
- Transition Provision
- Projects that Require an Environmental Impact Statement

A copy of the Federal Register Notice can be downloaded [here](#).