

§ 12.38

18 CFR Ch. I (4–1–01 Edition)

(i) Any monitoring data plotted on graphs must be presented in a manner that will facilitate identification and analysis of trends. The data may be summarized to facilitate graphical representation.

(ii) Plan and sectional drawings of project structures sufficient to show the location of all critical or representative existing monitoring instruments must be included. If these drawings have been included in a previous report prepared and filed by an independent consultant, they may be incorporated by specific reference to that earlier report.

(2) *Analyses.* The report must:

(i) Analyze the safety of the project works and the maintenance and methods of operation of the development fully in light of the independent consultant's reviews, field inspections, assessments, and evaluations described in §12.35;

(ii) Identify any changes in the information and analyses required by paragraph (b) of this section that have occurred since the last report by an independent consultant under this subpart and analyze the implications of those changes; and

(iii) Analyze the adequacy of existing monitoring instruments, periodic observation programs, and other methods of monitoring project works and conditions effecting the safety of the project or project works with respect to the development.

(3) *Incorporation by reference.* To the extent that conditions, assumptions, and available information have not changed since the last previous report by an independent consultant under this subpart, the analyses required under paragraphs (c)(2)(i) and (ii) of this section may be incorporated by specific reference to the last previous report.

(4) *Recommendations.* Based on the independent consultant's field observations and evaluations of the project works and the maintenance, surveillance, and methods of operation of the development, the report must contain the independent consultant's recommendations on:

(i) Any corrective measures necessary for the structures or for the maintenance or surveillance procedures

or methods of operation of the project works;

(ii) A reasonable time to carry out each corrective measure; and

(iii) Any new or additional monitoring instruments, periodic observations, or other methods of monitoring project works or conditions that may be required.

(5) *Dissenting views.* If the inspection and report were conducted and prepared by more than one independent consultant, the report must clearly indicate any dissenting views concerning the analyses or recommendations of the report that might be held by any individual consultant.

(6) *List of participants.* The report must identify all professional personnel who have participated in the inspection of the project or in preparation of the report and the independent consultant who directed those activities.

(7) *Statement of independence.* The independent consultant must declare that all conclusions and recommendations in the report are made independently of the licensee, its employees, and its representatives.

(8) *Signature.* The report must be signed by each independent consultant responsible for the report.

§12.38 Time for inspections and reports.

(a) *General rule.* After the initial inspection and report under this subpart for a project development, a new inspection under this subpart must be completed and the report on it filed not later than five years from the date the last report on an inspection was to be filed under this subpart.

(b) *Initial inspection and report.* (1) For any development that has a dam that is more than 32.8 feet (10 meters) in height above streambed or impounds an impoundment with a gross storage capacity of more than 2,000 acre feet (2.5 million cubic meters), which development was constructed before the date of issuance of the order licensing or amending a license to include that development, the initial inspection under this subpart must be completed and the report on it filed not later than two years after the date of issuance of the order licensing the development or

amending the license to include the development.

(2) For any development that was constructed after the date of issuance of the order licensing or amending a license to include the development, the initial inspection under this subpart must be completed and the report on it filed not later than five years from the date of first commercial operation, or the date on which the impoundment first reaches its normal maximum surface elevation, whichever occurs first.

(3) For any development not set forth in either subparagraph (b)(1) or (b)(2), the initial inspection under this subpart must be completed and the report on it filed by a date specified by the Regional Engineer. The filing date must not be more than two years after the date of notification that an inspection and report under this subpart are required.

(4) The last independent consultant's inspection and report made for a development before March 1, 1981 in compliance with the Commission's rules then in effect is deemed to fulfill the requirements for an initial inspection and report under this subpart for that development, except that the first report filed under this subpart for that development after March 1, 1981 must contain the information and analyses required by §12.37(b).

(c) *Extension of time.* For good cause shown, the Regional Engineer may extend the time for filing an independent consultant's report under this subpart.

§ 12.39 Taking corrective measures after the report.

(a) *Corrective plan and schedule.* (1) Not later than 60 days after the report of the independent consultant is filed with the Regional Engineer, the licensee must submit to the Regional Engineer three copies of a plan and schedule for designing and carrying out any corrective measures that the licensee proposes.

(2) The plan and schedule may include any proposal, including taking no action, that the licensee considers a preferable alternative to any corrective measure recommended in the report of the independent consultant. Any proposed alternative must be accompanied by the licensee's complete

justification and detailed analysis and evaluation in support of that alternative.

(b) *Carrying out the plan.* The licensee must complete all corrective measures in accordance with the plan and schedule submitted to, and approved or modified by, the Regional Engineer.

(c) *Extension of time.* For good cause shown, the Regional Engineer may extend the time for filing the plan and schedule required by this section.

Subpart E—Other Responsibilities of Applicant or Licensee

§ 12.40 Quality control programs.

(a) *General rule.* During any construction, repair, or modification of project works, including any corrective measures taken pursuant to §12.39 of this part, the applicant or licensee must maintain any quality control program that may be required by the Regional Engineer, commensurate with the scope of the work and meeting any requirements or standards set by the Regional Engineer. If a quality control program is required, the construction, repair, or modification may not begin until the Regional Engineer has approved the program.

(b) If the construction, repair, or modification work is performed by a construction contractor, quality control inspection must be performed by the licensee, the design engineer, or an independent firm, other than the construction contractor, directly accountable to the licensee. This paragraph is not intended to prohibit additional quality control inspections by the construction contractor, or a firm accountable to the construction contractor, for the construction contractor's purposes.

(c) If the construction, repair, or modification of project works is performed by the applicant's or licensee's own personnel, the applicant or licensee must provide for separation of authority within its organization to make certain that the personnel responsible for quality control inspection are, to the satisfaction of the Regional Engineer or other authorized Commission representative, independent from the personnel who are responsible for