

§ 4.304

from the date of notification, the Director will determine the costs that the agency should reasonably have incurred.

(f) *Refunds.* (1) If the amount paid by a section 30(c) applicant under § 4.302 exceeds the total amount of the cost statements submitted by fish and wildlife agencies under paragraph (a) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days from the date of the bill issued to the applicant under paragraph (b) of this section.

(2) If the amount paid by a section 30(c) applicant exceeds the amount determined to be reasonable by the Director pursuant to paragraph (d)(2) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days of the resolution of all dispute proceedings.

§ 4.304 Payment.

(a) A payment required under this subpart must be made by check payable to the United States Treasury. The check must indicate that the payment is for *ECPA Fees*.

(b) If a payment required under this subpart is not made within the time period prescribed for making such payment, interest and penalty charges will be assessed. Interest and penalty charges will be computed in accordance with 31 U.S.C. 3717 and 4 CFR part 102.

(c) The Commission will not issue a license or exemption, unless the applicant has made full payments of any fees due under § 4.303(c).

§ 4.305 Enforcement.

(a) The Commission may take any appropriate action permitted by law if a section 30(c) applicant does not make a payment required under this subpart. The Commission will not be liable to any fish and wildlife agency for failure to collect any amounts under this subpart.

(b) If the Commission is unable to collect the full amount due by a section 30(c) applicant on behalf of more than one agency, the amount the Commission does collect will be distributed to the agencies on a *pro-rata* basis except if an agency's cost statement is greater than its most recent estimate

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to the applicant under § 4.301(b), then the difference between the estimate and the cost statement will not be reimbursed until any amounts owed to other agencies have been paid.

PART 5—INTEGRATED LICENSE APPLICATION PROCESS

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AUTHORITY: 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352.

SOURCE: Order 2002, 68 FR 51121, Aug. 25, 2003, unless otherwise noted.

§ 5.1 Applicability, definitions, and requirement to consult.

(a) This part applies to the filing and processing of an application for an:

- (1) Original license;

(2) New license for an existing project subject to Sections 14 and 15 of the Federal Power Act; or

(3) Subsequent license.

(b) *Definitions.* The definitions in § 4.30(b) of this chapter and § 16.2 of this chapter apply to this chapter.

(c) *Who may file.* Any citizen, association of citizens, domestic corporation, municipality, or state may develop and file a license application under this part.

(d) *Requirement to consult.* (1) Before it files any application for an original, new, or subsequent license under this part, a potential applicant must consult with the relevant Federal, state, and interstate resource agencies, including as appropriate the National Marine Fisheries Service, the United States Fish and Wildlife Service, Bureau of Indian Affairs, the National Park Service, the United States Environmental Protection Agency, the Federal agency administering any United States lands utilized or occupied by the project, the appropriate state fish and wildlife agencies, the appropriate state water resource management agencies, the certifying agency or Indian tribe under Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. 1341(c)(1), the agency that administers the Coastal Zone Management Act, 16 U.S.C. § 1451-1465, any Indian tribe that may be affected by the project, and members of the public. A potential license applicant must file a notification of intent to file a license application pursuant to § 5.5 and a pre-application document pursuant to the provisions of § 5.6.

(2) The Director of the Office of Energy Projects will, upon request, provide a list of known appropriate Federal, state, and interstate resource agencies, Indian tribes, and local, regional, or national non-governmental organizations likely to be interested in any license application proceeding.

(e) *Purpose.* The purpose of the integrated licensing process provided for in this part is to provide an efficient and timely licensing process that continues to ensure appropriate resource protections through better coordination of the Commission's processes with those of Federal and state agencies and In-

dian tribes that have authority to condition Commission licenses.

(f) *Default process.* Each potential original, new, or subsequent license applicant must use the license application process provided for in this part unless the potential applicant applies for and receives authorization from the Commission under this part to use the licensing process provided for in:

(1) 18 CFR part 4, Subparts D-H and, as applicable, part 16 (*i.e.*, traditional process), pursuant to paragraph (c) of this section; or

(2) Section 4.34(i) of this chapter, *Alternative procedures.*

[Order 2002, 68 FR 51121, Aug. 25, 2003; 68 FR 61742, Oct. 30, 2003; 68 FR 69957, Dec. 16, 2003]

§ 5.2 Document availability.

(a) *Pre-application document.* (1) From the date a potential license applicant files a notification of intent to seek a license pursuant to § 5.5 until any related license application proceeding is terminated by the Commission, the potential license applicant must make reasonably available to the public for inspection at its principal place of business or another location that is more accessible to the public, the pre-application document and any materials referenced therein. These materials must be available for inspection during regular business hours in a form that is readily accessible, reviewable, and reproducible.

(2) The materials specified in paragraph (a)(1) of this section must be made available to the requester at the location specified in paragraph (a)(1) of this section or through the mail, or otherwise. Except as provided in paragraph (a)(3) of this section, copies of the pre-application document and any materials referenced therein must be made available at their reasonable cost of reproduction plus, if applicable, postage.

(3) A potential licensee must make requested copies of the materials specified in paragraph (a)(1) of this section available to the United States Fish and Wildlife Service, the National Marine Fisheries Service, the state agency responsible for fish and wildlife resources, any affected Federal land managing agencies, and Indian tribes