

and conditions of the existing license, including a list of all incidents of non-compliance, their disposition, and any documentation relating to each incident.

(G) A discussion of any actions taken by the existing licensee related to the project which affect the public.

(H) A summary of the ownership and operating expenses that would be reduced if the project license were transferred from the existing licensee.

(I) A statement of annual fees paid under part I of the Federal Power Act for the use of any Federal or Indian lands included within the project boundary.

(iii) *Information to be provided by an applicant who is not an existing licensee.* An applicant that is not an existing licensee must provide:

(A) The information specified in paragraph (c)(1) of this section.

(B) A statement of the applicant's plans to manage, operate, and maintain the project safely, including:

(1) A description of the differences between the operation and maintenance procedures planned by the applicant and the operation and maintenance procedures of the existing licensee;

(2) A discussion of any measures proposed by the applicant to implement the existing licensee's Emergency Action Plan, as described in subpart C of part 12 of this chapter, and any proposed changes;

(3) A description of the applicant's plans to continue safety monitoring of existing project instrumentation and any proposed changes; and

(4) A statement indicating whether or not the applicant is requesting the licensee to provide transmission services under section 15(d) of the Federal Power Act.

(d) *Consistency with comprehensive plans.* An application for license under this part must include an explanation of why the project would, would not, or should not, comply with any relevant comprehensive plan as defined in § 2.19 of this chapter and a description of any relevant resource agency or Indian tribe determination regarding the consistency of the project with any such comprehensive plan.

(e) *Response to information requests.* An application for license under this Section must respond to any requests for additional information-gathering or studies filed with comments on its preliminary licensing proposal or draft license application. If the license applicant agrees to do the information-gathering or study, it must provide the information or include a plan and schedule for doing so, along with a schedule for completing any remaining work under the previously approved study plan, as it may have been amended. If the applicant does not agree to any additional information-gathering or study requests made in comments on the draft license application, it must explain the basis for declining to do so.

(f) *Maps and drawings.* All required maps and drawings must conform to the specifications of § 4.39 of this chapter.

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

#### § 5.19 Tendering notice and schedule.

(a) *Notice.* Within 14 days of the filing date of any application for a license developed pursuant to this part, the Commission will issue public notice of the tendering for filing of the application. The tendering notice will include a preliminary schedule for expeditious processing of the application, including dates for:

(1) Issuance of the acceptance for filing and ready for environmental analysis notice provided for in § 5.22.

(2) Filing of recommendations, preliminary terms and conditions, and fishway prescriptions;

(3) Issuance of a draft environmental assessment or environmental impact statement, or an environmental assessment not preceded by a draft.

(4) Filing of comments on the draft environmental assessment or environmental impact statement, as applicable;

(5) Filing of modified recommendations, mandatory terms and conditions, and fishway prescriptions in response to a draft NEPA document or Environmental Analysis, if no draft NEPA document is issued;

(6) Issuance of a final NEPA document, if any;

## § 5.20

## 18 CFR Ch. I (4–1–04 Edition)

(7) In the case of a new or subsequent license application, a deadline for submission of final amendments, if any, to the application; and

(8) Readiness of the application for Commission decision.

(b) *Modifications to process plan and schedule.* The tendering notice shall also include any known modifications to the schedules developed pursuant to § 5.8 for completion of consultation under section 7 of the Endangered Species Act and water quality certification under section 401 of the Clean Water Act.

(c) *Method of notice.* The public notice provided for in paragraphs (a) and (b) of this Section will be given by:

(1) Publishing notice in the FEDERAL REGISTER; and

(2) Notifying appropriate Federal, state, and interstate resource agencies, state water quality and coastal zone management plan consistency certification agencies, Indian tribes, and non-governmental organizations by mail.

(d) *Resolution of pending information requests.* Within 30 days of the filing date of any application for a license developed pursuant to this part, the Director of the Office of Energy Projects will issue an order resolving any requests for additional information-gathering or studies made in comments on the preliminary licensing proposal or draft license application.

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

### § 5.20 Deficient applications.

(a) *Deficient applications.* (1) If an applicant believes that its application conforms adequately to the pre-filing consultation and filing requirements of this part without containing certain required materials or information, it must explain in detail why the material or information is not being submitted and what steps were taken by the applicant to provide the material or information.

(2) Within 30 days of the filing date of any application for a license under this part, the Director of the Office of Energy Projects will notify the applicant if, in the Director's judgment, the application does not conform to the pre-filing consultation and filing requirements of this part, and is therefore

considered deficient. An applicant having a deficient application will be afforded additional time to correct the deficiencies, not to exceed 90 days from the date of notification. Notification will be by letter or, in the case of minor deficiencies, by telephone. Any notification will specify the deficiencies to be corrected. Deficiencies must be corrected by submitting an application pursuant to the requirements of subpart T of part 385 of this chapter within the time specified in the notification of deficiency.

(3) If the revised application is found not to conform to the pre-filing consultation and filing requirements of this part, or if the revisions are not timely submitted, the revised application will be rejected. Procedures for rejected applications are specified in paragraph (b)(3) of this section.

(b) *Patently deficient applications.* (1) If, within 30 days of its filing date, the Director of the Office of Energy Projects determines that an application patently fails to substantially comply with the pre-filing consultation and filing requirements of this part, or is for a project that is precluded by law, the application will be rejected as patently deficient with the specification of the deficiencies that render the application patently deficient.

(2) If, after 30 days following its filing date, the Director of the Office of Energy Projects determines that an application patently fails to comply with the pre-filing consultation and filing requirements of this part, or is for a project that is precluded by law:

(i) The application will be rejected by order of the Commission, if the Commission determines that it is patently deficient; or

(ii) The application will be considered deficient under paragraph (a)(2) of this Section, if the Commission determines that it is not patently deficient.

(3) Any application for an original license that is rejected may be submitted if the deficiencies are corrected and if, in the case of a competing application, the resubmittal is timely. The date the rejected application is resubmitted will be considered the new filing date for purposes of determining its timeliness under § 4.36 of this chapter