

(3) *Opportunity to respond.* After issuance of a preliminary assessment of a final charge, parties may respond in writing within 60 days after the preliminary assessment.

(4) *Order and bill.* (i) After the opportunity for written response by the parties to the preliminary assessment of a final charge, the Commission will issue to the downstream project owner an order establishing the final charge. Copies of the order will be mailed to all parties. A bill will be issued for the amount of the final charge and costs.

(ii) If a final charge is not established prospectively under paragraph (b)(5) of this section, the Commission will issue an order and a bill for the final charge and costs each year until prospective final charges are established. After the Commission issues an order establishing a prospective final charge, a bill will be issued annually for the amount of the final charge and costs.

(5) *Prospective final charges.* When the Commission determines that historical data, including the hydrology, development, and other characteristics of the river basin, demonstrate sufficient stability to project average energy gains and section 10(f) costs, the Commission will issue to the downstream project owner an order establishing the final charge from future years. Copies of the order will be mailed to all parties. The prospective final charge will remain in effect until a new investigation is initiated under § 11.15(d)(2).

(6) *Payment under protest.* Any payment of a final charge required by this section may be made under protest if a party is also appealing the final charge pursuant to § 385.1902, or requesting rehearing. If payment is made under protest, that party will avoid any penalty for failure to pay under § 11.21.

(7) *Accounting for payments pending appeal or rehearing.* The Commission will retain any payment received for final charges from bills issued pursuant to this section in a special account. No disbursements to the U.S. Treasury will be made from the account until 31 days after the bill is issued. If an appeal under § 385.1902 or a request for rehearing is filed by any party, no disbursements to the U.S. Treasury will be made until final disposition of the appeal or request for rehearing.

(c) *Charges for costs of determinations of headwater benefits charges.* (1) Any owner of a downstream project that benefits from a Federal headwater project must pay to the United States the cost of making any investigation, study, or determination relating to the assessment of the relevant headwater benefits charge under this subpart.

(2) If any owner of a headwater or downstream project requests that the Commission determine headwater benefits charges for benefits provided by non-Federal headwater projects, the headwater project owners must pay a pro rata share of 50 percent of the cost of making the investigation and determination, in proportion to the benefits provided by their projects, and the downstream project owners must pay a pro rata share of the remaining 50 percent in proportion to the energy gains received by their projects.

(3) Any charge assessed under this paragraph is separate from and will be added to, any final or interim charge under this subpart.

Subpart C—General Procedures

§ 11.20 Time for payment.

Annual charges must be paid no later than 45 days after rendition of a bill by the Commission. If the licensee or exemptee believes that the bill is incorrect, no later than 45 days after its rendition the licensee or exemptee may file an appeal of the bill with the Chief Financial Officer. No later than 30 days after the date of issuance of the Chief Financial Officer's decision on the appeal, the licensee or exemptee may file a request for rehearing of that decision pursuant to § 385.713 of this chapter. In the event that a timely appeal to the Chief Financial Officer or a timely request to the Commission for rehearing is filed, the payment of the bill may be made under protest, and subject to refund pending the outcome of the appeal or rehearing.

[60 FR 15048, Mar. 22, 1995]

§ 11.21 Penalties.

If any person fails to pay annual charges within the periods specified in § 11.20, a penalty of 5 percent of the

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total delinquent amount will be assessed and added to the total charges for the first month or part of month in which payment is delinquent. An additional penalty of 3 percent for each full month thereafter will be assessed until the charges and penalties are satisfied in accordance with law. The Commis-

sion may, by order, waive any penalty imposed by this subsection, for good cause shown.

[51 FR 24318, July 3, 1986]

APPENDIX A TO PART 11—FEE
SCHEDULE FOR FY 2007

State	County	(Fee/acre/yr)
ALABAMA	ALL COUNTIES	\$29.20
ARKANSAS	ALL COUNTIES	21.90
ARIZONA	COCHISE, GILA, GRAHAM, LA PAZ, MOHAVE, NAVAJO, PIMA, YAVAPAI, YUMA, COCONINO, (NORTH OF COLORADO R.), COCONINO (SOUTH OF COLORADO R.), GREENLEE, MARICOPA, PINAL, SANTA CRUZ.	7.28 29.20
CALIFORNIA	IMPERIAL, INYO, LASSEN, MODOC, RIVERSIDE, SAN BERNARDINO	14.60
	SISKIYOU	21.90
	ALAMEDA, ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, CONTRA COSTA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, KERN, KINGS, LAKE, MADERA, MARIPOSA, MENDICINO, MERCED, MONO, NAPA, NEVADA, PLACER, PLUMAS, SACRAMENTO, SAN BENITO, SAN JOAQUIN, SANTA CLARA, SHASTA, SIERRA, SOLANO, SONOMA, STANISLAUS, SUTTER, TEHAMA, TRINITY, TULARE, KINGS, TUOLUMNE, YOLO, YUBA.	36.49
	LOS ANGELES, MARIN, MONTEREY, ORANGE, SAN DIEGO, SAN FRANCISCO, SAN LUIS OBISPO, SAN MATEO, SANTA BARBARA, SANTA CRUZ, VENTURA.	43.81
COLORADO	ADAMS, ARAPAHOE, BENT, CHEYENNE, CROWLEY, ELBERT, EL PASO, HUERFANO, KIOWA, KIT CARSON, LINCOLN, LOGAN, MOFFAT, MONTEZUMA, MORGAN, PUEBLO, SEDGEWICK, WASHINGTON, WELD, YUMA.	7.28
	BACA, BROOMFIELD, DOLORES, GARFIELD, LAS ANIMAS, MESA, MONTROSE, OTERO, PROWERS, RIO BLANCO, ROUTT, SAN MIGUEL.	14.60
	ALAMOSA, ARCHULETA, BOULDER, CHAFFEE, CLEAR CREEK, CONEJOS, COSTILLA, CUSTER, DENVER, DELTA, DOUGLAS, EAGLE, FREMONT, GILPIN, GRAND, GUNNISON, HINSDALE, JACKSON, JEFFERSON, LAKE, LA PLATA, LARIMER, MINERAL, OURAY, PARK, PITKIN, RIO GRANDE, SAGUACHE, SAN JUAN, SUMMIT, TELLER.	29.20
CONNECTICUT	ALL COUNTIES	7.28
FLORIDA	BAKER, BAY, BRADFORD, CALHOUN, CLAY, COLUMBIA, DIXIE, DUVAL, ESCAMBIA, FRANKLIN, GADSDEN, GILCHRIST, GULF, HAMILTON, HOLMES, JACKSON, JEFFERSON, LAFAYETTE, LEON, LIBERTY, MADISON, NASSAU, OKALOOSA, SANTA ROSA, SUWANNEE, TAYLOR, UNION, WAKULLA, WALTON, WASHINGTON.	43.81
	ALL OTHER COUNTIES	72.97
GEORGIA	ALL COUNTIES	43.81
IDAHO	CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, ONEIDA, OWYHEE, POWER, TWIN FALLS.	7.28
	ADA, ADAMS, BANNOCK, BEAR LAKE, BENEWAH, BINGHAM, BLAINE, BOISE, BONNER, BONNEVILLE, BOUNDARY, BUTTE, CAMAS, CANYON, CARIBOU, CLARK, CLEARWATER, CUSTER, ELMORE, FRANKLIN, FREMONT, GEM, IDAHO, JEFFERSON, KOOTENAI, LATAH, LEMHI, LEWIS, MADISON, NEZ PERCE, PAYETTE, SHOSHONE, TETON, VALLEY, WASHINGTON.	21.90
ILLINOIS	ALL COUNTIES	21.90
INDIANA	ALL COUNTIES	36.49
KANSAS	MORTON	14.60
	ALL OTHER COUNTIES	7.28
KENTUCKY	ALL COUNTIES	21.90
LOUISIANA	ALL COUNTIES	43.81
MAINE	ALL COUNTIES	21.90
MICHIGAN	ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKING, MARQUETTE, MENOMINEE, ONTONAGON, SCHOOLCRAFT.	21.90
	ALL OTHER COUNTIES	29.20
MINNESOTA	ALL COUNTIES	21.90
MISSISSIPPI	ALL COUNTIES	29.20
MISSOURI	ALL COUNTIES	21.90

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State	County	(Fee/acre/yr)
MONTANA	BIG HORN, BLAINE, CARTER, CASCADE, CHOUTEAU, CUSTER, DANIELS, MCCONE, MEAGHER, DAWSON, FALLON, FERGUS, GARFIELD, GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, MUSSELSHELL, PETROLEUM, PHILLIPS, PONDERA, POWDER RIVER, PRAIRIE, RICHLAND, ROOSEVELT, ROSEBUD, SHERIDAN, TETON, TOOLE, TREASURE, VALLEY, WHEATLAND, WIBAUX, YELLOWSTONE.	7.28
	BEAVERHEAD, BROADWATER, CARBON, DEER LODGE, FLATHEAD, GALLATIN, GRANITE, JEFFERSON, LAKE, LEWIS & CLARK, LINCOLN, MADISON, MINERAL, MISSOULA, PARK, POWELL, RAVALLI, SANDERS, SILVER BOW, STILLWATER, SWEET GRASS.	21.90
NEBRASKA	ALL COUNTIES	7.28
NEVADA	CHURCHILL, CLARK, ELKO, ESMERALDA, EUREKA, HUMBOLDT, LANDER, LINCOLN, LYON, MINERAL, NYE, PERSHING, WASHOE, WHITE PINE.	3.65
NEW HAMPSHIRE	CARSON CITY, DOUGLAS, STORY	36.49
	ALL COUNTIES	21.90
NEW MEXICO	CHAVES, CURRY, DE BACA, DONA ANA, EDDY, GRANT, GUADALUPE, HARDING, HIDALGO, LEA, LUNA, MCKINLEY, OTERO, QUAY, ROOSEVELT, SAN JUAN, SOCORRO, TORRENCE.	7.28
NEW YORK	RIO ARriba, SANDOUAL, UNION	14.60
	BERNALILLO, CATRON, CIBOLA, COLFAX, LINCOLN, LOS ALAMOS, MORA, SAN MIGUEL, SANTA FE, SIERRA, TAOS, VALENCIA.	29.20
NORTH CAROLINA	ALL COUNTIES	29.20
NORTH DAKOTA	ALL COUNTIES	43.81
OHIO	ALL COUNTIES	7.28
OKLAHOMA	ALL COUNTIES	29.20
	BEAVER, CIMARRON, ROGER MILLS, TEXAS	14.60
OREGON	LE FLORE, MC CURTAIN	21.90
	ALL OTHER COUNTIES	7.28
	HARNEY, LAKE, MALHEUR	7.28
	BAKER, CROOK, DESCHUTES, GILLIAM, GRANT, JEFFERSON, KLAMATH, MORROW, SHERMAN, UMATILLA, UNION, WALLOWA, WASCO, WHEELER,.	14.60
PENNSYLVANIA	COOS, CURRY, DOUGLAS, JACKSON, JOSEPHINE	21.90
	BENTON, CLACKAMAS, CLATSOP, COLUMBIA, HOOD RIVER, LANE, LINCOLN, LINN, MARION, MULTNOMAH, POLK, TILLAMOOK, WASHINGTON, YAMHILL.	29.20
PUERTO RICO	ALL COUNTIES	29.20
SOUTH CAROLINA	ALL	43.81
SOUTH DAKOTA	ALL COUNTIES	43.81
TENNESSEE	BUTTE, CUSTER, FALL RIVER, LAWRENCE, MEAD, PENNINGTON	21.90
	ALL OTHER COUNTIES	7.28
TEXAS	ALL COUNTIES	29.20
	CULBERSON, EL PASO, HUDSPETH	7.28
UTAH	ALL OTHER COUNTIES	43.81
	BEAVER, BOX ELDER, CARBON, DUCHESNE, EMERY, GARFIELD, GRAND, IRON, JUAB, KANE, MILLARD, SAN JUAN, TOOELE, UINTAH, WAYNE.	7.28
	WASHINGTON	14.60
	CACHE, DAGGETT, DAVIS, MORGAN, PIUTE, RICH, SALT LAKE, SANPETE, SEVIER, SUMMIT, UTAH, WASATCH, WEBER.	21.90
VERMONT	ALL COUNTIES	29.20
VIRGINIA	ALL COUNTIES	29.20
WASHINGTON	ADAMS, ASOTIN, BENTON, CHELAN, COLUMBIA, DOUGLAS, FRANKLIN, GARFIELD, GRANT, KITTITAS, KLICKITAT, LINCOLN, OKANOGAN, SPOKANE, WALLA WALLA, WHITMAN, YAKIMA,.	\$14.60
	FERRY, PEND OREILLE, STEVENS	21.90
	CLALLAM, CLARK, COWLITZ, GRAYS HARBOR ISLAND, JEFFERSON, KING, KITSAP, LEWIS, MASON, PACIFIC, PIERCE, SAN JUAN, SKAGIT, SKAMANIA, SNOHOMISH, THURSTON, WAHAKIAKUM, WHATCOM.	29.20
	ALL COUNTIES	29.20
WEST VIRGINIA	ALL COUNTIES	29.20
WISCONSIN	ALL COUNTIES	21.90
WYOMING	ALBANY, CAMPBELL, CARBON, CONVERSE, GOSHEN, HOT SPRINGS, JOHNSON, LARAMIE, LINCOLN, NATRONA, NIOBRARA, PLATTE, SHERIDAN, SWEETWATER, FREMONT, SUBLETTE, UINTA, WASHAKIE.	7.28
	BIG HORN, CROOK, PARK, TETON, WESTON	21.90
ALL OTHER ZONES		5.74

[72 FR 1453, Jan. 12, 2007]

PART 12—SAFETY OF WATER POWER PROJECTS AND PROJECT WORKS

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AUTHORITY: 16 U.S.C. 792–828c; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978).

SOURCE: Order 122, 46 FR 9036, Jan. 28, 1981, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 12 appear at 69 FR 32438, June 10, 2004.

Subpart A—General Provisions

§ 12.1 Applicability.

(a) Except as otherwise provided in this part or ordered by the Commission or its authorized representative, the provisions of this part apply to:

(1) Any project licensed under Part I of the Federal Power Act;

(2) Any unlicensed constructed project for which the Commission has determined that an application for license must be filed under Part I of the Act; and

(3) Any project exempted from licensing under Part I of the Federal Power Act, pursuant to subparts J or K of part 4 of this chapter, to the extent that the Commission has conditioned the exemption on compliance with any particular provisions of this part.

(b) The provisions of this part apply to a project that uses a Government dam only with respect to those project works, lands, and waters specifically licensed by the Commission.

§ 12.2 Rules of construction.

(a) If any term, condition, article, or other provision in a project license is similar to any provision of this part, the licensee must comply with the relevant provision of this part, unless the Commission or the Director of the Office of Energy Projects Licensing determines that compliance with the relevant provision of the license will better protect life, health, or property.

(b) A licensee may request from the Director of the Office of Energy Projects Licensing a ruling on the applicability to its actions of any provision of its license that is similar to a provision of this part. A ruling by the Director may be appealed under § 385.207 of this chapter.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 49 FR 29370, July 20, 1984]

§ 12.3 Definitions.

(a) *General rule.* For purposes of this part, terms defined in section 3 of the Federal Power Act, 16 U.S.C. 796, have the same meaning as they have under the Act.