

§ 5.14 Conduct of studies.

(a) *Initial Status Report.* (1) At an appropriate time following the first season of studies or other appropriate time, the applicant shall prepare and file with the Commission an initial status report containing study results and analyses to date.

(2) Promptly following the filing of the initial status report, the applicant shall hold a meeting with the parties and Commission staff to discuss the study results and the applicant's and or other party's proposals, if any, to modify the study plan in light of study results and analyses to date.

(3) Promptly following the meeting provided for in paragraph (a)(2) of this section, the applicant shall file a meeting summary and request to amend the approved study plan, as necessary.

(4) Any party or the Commission staff may file a disagreement concerning the applicant's meeting summary and request to amend the approved study plan within 15 days, setting forth the basis for the dispute, and explaining what modifications, if any, should be made to the approved study plan.

(5) Responses to any filings made pursuant to paragraph (a)(4) of this section shall be filed within 15 days.

(6) No later than 15 days following the due date for responses provided for in paragraph (a)(5) of this section, the Director will issue an order resolving the disagreement, amending the approved study plan as appropriate, and directing the applicant to complete the study plan as amended.

(7) If no party or the Commission staff files a disagreement concerning the applicant's meeting summary and request to amend the approved study plan within 15 days, the proposed amendment shall be deemed to be approved.

(b) *Additional information.* Any request for additional information or study in response to the initial status report must be accompanied by a showing of good cause why the request should be approved, and which must provide, as appropriate to the facts of the case, a:

(1) Demonstration that approved studies were not conducted as provided for in the approved study plan;

(2) Demonstration that the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way;

(3) Statement of material changes in the law or regulations applicable to information request;

(4) Statement explaining why the objectives of any approved study to

which the information request relates cannot be achieved using existing data;

(5) Statement explaining why the request was not made earlier;

(6) Statement explaining significant changes in the project proposal or that significant new information material to the study objectives has become available; and

(7) In the case of a new study, an explanation why the study request satisfies the study criteria in § 5.12.

(c) *Updated Status Report.* After the second field season of studies or other appropriate time following the initial status report, the applicant shall prepare and file an updated status report. The review, comment, and disagreement resolution provisions of paragraphs (a)(4)–(7) of this section shall apply to the updated status report, and any request for additional information or study in response to the updated report must be accompanied by a demonstration of extraordinary circumstances warranting approval of the request, and must address the criteria set forth in paragraphs (b)(1)–(7) of this section, as appropriate to the facts of the case. The applicant shall promptly proceed to complete any remaining undisputed information-gathering or studies under its proposed amendments to the study plan, if any, and shall proceed to complete any information-gathering or studies that are the subject of a disagreement upon the Director's order resolving the disagreement.

§ 5.15 Draft license application.

(a) Following the filing of the updated status report, but no later than 150 days prior to the deadline for filing a new or subsequent license application, if applicable, the Applicant shall file for comment a draft license application.

(b) The draft license application shall contain, to the extent practicable, the contents required for license applications by part 4, subpart E, F, or G and §§ 16.9 and 16.10 of this chapter, except that the Exhibit E required to be included with an application filed under this part must meet the form and contents of Exhibit E set forth in § 5.17(b).

(c) An applicant that has been designated as the Commission's non-Federal representative may include a draft Biological Assessment, Essential Fish Habitat Assessment, and draft Historic Properties Management Plan with its draft license application.

(d) Within 90 days of the date the Applicant files the draft license application, parties and the Commission staff may file comments on the draft application, which may include

recommendations on whether the Commission should prepare an Environmental Assessment (with or without a draft Environmental Assessment) or an Environmental Impact Statement. Any party whose comments request new information, studies, or other amendments to the approved study plan must include a demonstration of extraordinary circumstances, pursuant to the requirements of § 5.14(b).

§ 5.16 Filing of application.

(a) *Timing of application.* An application for a new or subsequent license shall be filed no later than 24 months before the existing license expires.

(b) *Subsequent licenses.* An applicant for a subsequent license must file its application under part I of the Federal Power Act. The provisions of section 7(a) of the Federal Power Act do not apply to licensing proceedings involving a subsequent license.

(c) *Applicant notice.* An applicant for a subsequent license that proposes to expand an existing project to encompass additional lands must include in its application a statement that the applicant has notified, by certified mail, property owners on the additional lands to be encompassed by the project and governmental agencies and subdivisions likely to be interested in or affected by the proposed expansion.

(d) *Filing and service.* (1) Each applicant for a license under this part must submit to the Commission's Secretary for filing an original and eight copies of the application. The applicant must serve one copy of the application or petition on the Director of the Commission's Regional Office for the appropriate region and on each resource agency, Indian tribe, or member of the public consulted pursuant to this part.

(2)(i) An applicant must make information regarding its project reasonably available to the public for inspection and reproduction, from the date on which the applicant files its application for a license until the licensing proceeding for the project is terminated by the Commission. This information includes a copy of the complete application for license, together with all exhibits, appendices, and any amendments, pleadings, supplementary or additional information, or correspondence filed by the applicant with the Commission in connection with the application.

(ii) An applicant must delete from any information made available to the public under this section, specific site or property locations the disclosure of which would create a risk of harm, theft,