

dedicate the resources necessary to meet our goals for the process. To this end, the Office of Energy Projects has established outreach and training teams to promote the integrated process and educate participants in its implementation.

13. It is also our intention to conduct an effectiveness study of the integrated process in order to quantify the resulting reductions in processing time and costs.

#### B. Number of Processes

14. The NOPR proposed to retain both the traditional process and the ALP in light of comments by industry that a single process is not suitable for all projects and that the integrated process and ALP might be too time constrained or resource intensive for small projects. We also proposed to retain the ALP in light of its demonstrated track record of reducing license application processing times and fostering settlement agreements.<sup>11</sup>

15. We discussed the concerns of environmental groups, and some agencies and Indian tribes, that multiple processes would confuse participants with modest resources, particularly those that rely on volunteers. We concluded that the benefits of having different processes that can be applied to differing circumstances outweighs this concern. We also proposed to require any potential applicant wishing to use the traditional process to obtain Commission authorization to do so, and to provide an opportunity for all stakeholders to comment on the request.<sup>12</sup>

16. Industry commenters and a few others continue to support retaining the traditional process and ALP. They state that flexibility is required by the diversity of project circumstances, issues, and stakeholders; the traditional process and ALP have both been shown to be effective under the right circumstances; the integrated process is too costly and labor-intensive for many small projects and for small stakeholders; and the integrated process is not suitable where stakeholders and the potential applicant are very polarized. They add that the integrated process is untested and that the traditional process needs to be retained as a backstop if an ALP or the integrated process break down.<sup>13</sup>

17. Agency and non-governmental organization (NGO) commenters continue overwhelmingly to favor one integrated process sufficiently flexible to accommodate the diverse circumstances of license applications. They, along with SCE, reiterate that the existing two processes are already confusing, making participants unclear about their rights and duties, and making it difficult for parties with few human and financial resources to effectively participate. A third process, they say, will make matters worse. Some also question the logic of retaining a traditional process which they say stakeholders agree does not achieve the goals of the integrated process.<sup>14</sup> Several note that one process would obviate the need for time in the process to comment on the potential applicant's process proposal.<sup>15</sup>

18. California adds that there is no reason to retain the traditional process because the information requirements and scope and level of analysis are essentially the same as those of the integrated process, so costs should be similar; that polarization is irrelevant if both processes have mandatory, binding study dispute resolution; and project size is no indicator that the issues will be relatively simple or few.

19. SCE also asserts that the revised traditional process, if supplemented by the PAD, more early identification of issues and study design, study request criteria, and study dispute resolution, would differ from the integrated process and the ALP only with respect to the timing of NEPA process. This, says SCE, would make the integrated process needless, so the Commission should just make appropriate modifications to the traditional process.

20. Upon review of the comments, we remain convinced that having three processes is the most effective means of ensuring that the licensing process used is suited to the circumstances of the project, consistent with our intention to reduce the time required for the process without sacrificing resource protection standards. The process selection for each licensing proceeding will be made at the outset, so stakeholders should not be confused about which process they are in. We designed the integrated process to show the steps clearly in sequence from beginning to end and to

Rancheria states that the rules should clarify what would happen if the ALP or integrated process break down, and that any change of process should consider impacts to participants other than the potential applicant.

<sup>14</sup> MDEP, HRC, CRITFC, Nez Perce.

<sup>15</sup> Wisconsin DNR, PFMC, CHRC, Whitewater, SC League, IRU, Interior, CRITFC, RAW, Georgia DNR, HRC.

be as self-contained (*i.e.*, with a minimum of cross-referencing to parts 4 and 16) as is practicable. To the extent stakeholders are concerned about process ambiguities in the ALP, they can negotiate the terms of participation. The Commission staff also stands ready to assist in clearing up any remaining ambiguities about what the regulations may require.

21. We also disagree with those who imply that the traditional process never works well. About one third of traditional license process proceedings are concluded before the existing license expires. The most common reason for delay in the remaining cases is lack of state water quality certification. As discussed below,<sup>16</sup> the integrated licensing process addresses this by providing opportunities and inducements for water quality certification agencies and tribes to participate from the beginning of pre-filing consultation.

22. Some commenters recommend that we consider establishing a sunset provision to eliminate or phase out the traditional process, ALP, or both when the integrated process has become sufficiently established and fine-tuned in light of experience.<sup>17</sup> We agree this idea may have merit. It is our intention to conduct an ongoing review of the progress being made in realizing the goals of the integrated process. If it becomes clear in the future that the integrated process is substantially meeting these goals and the traditional process is not, then it may be appropriate to eliminate the traditional process at that time.

#### C. Pre-NOI Activity

##### 1. Filing Date for NOI and PAD

23. In the NOPR we rejected California's recommendation that the regulations be modified to move the deadline date for the notification of intent to seek a license (NOI) forward to 6.5 years before license expiration because it would be inconsistent with our goal of developing a more timely process. We stated that in the great majority of cases, a license applicant should be able to complete the pre-filing aspects of the integrated process in the three and one-half year period provided for in the regulations.<sup>18</sup>

24. Several commenters request that we reconsider our position, and specifically authorize licensees to voluntarily issue the NOI and circulate

<sup>11</sup> 68 FR 13988 at p. 13991–992; IV FERC Stats. & Regs. ¶ 32,568 at pp. 34,698–699.

<sup>12</sup> The requirement for a consensus to support approval of a request to use the ALP would be unchanged. See 18 CFR 4.34(i).

<sup>13</sup> NHA, Idaho Power, EEI, WUWC, SCE, Alabama Power, NEU, WPPD, WPSC, Snohomish, CSWC, FWS, CHI, Maryland DNR, Minnesota DNR, NF

<sup>16</sup> See Sections III.F, G, and M.2.

<sup>17</sup> HRC, AmRivers, Washington, RAW, AMC, NPS, Georgia DNR.

<sup>18</sup> 68 FR 13988 at pp. 13992–993; IV FERC Stats. & Regs. ¶ 32,568 at p. 34,701.