

(iii) Whether the fish and wildlife agency's expenditures conform to Federal expenditure guidelines for such items as travel, per diem, personnel, and contracting; and

(iv) Whether the studies conducted by the agency, if any, are duplicative, limited to the proposed project area, unnecessary to determine the impacts to or mitigation measures for the particular fish and wildlife resources affected by the proposed project, or otherwise unnecessary to set terms and conditions for the proposed project.

(3) *Unreasonable cost statements.* If the Director determines that a disputed fish and wildlife agency cost statement is unreasonable, the disputing applicant and the fish and wildlife agency will be afforded 45 days from the date of notification to attempt to reach an agreement regarding the reimbursable costs of the agency. If the disputing applicant and the fish and wildlife agency fail to reach an agreement on the disputed cost statement within 45 days 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 pay-

ment, 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 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 6—SURRENDER OR TERMINATION OF LICENSE

Sec.

6.1 Application for surrender.

6.2 Surrender of license.

6.3 Termination of license.

6.4 Termination by implied surrender.

6.5 Annual charges.

AUTHORITY: Secs. 6, 10(i), 13, 41 Stat. 1067, 1068, 1071, as amended, sec. 309, 49 Stat. 858; 16 U.S.C. 799, 803(i), 806, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*), unless otherwise noted.

#### § 6.1 Application for surrender.

Every application for surrender of a license shall state the reason therefor; and, except in the case of an application for surrender of a license for a minor project, or for a transmission line only, shall be executed by the licensee and filed in the same form and manner as the application for license, and shall be accompanied by the license and all amendments thereof. Public notice of such application shall

## § 6.2

be given at least 30 days prior to action upon the application.

(Secs. 308 and 309; 49 Stat. 858, 859 (16 U.S.C. 825g, 825h))

[Order No. 570, 42 FR 40191, Aug. 9, 1977]

CROSS REFERENCES: For application for license, general provisions, see §§ 4.30 to 4.33, inclusive, of this chapter. For application for license for proposed major project or minor part thereof, see §§ 4.40 to 4.42, inclusive, of this chapter. For application for license for constructed major project or minor part thereof, see §§ 4.50 and 4.51 of this chapter. For forms for application for licenses, see §§ 131.2 to 131.6, inclusive, of this chapter.

### § 6.2 Surrender of license.

Licenses may be surrendered only upon the fulfillment by the licensee of such obligations under the license as the Commission may prescribe, and, if the project works authorized under the license have been constructed in whole or in part, upon such conditions with respect to the disposition of such works as may be determined by the Commission. Where project works have been constructed on lands of the United States the licensee will be required to restore the lands to a condition satisfactory to the Department having supervision over such lands and annual charges will continue until such restoration has been satisfactorily completed.

[Order 175, 19 FR 5217, Aug. 18, 1954]

### § 6.3 Termination of license.

Licenses may be terminated by written order of the Commission not less than 90 days after notice thereof shall have been mailed to the licensee by certified mail to the last address whereof the Commission has been notified by the licensee, if there is failure to commence actual construction of the project works within the time prescribed in the license, or as extended by the Commission. Upon like notice, the authority granted under a license with respect to any separable part of the project works may be terminated if there is failure to begin construction of such separable part within the time prescribed or as extended by the Commission.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-628 (1976 & Supp. V 1981), Dept. of

## 18 CFR Ch. I (4-1-98 Edition)

Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978))

[Order 141, 12 FR 8491, Dec. 19, 1947, as amended by Order 344, 48 FR 49010, Oct. 24, 1983]

### § 6.4 Termination by implied surrender.

If any licensee holding a license subject to the provisions of section 10(i) of the Act shall cause or suffer essential project property to be removed or destroyed, or become unfit for use, without replacement, or shall abandon, or shall discontinue good faith operation of the project for a period of three years, the Commission will deem it to be the intent of the licensee to surrender the license; and not less than 90 days after public notice may in its discretion terminate the license.

[Order 141, 12 FR 8491, Dec. 19, 1947]

### § 6.5 Annual charges.

Annual charges arising under a license surrendered or terminated shall continue until the effective date set forth in the Commission's order with respect to such surrender or termination.

[Order 175, 19 FR 5217, Aug. 18, 1954]

CROSS REFERENCE: For annual charges, see part 11 of this chapter.

## PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

Sec.

- 8.1 Publication of license conditions relating to recreation.
- 8.2 Posting of project lands as to recreational use and availability of information.
- 8.3 Discrimination prohibited.
- 8.11 Information respecting use and development of public recreational opportunities.

AUTHORITY: 5 U.S.C. 551-557; 16 U.S.C. 791a-825r; 42 U.S.C. 7101-7352.

### § 8.1 Publication of license conditions relating to recreation.

Following the issuance or amendment of a license, the licensee shall make reasonable efforts to keep the public informed of the availability of project lands and waters for recreational purposes, and of the license