

(3) The decision will not contain conclusions as to whether any preliminary condition or prescription should be adopted, modified, or rejected, or whether any proposed alternative should be adopted or rejected.

(c) *Service.* Promptly after issuing his or her decision, the ALJ must:

(1) Serve the decision on each party to the hearing; and

(2) Forward a copy of the decision to FERC, along with the complete hearing record, for inclusion in the license proceeding record.

(d) *Finality.* The ALJ's decision under this section will be final, with respect to the disputed issues of material fact, for any Department involved in the hearing. To the extent the ALJ's decision forms the basis for any condition or prescription subsequently included in the license, it may be subject to judicial review under 16 U.S.C. 825(b).

ALTERNATIVES PROCESS

§ 1.670 How must documents be filed and served under §§ 1.670 through 1.673?

(a) *Filing.* (1) For the alternatives process, documents must be filed using one of the methods set forth in § 1.612(b).

(2) A document is considered filed on the date it is received. However, any document received after 5 p.m. at the place where the filing is due is considered filed on the next regular business day.

(b) *Service.* (1) Any document filed under this section must be served at the same time the document is delivered or sent for filing. A complete copy of the document must be served on each license party and FERC, using:

(i) One of the methods of service in § 1.613(c); or

(ii) Regular mail.

(2) The provisions of § 1.613 (d) and (e) regarding acknowledgment and certificate of service apply to service under this section.

§ 1.671 How do I propose an alternative?

(a) *General.* To propose an alternative, you must:

(1) Be a license party; and

(2) File a written proposal with NFS within 30 days after the deadline for

the Forest Service to file preliminary conditions with FERC.

(b) *Content.* Your proposal must include:

(1) A description of the alternative, in an equivalent level of detail to the Forest Service's preliminary condition;

(2) An explanation of how the alternative will provide for the adequate protection and utilization of the reservation;

(3) An explanation of how the alternative, as compared to the preliminary condition, will:

(i) Cost significantly less to implement; or

(ii) Result in improved operation of the project works for electricity production;

(4) An explanation of how the alternative will affect:

(i) Energy supply, distribution, cost, and use;

(ii) Flood control;

(iii) Navigation;

(iv) Water supply;

(v) Air quality; and

(vi) Other aspects of environmental quality; and

(5) Specific citations to any scientific studies, literature, and other documented information relied on to support your proposal, including any assumptions you are making (e.g., regarding the cost of energy or the rate of inflation). If any such document is not already in the license proceeding record, you must provide a copy with the proposal.

§ 1.672 What will the Forest Service do with a proposed alternative?

If any license party proposes an alternative to a preliminary condition under § 1.671(a)(1), the Forest Service must do the following within 60 days after the deadline for filing comments to FERC's NEPA document under 18 CFR 5.25(c):

(a) Analyze the alternative under § 1.673; and

(b) File with FERC:

(1) Any condition that the Forest Service adopts as its modified condition; and

(2) Its analysis of the modified condition and any proposed alternatives under § 1.673(c).

§ 1.673 How will the Forest Service analyze a proposed alternative and formulate its modified condition?

(a) In deciding whether to adopt a proposed alternative, the Forest Service must consider evidence and supporting material provided by any license party or otherwise available to the Forest Service, including:

- (1) Any evidence on the implementation costs or operational impacts for electricity production of the proposed alternative;
- (2) Any comments received on the Forest Service's preliminary condition;
- (3) Any ALJ decision on disputed issues of material fact issued under § 1.660 with respect to the preliminary condition;
- (4) Comments received on any draft or final NEPA documents; and
- (5) The license party's proposal under § 1.671.

(b) The Forest Service must adopt a proposed alternative if the Forest Service determines, based on substantial evidence provided by any license party or otherwise available to the Forest Service, that the alternative:

- (1) Will, as compared to the Forest Service's preliminary condition:
 - (i) Cost significantly less to implement; or
 - (ii) Result in improved operation of the project works for electricity production; and
- (2) Will provide for the adequate protection and utilization of the reservation.

(c) When the Forest Service files with FERC the condition that the Forest Service adopts as its modified condition under §§ 1.672(b), it must also file:

- (1) A written statement explaining:
 - (i) The basis for the adopted condition; and
 - (ii) If the Forest Service is not adopting any alternative, its reasons for not doing so; and
- (2) Any study, data, and other factual information relied on that is not already part of the licensing proceeding record.
- (d) The written statement under paragraph (c)(1) of this section must demonstrate that the Forest Service gave equal consideration to the effects of the condition adopted and any alternative not adopted on:

- (1) Energy supply, distribution, cost, and use;
- (2) Flood control;
- (3) Navigation;
- (4) Water supply;
- (5) Air quality; and
- (6) Preservation of other aspects of environmental quality.

§ 1.674 Has OMB approved the information collection provisions of §§ 1.670 through 1.673?

Yes. This rule contains provisions that would collect information from the public. It therefore requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA). According to the PRA, a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number that indicates OMB approval. OMB has reviewed the information collection in this rule and approved it under OMB control number 1094-0001.

PART 1a—LAW ENFORCEMENT AUTHORITIES

Sec.

- 1a.1 General statement.
- 1a.2 Authorization.
- 1a.3 Persons authorized.
- 1a.4 Limitations.
- 1a.5 Responsibility of the Inspector General.

AUTHORITY: Sec. 1337, Pub. L. 97-98; 5 U.S.C. 301; 5 U.S.C. App. I.

SOURCE: 47 FR 2073, Jan. 14, 1982, unless otherwise noted.

§ 1a.1 General statement.

This part sets forth the rules issued by the Secretary of Agriculture to implement section 1337 of Public Law 97-98 relating to:

- (a) Arrests without warrant for certain criminal felony violations;
- (b) Execution of warrants for arrests, searches of premises and seizures of evidence; and
- (c) The carrying of firearms by designated officials of the Office of Inspector General.