§ 221.73 How will NMFS analyze a proposed alternative and formulate its modified prescription?

(a) In deciding whether to adopt a proposed alternative, NMFS must consider evidence and supporting material provided by any license party or otherwise available to NMFS including:
1. Any evidence on the implementation costs or operational impacts for electricity production of the proposed alternative;
2. Any comments received on NMFS’s preliminary prescription;
3. Any ALJ decision on disputed issues of material fact issued under § 221.60 with respect to the preliminary prescription;
4. Comments received on any draft or final NEPA documents; and
5. The license party’s proposal under § 221.71.

(b) NMFS must adopt a proposed alternative if NMFS determines, based on substantial evidence provided by any license party or otherwise available to NMFS, that the alternative will be no less protective than NMFS’s preliminary prescription and will, as compared to NMFS’s preliminary prescription:
1. Cost significantly less to implement; or
2. Result in improved operation of the project works for electricity production.

(c) When NMFS files with FERC the prescription that NMFS adopts as its modified prescription under §§ 221.72(b), it must also file:
1. A written statement explaining:
   (i) The basis for the adopted prescription; and
   (ii) If NMFS 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 NMFS gave equal consideration to the effects of the prescription adopted and any alternative prescription 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.

§ 221.74 Has OMB approved the information collection provisions of this subpart?

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.