

**Forest Service Handbook
National Headquarters - Washington Office
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**Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures**

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Forest Service Handbook 2709.15 – Hydroelectric Handbook

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Table of Contents

24 - Typical Order of Events	3
24.1 - Timeline Comparison of License and Exemption Processes.....	3
24.2 - Typical Order of Events for Licensed Project	3
24.3 - Typical Order of Events for Exempted Project	8

24 - Typical Order of Events

24.1 - Timeline Comparison of License and Exemption Processes

See exhibit 1 for a timeline comparison table of the license and exemption processes and the Forest Service steps within those processes. See sections 32.41, 32.53b, 52.11, and 54.43 for procedural adjustments if an EIS is necessary.

EXHIBIT 1 IS A SEPARATE DOCUMENT

24.2 - Typical Order of Events for Licensed Project

Exhibit 1 shows a typical order of events for a licensed project. All Forest Service steps are at the forest level unless otherwise noted.

Exhibit 1

Typical Order of Events for a Licensed Project

1. Proponent conceives a project.
2. Proponent may consult with the Forest Service (optional but much preferred).

APPLICATION FOR PRELIMINARY PERMIT

3. Proponent may make an application for preliminary permit to the Federal Energy Regulatory Commission (FERC) (optional).
4. FERC sends out notification of application for preliminary permit (cc to W.O. and R.O., and other agencies).
5. The Regional Forester responds with letter stating that National Forest resources may be affected and asking FERC to require the applicant to contact the Forest Supervisor to obtain a special-use permit (sec. 53.1).
6. FERC issues preliminary permit (routinely done, seldom denied).

STAGE 1 OF FERC CONSULTATION PROCESS BEGINS (CONTACTS)

7. The applicant sends the details of the proposal (to the extent known) to the agencies. The applicant applies to the Forest Service for an investigation special-use permit (sec. 61.51a).

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

8. The Forest Service should scope project (determine issues of proposal along with the needs for public involvement) to determine what is important for the applicant to study, and what the Forest Service will evaluate, as well as what skills are necessary for the project interdisciplinary team (sec. 32.1, sec. 32.2, and sec. 32.3).

9. The Forest Service should prepare a preliminary concerns letter (documentation of issues and guidance for environmental analysis) and send it to the applicant (sec. 30.43 and sec. 32.1).

10. Applicant obtains an investigation memorandum of understanding and/or special-use permit from the Forest Service. Remember: (a) do not authorize use with potential for resource disturbance without a special-use permit (sec. 61.51a); (b) cultural resource investigation by the applicant or consultant requires a Cultural Resources special-use permit; (c) if used, a memorandum of understanding with the applicant could address coordination and study requirements, and identify at what point a special-use permit is required (sec. 41.3).

STAGE 2 OF FERC CONSULTATION PROCESS (STUDIES)

11. Usually, the applicant conducts an engineering and economic feasibility study first and then studies specific locations and facilities. The Forest Service may review and comment on the feasibility study. The Forest Service works closely with the applicant to ensure that the project develops in a logical manner and considers a full range of alternatives. Public scoping is conducted as necessary (sec. 32.2). Frequent consultation with other affected agencies is important at this stage, especially with State and Federal fish and game agencies, and with State water agencies.

12. Negotiations on and development of the recreation plan and other needs begin and may continue through step 28 as necessary.

13. Applicant prepares a draft of the license application as part of stage 2 of the FERC consultation process. This should also be the application for special-use authorization.

14. If a project gets to this stage, plan on the applicant filing an application for license. The Forest Service implements full interdisciplinary team involvement and appropriate public involvement. The Forest Service updates and verifies the issues, and conducts an interdisciplinary review of the applicant's environmental analysis and report, following the environmental analysis procedures outlined in 40 CFR 1500 and FSM 1950. This will ensure that the environmental procedures are adequate for the decisions concerning what 4(e) and special-use authorization conditions are necessary for the project (sec. 32.2 through sec. 32.4).

STAGE 3 OF FERC CONSULTATION PROCESS (APPLICATION)

15. Applicant makes application for license to FERC, and applicant applies for a Forest Service special-use authorization to begin stage 3 of the FERC consultation process (sec. 61.3).

16. FERC reviews the application for compliance. If the application complies with the appropriate regulations, FERC accepts the application for processing and the applicant or FERC notifies the Forest Service, and FERC makes public notice of the application for license. Note that if the application is found deficient, FERC sends the applicant a deficiency letter. An applicant can be asked by FERC to provide additional information not specifically required by FERC regulations.

17. The Forest Service conducts an interdisciplinary review of the applicant's environmental analysis contained in the environmental report of the application (sec. 32). Public contacts may be appropriate here. The Forest Service appropriately documents or approves the documentation of the analysis as the basis for step 18 (sec. 32.5 through 32.7).

18. The Forest Service responds to FERC (sec. 52). The 4(e) report identifies the recommendation of the project's compatibility with National Forest purposes. If compatible, it also states (1) the decision as to the 4(e) conditions, and (2) the decision that the Forest Service will issue a special-use authorization if the project is licensed. These decisions are deferred to step 21 if an environmental impact statement (EIS) is necessary. Note: See section 54 for actions if the project is inconsistent or would interfere with National Forest purposes.

FERC PROCESSING

19. As FERC continues to process the application for license, there may be further negotiations with the applicant who may make corrections or amendments to the application.

These may require further environmental review by the Forest Service.

20. FERC prepares its environmental document. The Forest Service should become a cooperating agency if an EIS is necessary (sec. 30.42 and 53.43).

21. If FERC prepares an EIS, the Forest Service submits its 4(e) report with the license conditions after the EIS is completed (these conditions should have been initially shown as part of the EIS). This is the decision step for 4(e) and special-use-authorization conditions (sec. 54.43 and sec. 32.6).

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

APPROVALS AND PERMITS

22. FERC issues or denies the license. There may be a delay here if FERC takes no action. The license, if issued, becomes effective the first day of the month of issuance. The license issuance may be appealed within 30 days, but only by the applicant or by official intervenors.

23. The licensee applies for permits as necessary; water rights, Army Corps of Engineers, fish and game, water quality, and so forth. Except as specified by these agencies, the licensee may apply for these permits at any time, usually near the time of license application.

24. The Forest Service determines if any changes in the EA are needed based on the FERC order or environmental documents, or on changes to the license application. If the EA is substantively changed, the Forest Service issues a revised decision notice (sec. 30.43).

DESIGN

25. Licensee works on detailed plans and specifications.

26. The licensee supplies these plans early enough for the Forest Service to make an adequate review (sec. 62). The Forest Service reviews and approves these plans.

27. The Forest Service reviews and comments on or approves technical aspects of the project including design plans, site plans and specifications affecting surface resources. Remember: (a) do not duplicate acceptable technical reviews made by FERC and other agencies; (b) review each draft as things which previously were acceptable may be changed as corrections are made (sec. 61.8).

28. The Forest Service issues a special-use authorization for construction (sec. 61.51c) (only after FERC issues a license). The special-use authorization includes environmental plans. As conditions dictate, the special-use authorization may be issued as early as step 25.

CONSTRUCTION

29. Licensee starts construction. Forest Service and FERC monitor and control through special-use authorization and license respectively. The Forest Service, FERC, and the licensee maintain continual on-the-ground coordination. Note: Forest Service coordination and inspections may be at the licensee's expense; however, this must be specified in advance, in a collection agreement.

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

Coordination includes:

- a. On-the-ground layout, clearing limits, and road location.
- b. Changes (licensee may need to apply for an amendment).
- c. Environmental monitoring.
- d. Unforeseen disasters, such as spills and impacts missed in the reviews.
- e. Fire inspections, plans, and permits.
- f. Blasting coordination (permits required).
- g. Administration of the special-use authorization.

Note: Other agency regulation of construction activity is usually minimal and the Forest Service should keep other concerned agencies informed on project status.

Note: The Forest Service shall not supervise or direct any construction activity.

- 30. Forest Service and FERC approve constructed project.

OPERATION

31. The Forest Service removes construction stipulations from current authorization.

32. The Forest Service and licensee work together on project operation during life of project (road maintenance, vegetation control, powerline maintenance, winter road use, recreation management). Forest Service administers special-use authorization with an awareness of license articles to ensure that the licensee also is meeting both.

24.3 - Typical Order of Events for Exempted Project

The steps for an exempted project are similar to a licensed project, except that the Forest Service generally does not complete a full environmental review before the Federal Energy Regulatory Commission issues the exemption. The Forest Service manages project development through the special-use authorization. Exhibit 1 shows a typical order of events.

Exhibit 1

Typical Order of Events for an Exempt Project

STAGE 1 OF FERC CONSULTATION PROCESS BEGINS (CONTACTS)

1. Proponent conceives a project and consults agencies. Proponent could apply for a preliminary permit and follow steps shown in steps 1 through 6 of exhibit 1 section 24.2.

2. Proponent applies to Forest Service for investigation special-use permit (sec. 61.51a). The Forest Service scopes the project to determine preliminary issues of the proposal along with the needs for public involvement (sec. 32.1 and sec. 32.2). The Forest Service identifies the project interdisciplinary team (sec. 32.3), and documents the preliminary issues in a preliminary concerns letter to the applicant. Note: Scoping is not complete until appropriate public involvement is completed (sec. 32.1).

STAGE 2 OF FERC CONSULTATION PROCESS (STUDIES)

3. Applicant completes studies and prepares draft application for exemption and consults agencies. (Note: Consultation should be adequate so final project is similar to final application). Forest Service may do cursory or complete analysis of the project, depending on its sensitivity. If cursory analysis is done, the complete analysis must be done by step 13.

STAGE 3 OF FERC CONSULTATION PROCESS (APPLICATION)

4. Applicant makes application for exemption from licensing to the Federal Energy Regulation Commission (FERC) and an application for special-use authorization to the Forest Service (sec. 61.3).

5. FERC sends out notification of the application for exemption after finding the application acceptable as in the case of a license application.

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

6. The Forest Service reviews the applicant's environmental analysis in the environmental report of the application.

7. The Regional Forester responds to FERC with a letter stating the agency position and concerns, if any, and asking FERC to advise the applicant to contact the Forest Supervisor for a special-use authorization (sec. 53.2). This is not a 4(e) response.

FERC DECISION

8. The applicant obtains Exemption from Licensing, which contains, as a minimum, the five standard articles found in FERC Order 106 (sec. 55). Article 5 requires the applicant to obtain a special-use authorization and Article 2 requires compliance with any Fish and Wildlife management agency requirements. FERC sends the Forest Service the environmental assessment used in exempting the project.

9. The exemptee must obtain an investigation memorandum of understanding and/or special-use permit from the Forest Service (usually done by step 2) for investigations on National Forest System land. Cultural resource investigations by the exemptee or consultant require a cultural resources special-use permit. If used, an investigation memorandum of understanding is intended to establish coordination and study requirements and to define when a special-use permit is required (sec. 41.3).

10. The Forest Service works with the exemptee to ensure that the project develops in a logical manner; uses an interdisciplinary team to evaluate proposals as they develop; and keeps public involvement an ongoing process.

11. If not done at step 4, the exemptee makes an application for special-use permit.

FOREST SERVICE ANALYSIS AND DECISION

12. The Forest Service conducts an environmental analysis (review) on actual special-use permit application. Public contacts may be appropriate here also (sec. 32.4).

13. The Forest Service ensures the proper documentation of the analysis (sec. 32.5) and issues a decision (sec. 32.6) before the next Forest Service steps.

14. The exemptee applies for other permits (Army Corps of Engineers, fish and game, water quality). Except as specified by these agencies, the exemptee may apply for these permits at any time. Exemptee must have a valid water right at the time of

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

application for exemption, and before starting construction under the Forest Service special-use authorization.

DESIGN

15. The exemptee works on detailed plans and specifications.

16. The exemptee must supply plans and other information early enough for the Forest Service to make an adequate review (sec. 62). The Forest Service reviews and approves plans.

17. The Forest Service reviews and approves all technical aspects of the project, including design plans, site plans, and specifications; however, acceptable technical reviews made by consultants and other agencies may be substituted. Note: Review each draft because things, which previously were acceptable, may be changed as corrections are made (sec. 12.2 and sec. 61.81).

18. The Forest Service issues a special-use authorization including construction stipulations (sec. 61.51b) (only after FERC grants an exemption). This includes the environmental plans previously prepared.

CONSTRUCTION

19. The exemptee starts construction. The Forest Service monitors and manages through special-use authorization. The county, where required, may inspect construction through a building permit. Note: (a) continual on-the-ground coordination is essential especially in early stages; (b) Forest Service inspection and coordination may be at exemptee's expense if covered in a collection agreement.

Coordination includes:

- a. On-the-ground layout, clearing limits, and road location.
- b. Changes.
- c. Environmental monitoring.
- d. Unforeseen disasters such as spills and impacts missed in the reviews.
- e. Fire inspections, plans, and permits.
- f. Blasting coordination.

Forest Service Handbook 2709.15 – Hydroelectric Handbook
Chapter 20 - Forest Service Procedures
Amendment: 2709.15-Amendment 1
Effective date: February 01, 1987
Exhibit 1--continued

- g. Administration of special-use authorization clauses.

Note: Other agency regulation of construction activity is usually minimal and the Forest Service should keep other concerned agencies informed on project status.

Note: The Forest Service shall not supervise or direct any construction activity.

20. Forest Service approves a constructed project.

21. The Forest Service removes construction stipulations from the current authorization.

22. The Forest Service and exemptee work together on project operation during the life of the project (road maintenance, vegetation control, powerline maintenance, winter road use, recreation management).