

**FSM 2700 - SPECIAL USES MANAGEMENT
CHAPTER 2770 - FEDERAL POWER ACT PROJECTS**

2773.2 - Applications for Preliminary Permit

The Regional Forester shall provide comments on potential problems and concerns and conditions for applications for preliminary permits on projects affecting National Forest System lands and resources. Do not prepare a 4(e) report for a preliminary permit.

2773.3 - Applications for Exemption

The Regional Forester shall identify potential problems and provide comments and recommendations to FERC on applications for exemptions. Incorporate standard and special conditions required on exemptions in the special use authorization. Do not prepare a 4(e) report for an exemption.

2773.4 - Requirements Affecting Power Production Capability

Do not include conditions and requirements affecting power production capability in the Forest Service special use authorization for a FERC licensed project, except where a Federally-owned dam under the jurisdiction of the Forest Service is involved.

2774 - COORDINATION

2774.1 - Actions Within Project Boundaries

Prior to initiating activities or authorizing uses by others on National Forest System lands covered by a hydropower project special use authorization or license, ensure that such activities or uses will not adversely affect project operations or conflict with the terms and conditions of the project special use authorization or license. Prior to granting special use authorizations to third parties, review with the Federal Energy Regulatory Commission (FERC) and affected licensee the proposed non-project uses within the boundaries of licensed projects.

2774.2 - Exchange Within Withdrawals

Exchange or otherwise dispose of lands withdrawn for power purposes within licensed project boundaries only after (1) FERC vacates or amends the withdrawal, opening (restoring) the lands, or (2) FERC makes a determination that the lands may be conveyed subject to a Section 24 (Federal Power Act) reservation in the patent or deed.

2774.3 - Removal of Withdrawals

Petition FERC to release the powersite withdrawal and retract the project boundary from National Forest lands in excess of that actually needed for the project.

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2774.4 - Federal Takeover of Project Facilities

See FSM 2716.4 and FSM 7530 for directions on Federal takeover of project facilities.

2774.5 - Coordinated Forest Service Administration

Where a project involves more than one forest or region, the Chief or the appropriate Regional Forester shall designate a lead region or forest to serve as the primary contact for coordination purposes.

2775 - SPECIAL AREAS

2775.1 - Projects in Designated Wilderness Areas

For additional direction, see FSM 2320.

A new hydropower project may occupy land in a wilderness only if the President approves (16 U.S.C. 1133(d)(4)). The Federal Energy Regulatory Commission (FERC) is responsible for the environmental impact statement (EIS) needed to evaluate proposed licensing of the project. Such an EIS would be prepared with the cooperation of the Forest Service. If the Forest Service determined that the proposal was in the public interest, the Forest Service would submit the EIS, along with its recommendation and proposed regulations, through the Department of Agriculture to the President for a decision. The 4(e) report, then, would be submitted to FERC by the Forest Service if the President approves the project and the associated use of the wilderness. Special use authorization for study and other non-ground-disturbing activities in a wilderness may be issued without Presidential approval.

2775.2 - Projects in Roadless Areas

Roadless areas include legislatively unreleased RARE II areas, Further Planning Areas, and Congressionally mandated Wilderness Study Areas. Generally, grant special use authorizations in these areas only for study and other non-ground disturbing activities pending implementation of the forest plan. Preferably hold proposals within these areas until the forest plan is approved. If the land use decision must be made earlier, conduct a suitable analysis in compliance with the National Environmental Policy Act.

2775.3 - Projects in Wild and Scenic Rivers Areas

Any hydropower project-work licensed under the Federal Power Act (FPA) of June 5, 1920 (16 U.S.C. 791(a) et seq.) within the corridor of a river designated as a "wild and scenic river" as provided for in sections 2(a)(ii) and 3(a) of the Wild and Scenic River (W&SR) Act of October 2, 1968 (16 U.S.C. 1278) or a study river as provided for in section 5(a) of the W&SR Act is prohibited. Project proposals upstream, downstream, or on a stream tributary to a designated wild and scenic river may not invade the designated river area or unreasonably