

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

4. Energy Policy Act of October 24, 1992 (106 Stat. 2776; 43 U.S.C. 1761(d)). This act amends section 501 of FLPMA by providing that Forest Service authorizations are not required for the continued operation of projects licensed or exempted by FERC as of October 24, 1992, unless prior to that time, all or part of the project had been under a FLPMA act authorization or additional National Forest System lands were proposed to be added to the licensed or exempted project area.

5. Title 7, Code of Federal Regulations, Section 2.60(a)(28). Delegates to the Chief the authority to represent the U. S. Department of Agriculture in all matters relating to responsibilities and authorities under the Federal Power Act.

### **2770.2 - Objective**

To encourage hydropower production where it is compatible with National Forest purposes and ensure that the planning, construction, and operation of hydropower projects protect and effectively utilize National Forest System lands and resources.

### **2770.3 - Policy**

1. Consider energy potential a National Forest System resource in arriving at management decisions concerning proposed hydropower projects.
2. Respond to the Federal Energy Regulatory Commission's (FERC) notice of acceptance of a license application with a report pursuant to section 4(e) of the Federal Power Act of October 24, 1992 (43 U.S.C 1761(d)) for any project that occupies National Forest System land. See FSH 2709.15, chapter 50 for additional direction in responding to FERC license applications.
3. Provide FERC with a statement of the conclusions as to the project's consistency or interference with National Forest purposes and the project's consistency with the applicable land management plan. Identify the nature and extent of any significant inconsistency or interference.
4. Coordinate with FERC and other Federal and State agencies, as appropriate, in determining the license conditions necessary for the protection and utilization of National Forest System lands and resources. Transmit to FERC those section 4(e) license conditions the Forest Service considers necessary to mitigate effects on National Forest System lands and resources that are directly attributable to project operations and maintenance. Section 4(e) conditions shall be:

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

- a. Necessary to protect and utilize National Forest System lands and resources; these conditions must be clearly described or guided by the applicable land management plan and authorities;
  - b. Capable of achieving the desired results and supported by substantial evidence regarding their effectiveness; and
  - c. Directly attributed to the operation, maintenance, and/or occupancy of the project on National Forest System lands.
5. In a licensing proceeding for an existing project, do not require a licensee under section 4(e) to mitigate for impacts associated with original inundation of National Forest System lands authorized under the current license.
  6. Coordinate with other Federal and State agencies that have the authority for mandatory license conditions to achieve consistency and avoid conflicting license conditions.
  7. Coordinate with the license applicant(s), Federal and State authorities, and, where appropriate, Tribal and local governments and other interested parties to develop mutually agreed upon license conditions.
  8. Participate in FERC licensing to reduce delays and minimize the need for post-licensing data collection and analyses and to provide information, as appropriate, for other agencies to consider in fulfilling their responsibilities in project licensing.
  9. Provide additional license conditions to FERC as recommendations under section 10(a) of the Federal Power Act. Such additional license conditions may include mitigation or enhancement measures contained in settlement agreements applicable to National Forest System lands or resources.
  10. Participate with FERC in the preparation of needed environmental documentation such that on-the-ground activities on National Forest System land required by the license or license amendment may be implemented without additional environmental review and documentation required and/or performed by the Forest Service.
  11. Coordinate with FERC to provide information and rationale to support 4(e) conditions, 10(a) recommendations, or other conditions contained in FERC environmental analyses. File license conditions and supporting analyses with FERC in a timely manner to meet procedural deadlines.
  12. Encourage the project owners of unlicensed hydropower projects on National Forest System lands to obtain a determination from FERC regarding jurisdiction under the Federal Power Act.