

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

Issue a special use authorization for hydropower projects:

1. In existence on October 24, 1992, and subject to the Forest Service authorization requirement; or
2. Proposed after October 24, 1992, only after the project is licensed or exempted from licensing by FERC.

**2771.1 - Coordination With the License**

Use the following to provide a reasonable and orderly phase-in of Federal Land Policy and Management Act (FLPMA) requirements:

1. License Issued Prior to FLPMA. A licensee does not need a Forest Service special use authorization for project facilities authorized by a Federal Power Commission (FPC) license issued prior to October 21, 1976. A license issued prior to FLPMA by the FPC (now FERC) under the Federal Power Act serves as authorization to occupy Federal lands.
2. License Issued Between October 21, 1976, and July 6, 1980. A holder of a FPC/FERC license or license amendment issued between October 21, 1976, and July 6, 1980, must have a Forest Service special use authorization if advised to do so by the Forest Service during that period (or if a Forest Service special use authorization was actually issued during that period).
3. License Issued After July 6, 1980. A holder of a FERC license issued after July 6, 1980, must have a Forest Service special use authorization. This includes original and new (reissued) licenses unless the requirement for a permit was waived by the Forest Service during the period October 21, 1976, and July 6, 1980. If a Forest Service special use authorization already exists, amend it to include the added lands.
4. License Amendments After July 6, 1980, of Licenses Issued Prior to FLPMA. A special use authorization is required for the use of National Forest System lands affected by a license amendment issued after July 6, 1980, even though the current license was issued prior to passage of FLPMA.

**2771.2 - Content**

Special use authorizations shall authorize the occupancy and use of National Forest lands and shall include those conditions and requirements that are not included in the license but which are necessary for comprehensive and compatible use of land, water, and energy resources consistent with the purposes for which the National Forests were created or acquired.

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### **2771.3 - Term**

For FERC licensed projects, issue special use authorization for the same term as the license. For FERC exempted projects, an authorized officer shall determine the term of the permit. Temporary facilities may be authorized for a shorter time period.

### **2772 - ANALYSIS**

#### **2772.1 - Environmental Analysis and Documentation**

For additional direction, see FSM 1950, FSH 1909.15, and FSH 2709.15, chapter 30.

#### **2772.11 - Licensed Projects**

The Federal Energy Regulatory Commission (FERC) is responsible for National Environmental Policy Act (NEPA) compliance for projects licensed by FERC. FERC is usually the Federal lead agency for licensed projects when an environmental impact statement (EIS) is to be prepared. It is the responsibility of the authorized officer to request to designate the Forest Service as a cooperating agency when National Forest System lands are affected.

#### **2772.12 - Exempted Projects**

The Forest Service is responsible for NEPA compliance for hydropower projects on National Forest System lands exempt from a FERC license.

#### **2772.2 - Mitigation**

Document those resource losses which can be mitigated under existing laws. Identify alternative methods of mitigating such losses.

### **2773 - FEDERAL ENERGY REGULATORY COMMISSION APPLICATION**

#### **2773.1 - Applications for License**

The Regional Forester shall state the official position of the Department of Agriculture regarding licensing of projects affecting National Forest System lands and resources in the report submitted to the Federal Energy Regulatory Commission (FERC) under the provisions of Section 4(e) of the Federal Power Act (FSH 2709.15, ch. 50). Where appropriate, include comments on the effects on other programs of the secretary.