

FERC-1
Hydroelectric License
Federal Energy Regulatory Commission
Office of Energy Projects

Permit Packet Includes:

1. Process Overview
2. 18 CFR Part 5 (see Addendum **18 CFR 5**)
3. FERC Guide to Developing Small/Low-Impact Hydropower Projects
4. FERC Small/Low-Impact Hydropower Projects FAQ's
5. FERC Handbook for Hydroelectric Project Licensing and 5 MW Exemptions from Licensing, April 2004
6. FERC Hydroelectric Project Handbook for Filings other than Licenses and Exemptions, April 2001
7. FERC Matrix Comparing ILP, TLP, and ALP Processes
8. Ideas for Implementing and Participating in the Integrated Licensing Process (ILP): Tools for Industry, Agencies, Tribes, Non-Governmental Organizations, Citizens, and FERC Staff, February 2006
9. FERC Guidance on Environmental Measures in License Applications
10. FERC Hydropower Licensing and Endangered Species, December 2001
11. Interagency Task Force Report on Improving Coordination of ESA Section 7 Consultation with the FERC Licensing Process, December 2000

Approval or Permit Required:

To construct, operate, or maintain a non-federal hydroelectric project that is or would be (a) located in the navigable waters of the U.S.; (b) occupy U.S. lands; (c) utilize surplus water or water power from a U.S. government dam; or (d) be located on a stream over which Congress has Commerce Clause jurisdiction, where project construction or expansion occurred on or after August 26, 1935, and the project affects the interests of interstate or foreign commerce.

Contact Information:

888 First Street, NE, Washington, DC 20426
Phone: 202-502-8700

Website:

<http://www.ferc.gov/industries/hydropower.asp>

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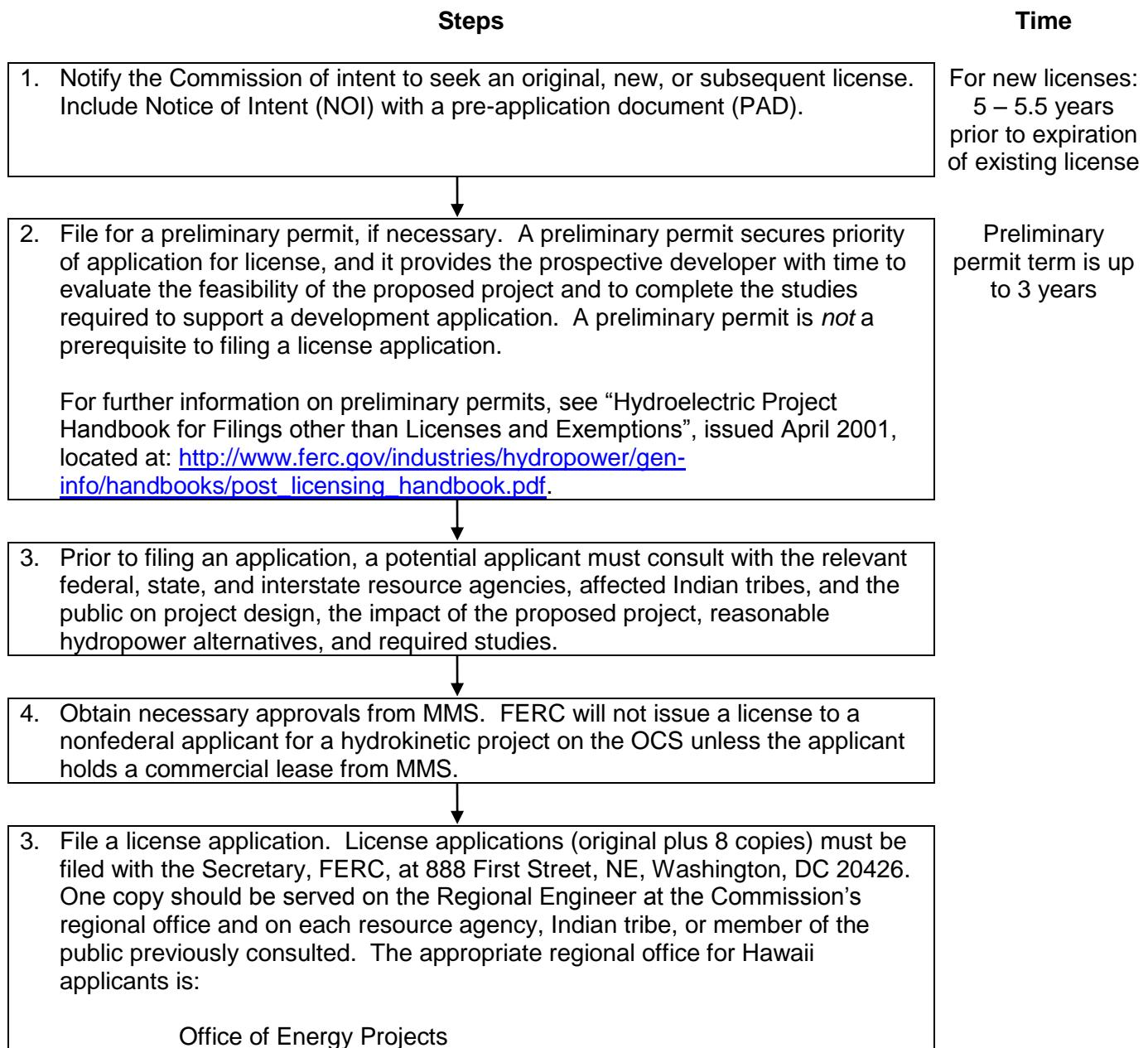
Notes:

- In certain circumstances, limited testing may be conducted with a commercial MMS lease without a FERC license under the MMS Site Assessment Plan (SAP) if:
 1. The technology in question is experimental;
 2. The proposed facilities are to be utilized for a short period for the purpose of conducting studies necessary to prepare a license application; and
 3. Power generated from the test project would not be transmitted into or displaced from the interstate electric grid and would therefore not constitute "developing electric power" for purposes of the Federal Power Act (FPA).
- FERC does not have licensing authority to approve a project in a National Park or Monument located on the OCS. Depending on the individual authorization, FERC may be authorized to issue hydrokinetic licenses in National Marine Sanctuaries and Wildlife Refuges located on the OCS. Contact FERC with specific questions.
- A FERC license is required for both the OCS and State waters portion of a straddle project (projects that straddle the boundary dividing state waters and the OCS). FERC would prefer to license the entire project as a whole, which is feasible if the applicant consults with FERC and MMS early in the planning process.
- FERC issues three types of authorizations: Licenses, 5-MW Exemptions, and Conduit Exemptions.
 - o Licenses are issued for 30- to 50-year terms and must be renewed. Gives the licensee the power of "eminent domain" to obtain lands or other rights needed to construct, operate, and maintain the hydroelectric plant.
 - o A small hydroelectric project of 5 MW or less may be eligible for a 5 MW exemption. 5-MW Exemptions are issued in perpetuity, must be located at the site of an existing dam or use a natural water feature, and must propose increased capacity. The exemptee must own all lands and facilities other than federal lands to be eligible. For small-hydropower projects (< 5 MW) contact FERC staff to get advice on the best way to obtain authorization for your project. 1-866-914-2849 or smallhydro@ferc.gov.
 - o A small conduit hydroelectric facility up to 15 MW (up to 40 MW for certain projects) may be eligible for a Conduit Exemption. Conduit Exemptions are issued in perpetuity and must use the potential of a conduit constructed primarily for non-hydropower purpose. The exemptee must own the proposed powerhouse and the lands upon which the powerhouse will be located. A conduit exemption may not be used on Federal lands. For further information on Conduit Exemptions, see "Hydroelectric Project Handbook for Filings other than Licenses and Exemptions", issued April 2001, located at: http://www.ferc.gov/industries/hydropower/gen-info/handbooks/post_licensing_handbook.pdf.
- There are three licensing processes: Integrated (ILP), Traditional (TLP) and Alternative (ALP). Effective July 23, 2005, ILP is the default process for filing an application for an original, new, or subsequent license. Commission approval will be required to use the TLP or ALP. For more information on the licensing processes, see the FERC Hydropower Licensing website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing.asp> or the "Handbook for Hydroelectric Project Licensing and 5 MW Exemptions from Licensing", issued April 2004, at: http://www.ferc.gov/industries/hydropower/gen-info/handbooks/licensing_handbook.pdf
- For more information on MMS/ FERC Guidance, see "MMS/ FERC Guidance on Regulation of Hydrokinetic Energy Projects on the OCS" at:

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<http://www.ferc.gov/industries/hydropower/gen-info/licensing/hydrokinetics/pdf/mms080309.pdf>

- For more information on preparing environmental assessments, see "Guidance on Environmental Measures in License Applications" located at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/guidance.pdf>, and "Preparing Environmental Documents: Guidelines for Applicants, Contractors, and Staff", issued September 2008, located at: <http://www.ferc.gov/industries/hydropower/gen-info/guidelines/eaguide.pdf>



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All license applications require certain general information items, an initial statement, and several specified exhibits. Not all exhibits are required for certain types of smaller projects. The specific contents of a license depend on the type of project that is being proposed.

4. Publish notice twice of the filing of the application. The notice must be published in a local in a daily or weekly newspaper of general circulation in which the project is located. Proof of the notice must be provided to the Commission.

14 days from
Item #3

5. Processing an application begins when the Commission issues a public notice of the tendering of the application for filing. The tendering notice will be published in the Federal Register, local newspapers, and directly with tribes and agencies. The notice will contain a preliminary schedule for processing the application.

6. For the Traditional Licensing Process, agencies, tribes, and other persons may identify additional scientific studies that they believe are necessary to form an adequate factual basis for completing an analysis of the application on its merits.

60 days from
Item #4

7. If the Commission determines that the application patently fails to comply with basic regulatory requirements of content and pre-filing consultation, the Commission can reject the application as patently deficient, with the understanding that the application cannot be resubmitted after the 24-month deadline for filing.

8. The Commission notifies the applicant by letter, or in the case of minor deficiencies, by telephone, describing any deficiencies in the application. The letter will establish a deadline for deficiency correction, generally 90 days after the date of the letter.

30 days from
Item #3

9. Correct deficiencies and provide requested additional information.

Up to 90 days
from Item #8

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10. Under the Integrated (ILP) and Traditional Licensing Processes (TLP), the Commission will publish a ready for environmental assessment (REA) notice requesting comments, recommendations, terms and conditions, and prescriptions once it has determined that all studies have been completed and the record is complete to conduct its environmental analysis. Under the ILP, the notice will be issued concurrently with the notice accepting the licensing application.

Under an alternative process where the applicant files a preliminary draft EA, or preliminary draft EIS prepared by a third-party contractor, no REA notice need be given by the Commission. Instead, the Commission will issue a notice requesting that agencies, affected Indian Tribes, and interested entities file final comments, recommendations, terms and condition, and prescriptions.

11. Comment period. Includes submission of recommendations by the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and state fish and wildlife agencies.

60 days

12. The Commission issues a preliminary determination of inconsistency in the event Commission staff finds any recommendation inconsistent with the Federal Power Act (FPA) or other applicable law, the staff will make a preliminary determination, after which the staff shall attempt to reach with the agencies a mutually acceptable resolution of any such inconsistency.

13. The Commission schedules any meeting, teleconference, or additional procedure to attempt to resolve the differences with the resource agencies. The Commission will provide notice of any meeting, teleconference, or other additional procedure at least 15 days in advance.

90 days from
Item #12

14. To comply with Section 401(a)(1) of the Clean Water Act, the applicant must file a copy of the water quality certification; a copy of the request for certification, including proof of the date on which the certifying agency received the water qualification certification request; or evidence of waiver of water quality certification.

60 days from Item
#10

15. Applicant files replies to comments.

105 days from
Item #10

16. To satisfy NEPA requirements, the Commission will scope the issues and level of analysis required for its licensing action by holding public meetings to solicit comments; or it may, in the case of less complex and controversial projects, solicit comments in writing only. The timing of these meetings will depend on the licensing process. The Commission, in light of comments and responses received in response to the REA notice and during scoping, evaluates the license application to determine how it will be processed. If the Commission

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determines that an EA is adequate and that a draft EA is not required, the Commission will issue a single EA for comment. No additional EA will be issued. Comments on the EA will be addressed in any order issuing license. Otherwise, the Commission will issue a draft EA or EIS for comment and then prepare a final EA or EIS. The ILP has defined timeframes for completing NEPA documents; the TLP and ALP do not have defined timeframes.

17. Make final amendments to application. Occasionally, a filed application must be amended during application processing and before license issuing.

Date specified in Commission processing deadline notice or 30 days after issuance of ready for environmental analysis notice

18. The Commission's issues a decision on the license. In the case of an existing license, the target date for issuance of a relicensing decision is the expiration date of the original license. If processing extends beyond this date, annual licenses will be issued to the licensee until action on the new license is taken.

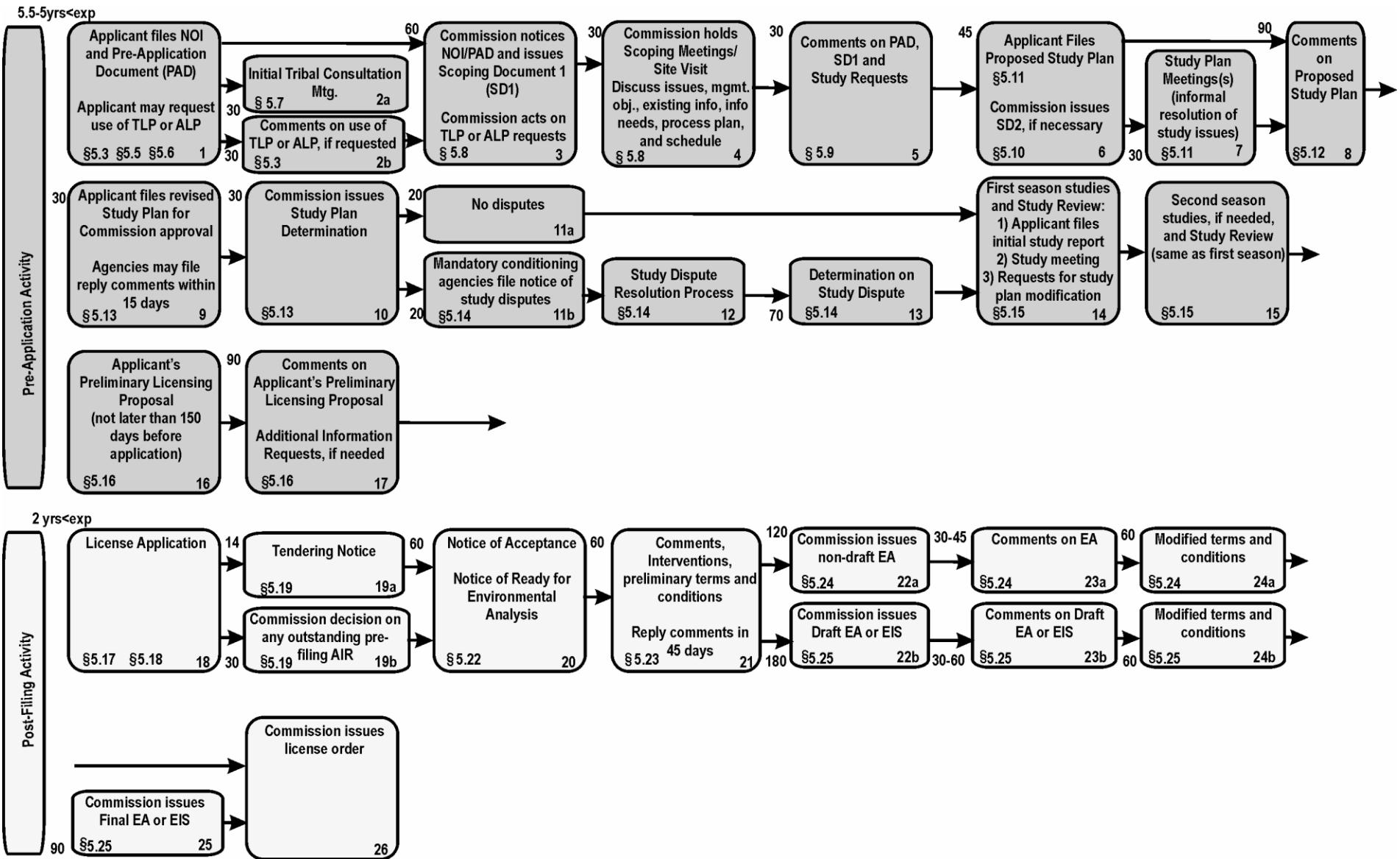
19. The license order, which contains the terms and conditions under which the project must be operated, is issued by either the Commission or its delegate.

20. The license becomes final, unless requests for rehearings and subsequent appeals are filed. Even if a request for rehearing and judicial review is filed, the license goes into effect when issued, unless the Commission orders otherwise.

30 days after Item #19

Total Time Period (minimum)

1 – 2 years



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Fees	Amount	Maximum
The lessee/licensee begins paying annual administrative and land charges to FERC either when project construction begins (for non-municipal entities) or when the project begins operating (for municipal entities). For all projects over 1.5 megawatts, including those on the OCS, FERC assesses administrative annual charges by dividing its calculated fiscal year program costs among all the licensees according to licensees' installed capacity.	Varies	Varies
FERC collects FPA Part I costs of other federal agencies based on an allocated share of the other agencies' documented fiscal year program costs. For projects occupying federal land, FERC assesses onshore government lands charge on per-acre charges established by the Forest Service on a county-by-county basis. FERC does not have a method for assessing charges for off-shore land. For projects using a government structure, charges are set at a graduated rate. For projects that occupy tribal land, charges are set on a case-by-case basis.		
Total Fees:	Varies	Varies