



FERC's Hydropower Licensing Program

November 7, 2012

Webinar Number: 1-877-857-1347

Meeting ID: 1088



Planned Agenda

10:00 AM

- Who is FERC and What Do We Regulate?
- Types of Authorizations
- Licensing Processes
- Basic Licensing Steps
- Other Laws and Regulations

1:00 PM

- Pumped Storage Developments
- Web Resources





What Does FERC Regulate?



- Electric Transmission
- Hydroelectric Projects



- Natural Gas
- Oil Pipelines



Mission: Reliable, efficient and sustainable energy for consumers



Organizational Structure



**Commissioner
John R. Norris**



**Commissioner
Philip D. Moeller**



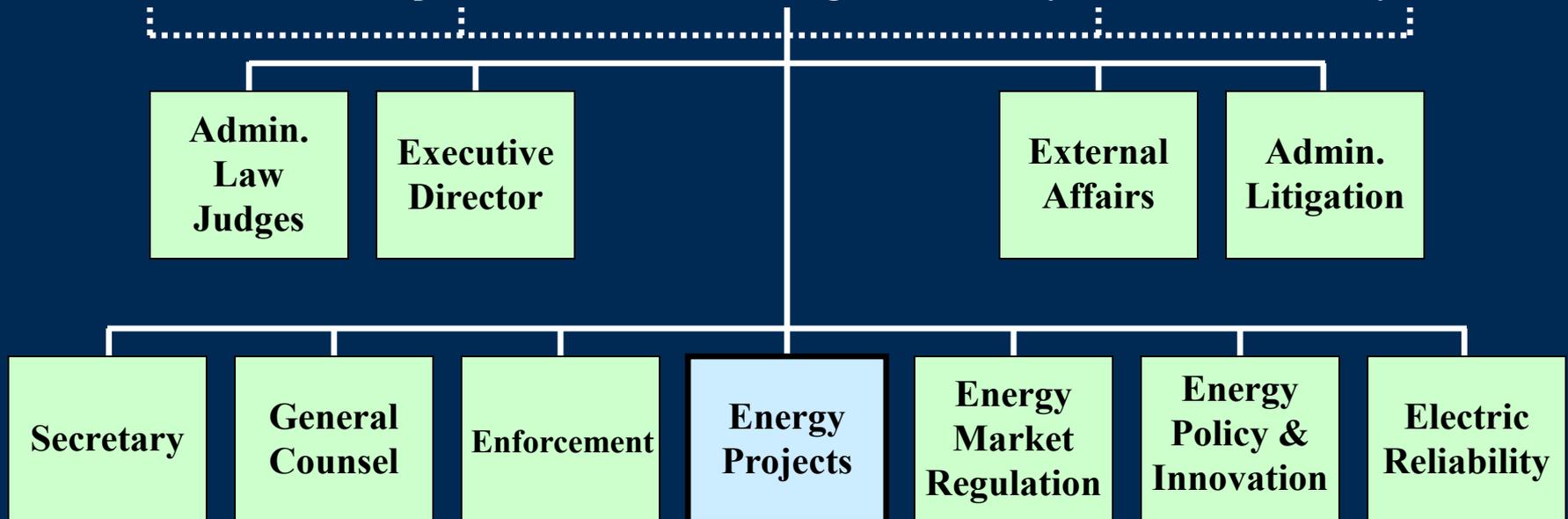
**Chairman
Jon Wellinghoff**



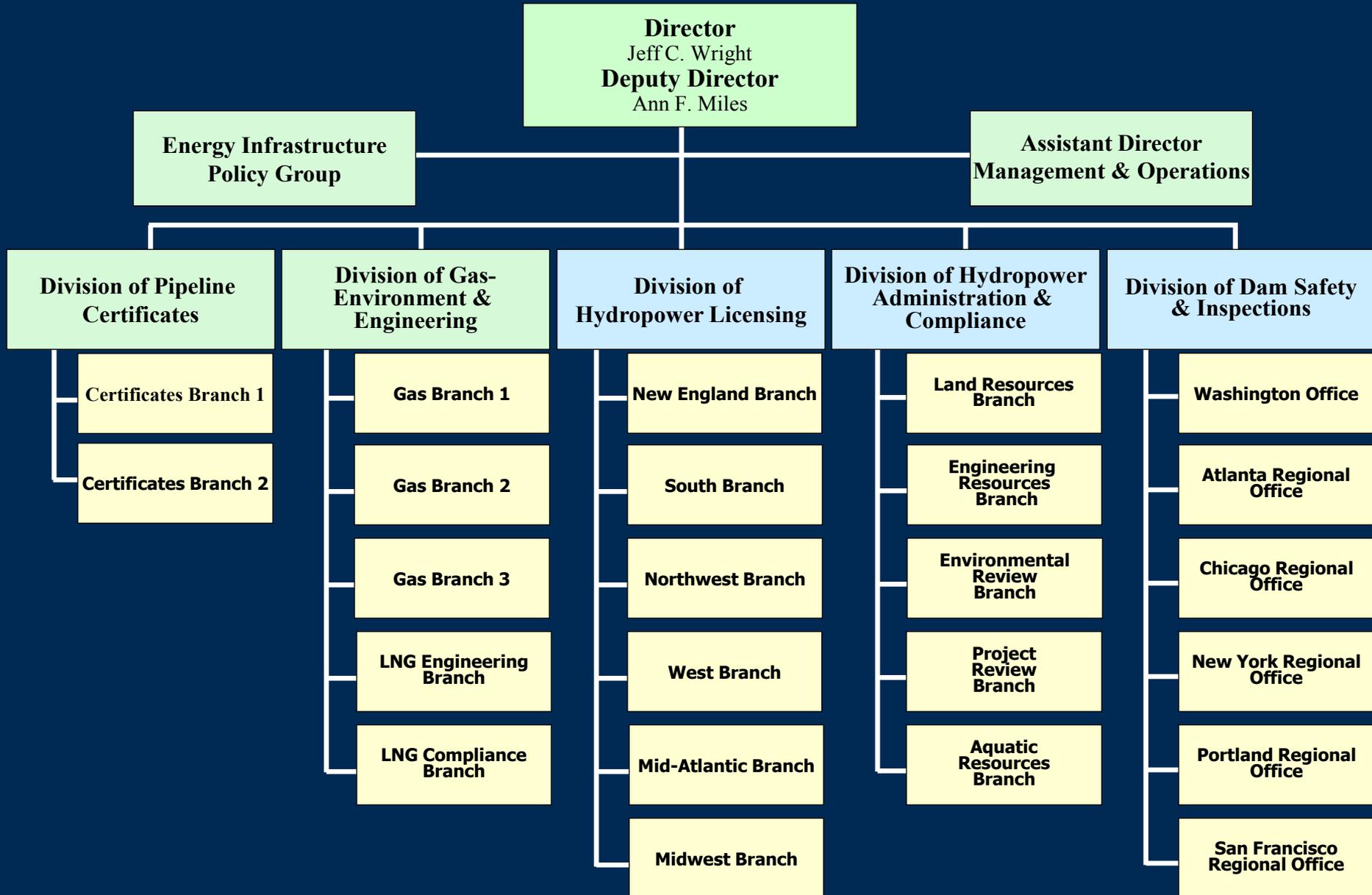
**Commissioner
Cheryl A. LaFleur**



**Commissioner
Tony Clark**



Office of Energy Projects



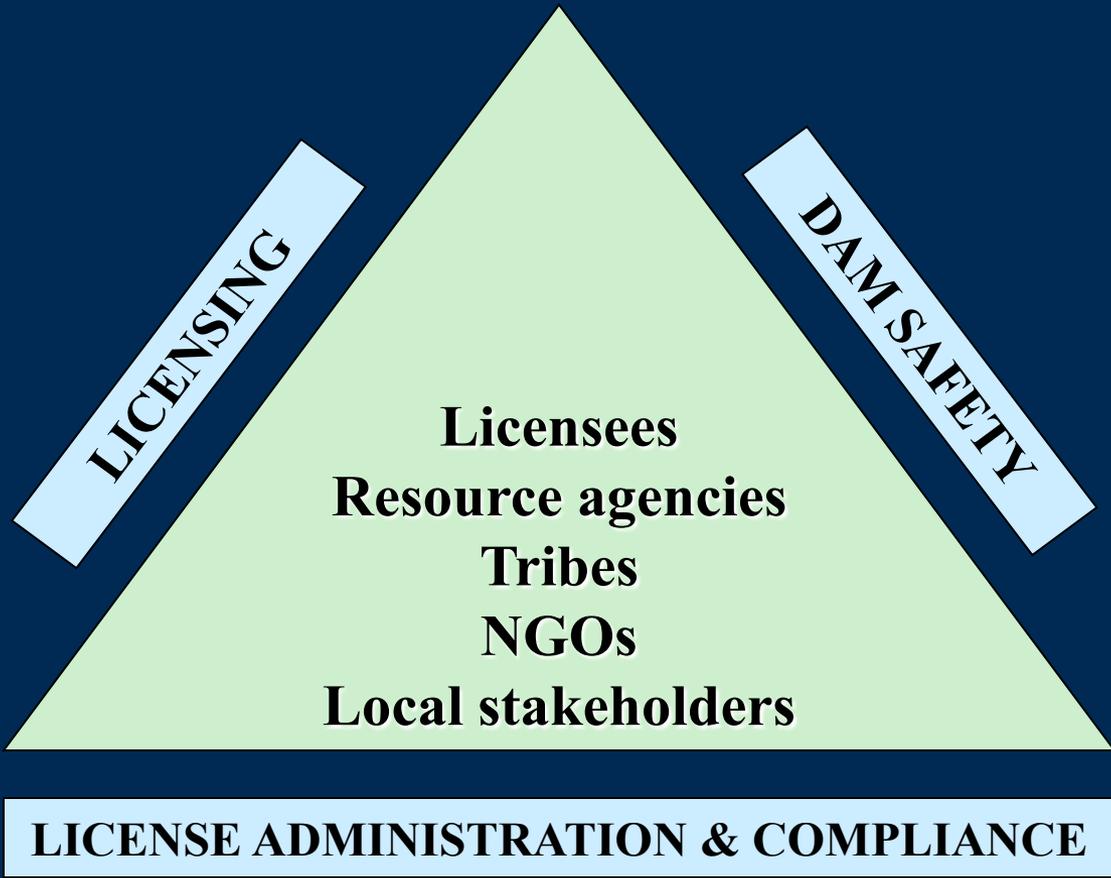


Hydropower Jurisdiction (Federal Power Act)

- Commission authorization is required for non-federal hydropower projects:
 - located on navigable waters;
 - located on public lands of the United States;
 - using surplus water from a federal dam; OR
 - located on Commerce Clause waters, constructed after 1935, and connected to the interstate grid.

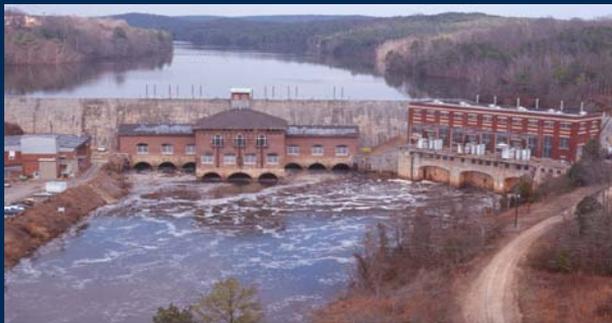


Hydropower Program





Division of Hydropower Licensing



- Efficiently process hydropower project applications
- Prepare and issue environmental documents
- Address agency, tribe, and public concerns fairly
- Analyze recommendations and incorporate reasonable environmental conditions into licenses



Division of Hydropower Administration and Compliance



- Ensure timely and effective compliance with license
- Take enforcement action if needed, including penalties
- Review and approve project changes
- Handle license surrender



Division of Dam Safety and Inspections



**SWIFT POWER CANAL
WASHINGTON 2002**

- Implement dam and public safety
- Ensure protection of life, property, and the environment
- Develop policies, programs, and standards for assessing dam safety
- Assess security measures



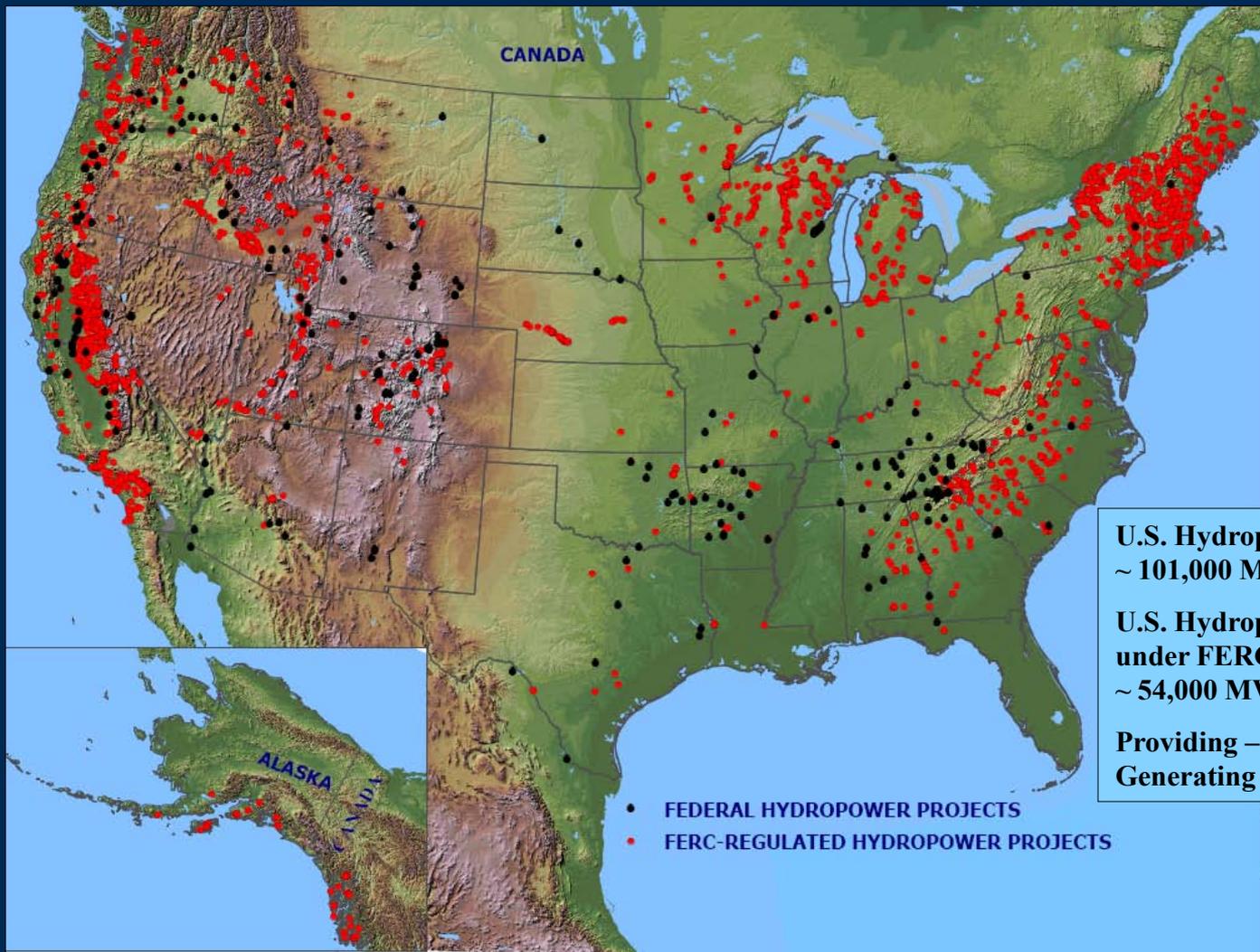
Types of Projects

- Conventional
 - Use head from a dam
 - Use conduit
- Pumped Storage
 - Upper and lower reservoir
- Hydrokinetic
 - No dam
 - Generate from ocean waves, currents, or tides or river flow of inland waterways





Conventional U.S. Hydropower Federal and FERC-Regulated



**U.S. Hydropower Capacity
~ 101,000 MW**

**U.S. Hydropower Capacity
under FERC Regulation
~ 54,000 MW**

**Providing – 10% of U.S.
Generating Capacity**

- FEDERAL HYDROPOWER PROJECTS
- FERC-REGULATED HYDROPOWER PROJECTS



Types of Authorizations

- Preliminary permit
 - Maintains priority of application for three years
 - Requires feasibility studies and pre-filing activities
 - Does not authorize construction
- License
 - Authorizes construction and operation
 - Issued for up to 50 years (original) or 30-50 years (relicense)
- Exemption: 5 MW or conduit
 - Authorizes construction and operation
 - Issued in perpetuity



Questions?



Licensing Processes

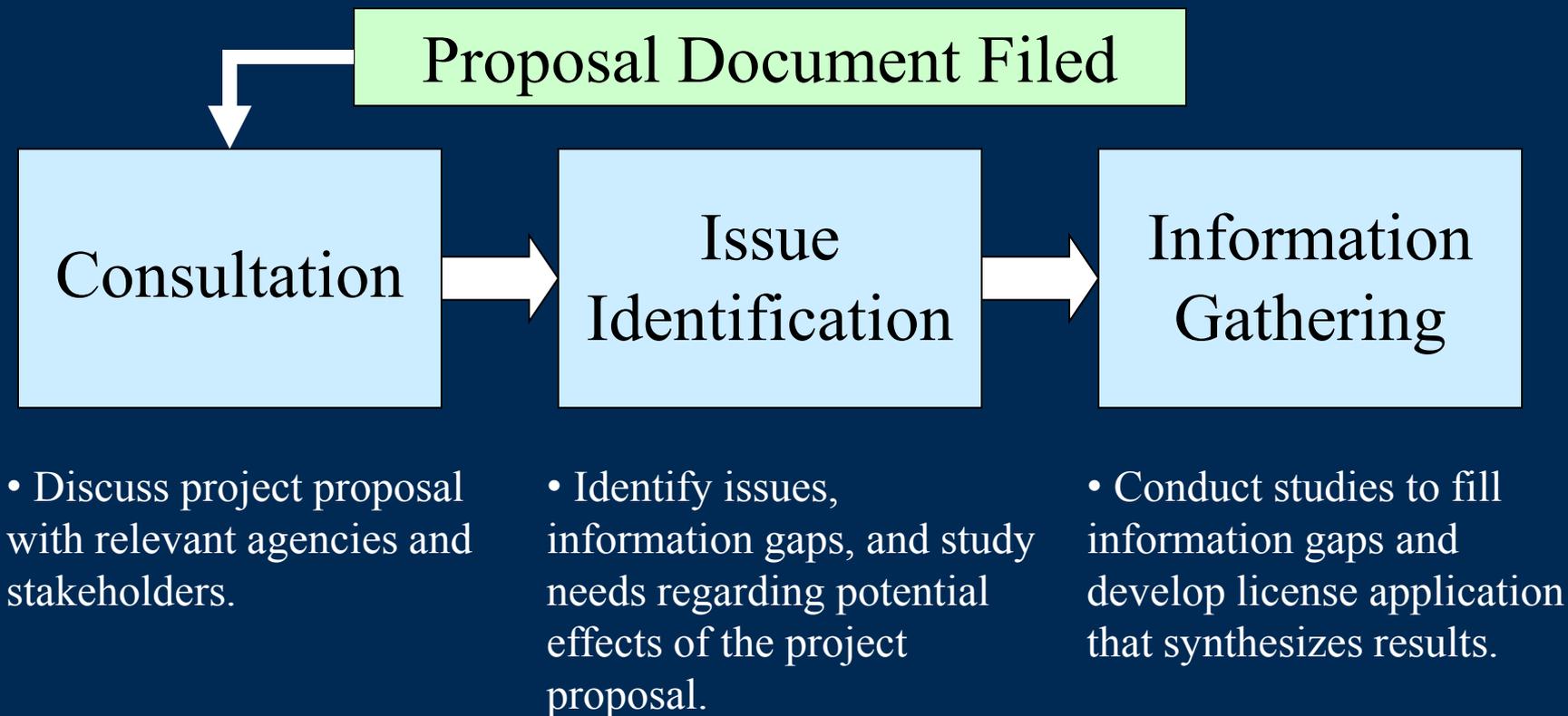
Integrated Licensing Process (ILP)	Alternative Licensing Process (ALP)	Traditional Licensing Process (TLP)
Default process	Available upon request and FERC approval	Available upon request and FERC approval
Projects with complex issues and study needs; FERC oversight in pre-filing	Projects that effectively promote a self-driven collaborative pre-filing process; some FERC involvement	Projects with less complex issues and study needs; no FERC oversight in pre-filing
Predictable scheduling in both pre-filing and post-filing stages	Collaboratively-determined schedule in pre-filing stage	Paper-driven process; no set timeframes

Post-filing elements of each process very similar



Basic Licensing Steps

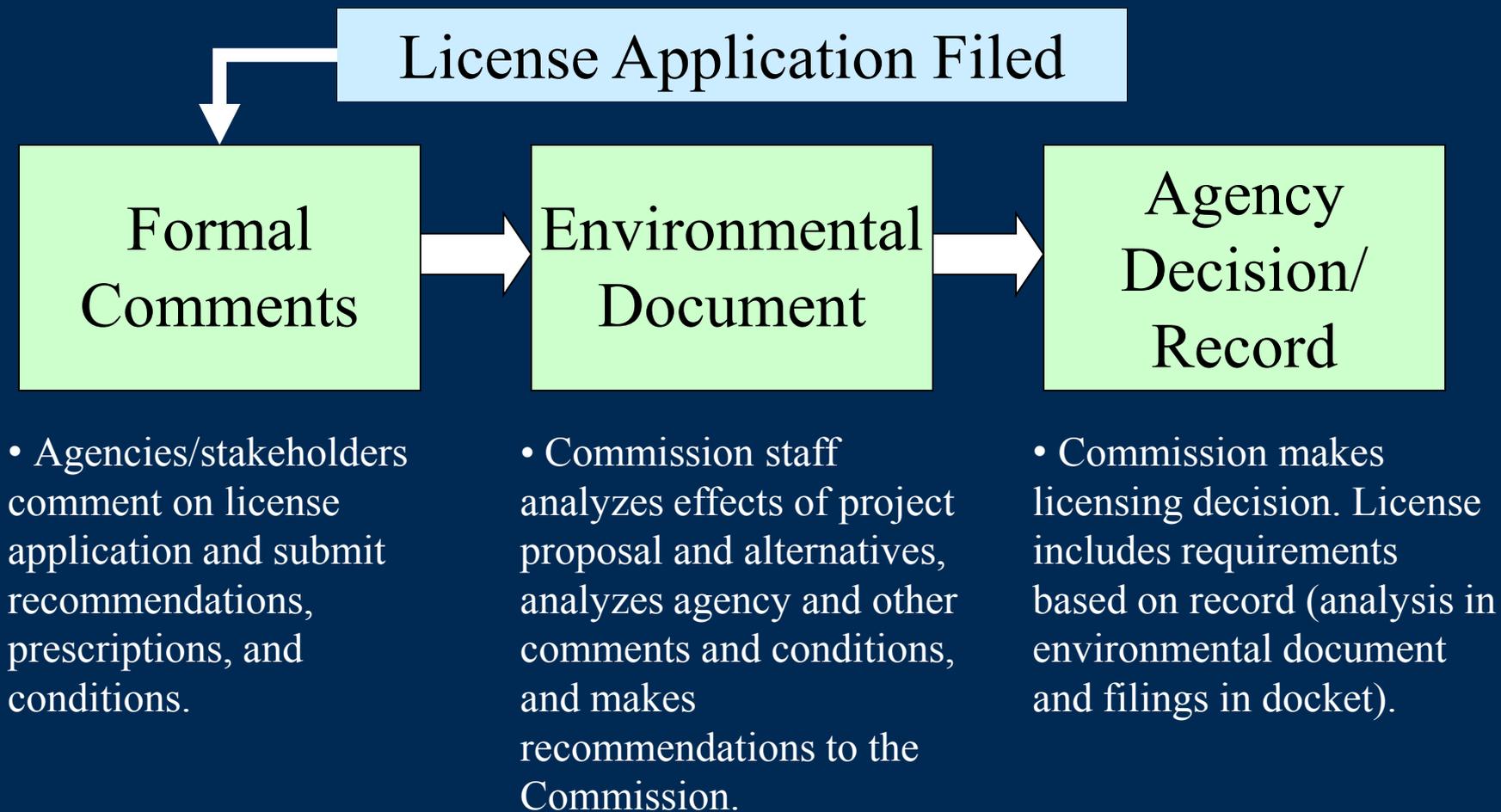
Pre-filing





Basic Licensing Steps

Post-filing





Integrated Licensing Process

Profiling

Initial Proposal & Information Document

Scoping Meetings & Public Comment

Study Plan Development

Conduct Studies & Prepare Application

1 year

2-3 years

Postfiling

Application: Proposal, Effects & Mitigation Measures

FERC Review & Public Comment

FERC Environmental Document & Public Comment

FERC Authorization (License Order)

1.5 years



Initial Steps





Purpose of the PAD

- Brings together all existing, relevant, and reasonably available information
- Provides basis for identifying issues, data gaps, and study needs
- Forms the foundation of future documents
- Sets the schedule for the ILP



Contents of the PAD

- Project description
- River basin description
- Description of existing environment and resource impacts to the extent they are known
- List of issues and information or studies proposed to fill identified information gaps
- List of relevant comprehensive plans
- Process plan
- Summary of contacts



Scoping and Study Requests

Prefiling





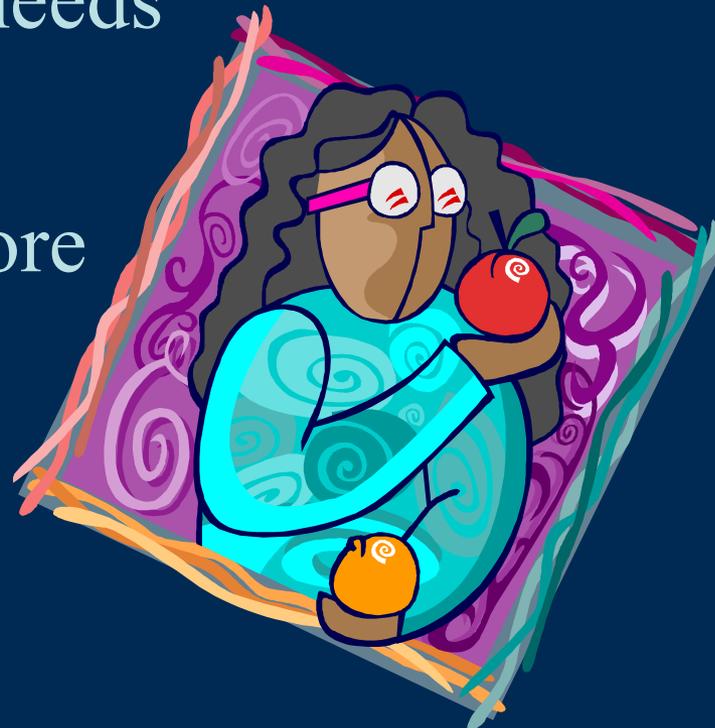
Study Request Criteria

- Describe goals and objectives of study proposal
- Explain relevant resource management goals
- Explain relevant public interest considerations
- Describe existing information and need for more info
- Explain nexus to project operations and effects and how study results would inform license requirements
- Describe methodology and how it's consistent with accepted practice
- Describe consideration of level of effort and cost of study and why alternative study is needed



Why are the study criteria important?

- Increased understanding of stakeholder information needs
- More focused studies
- Better study plans and more efficient use of time





Study Plan Development

Prefiling





Study Plan Development

Study Requests



Proposed Study Plan



Study Plan Meetings



Revised Study Plan



OEP Director's Study Plan Determination



Study Dispute Resolution

- Mandatory conditioning agency may dispute the OEP Director's determination for studies directly relating to the exercise of their conditioning authorities
 - A three-member panel of technical experts make recommendation
 - OEP Director considers the panel findings and makes decision with respect to study criteria and any applicable law or FERC policy



Conduct Studies & Prepare Application





Studies (1 to 2 years)

- Initial Study Report (within 1 year), modify plan if show good cause
 - Document study was not conducted according to approved study plan
 - Document anomalous environmental conditions
- Updated study report (within 2 years)
 - Same process as for initial study report



Preliminary Licensing Proposal

- Contents
 - Describes existing and proposed facilities, operation, and environmental measures
 - Includes draft environmental analysis
- Draft license application optional
- Draft BA, EFH Assessment, and Historic Properties Management Plan
- Comments/additional studies due within 90 days



Post-filing: Application Filed





Ready for Environmental Analysis (REA)





Environmental Document





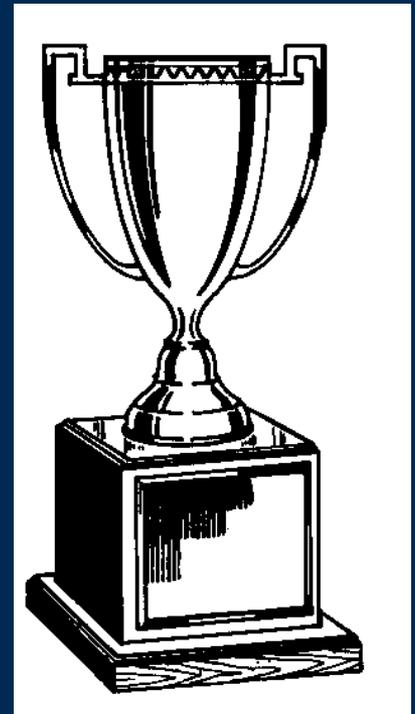
Licensing Decision





License Order

- Document compliance with applicable requirements
- Include license articles
- Approve/modify resource plans
- Approve design drawings





Traditional Licensing Process

Pre-filing

**NOI/PAD
Request Use of TLP**

**FERC Approves
Use of TLP**

Public Meeting

**Consultation on
Studies Needed for
Development of
Application**

Conduct Studies

**File License
Application**



Traditional Licensing Process

Post-filing

**Application
Filed**

Notice of Filing

NEPA Scoping

REA Notice

**Issue EA/Draft
EIS**

**Resolve Issues
and Respond to
Comments**

**Issue Final
EA/EIS**

Order



Alternative Licensing Process

Pre-filing

**Stakeholder
Consultation**

**Prepare
Communication
Protocol**

**NOI/PAD and
Request Use of
ALP**

**FERC
Approves Use of
ALP**

**Information
Package**

**Cooperative
Scoping**

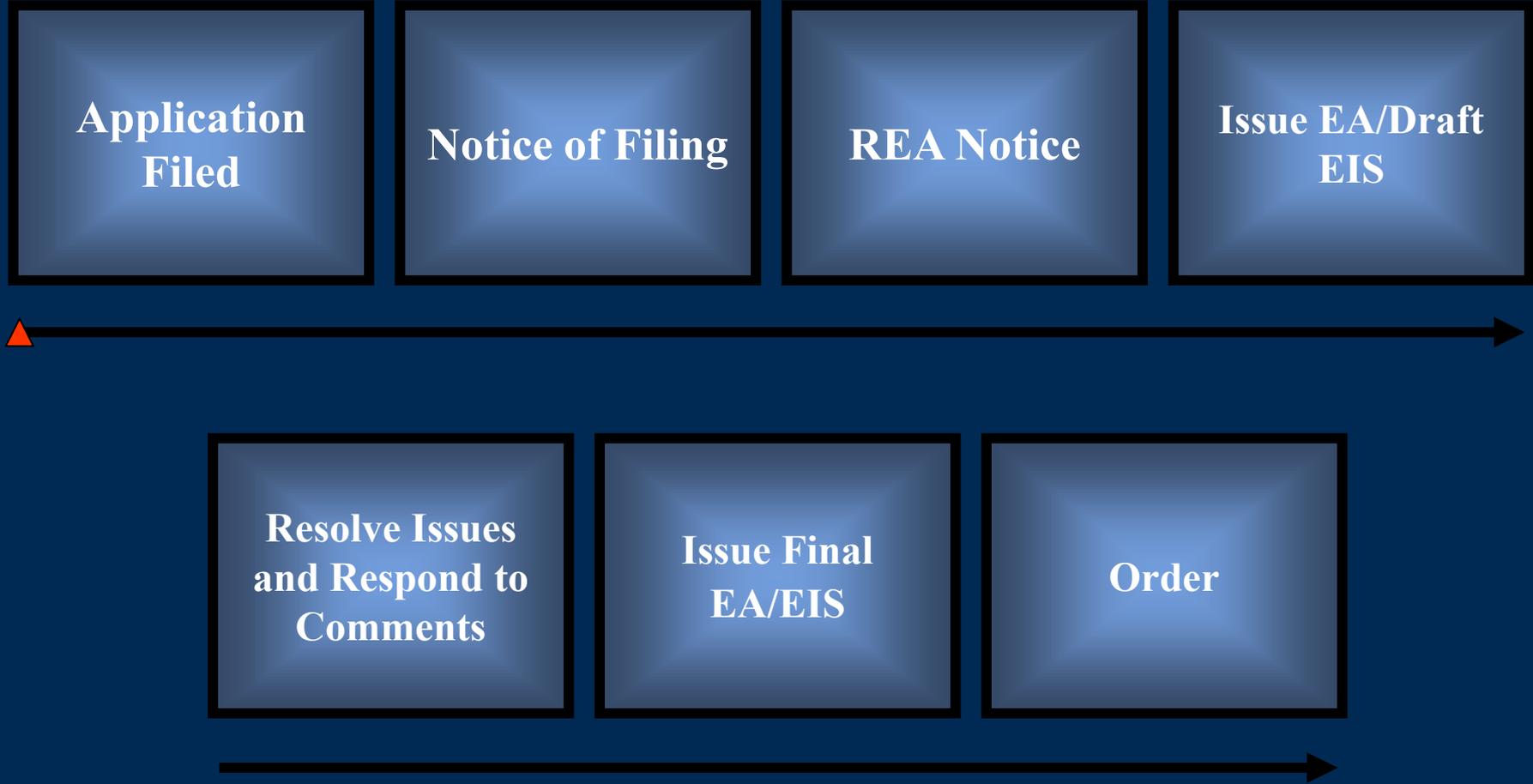
**Conduct
Studies**

**File License
Application**



Alternative Licensing Process

Post-filing





Process Comparison

	TLP	ALP	ILP
Consultation	Meetings and Paper	Collaborative	Integrated
Pre-filing FERC Involvement	Only for study disputes	Yes	Yes
Deadlines	<u>Pre-filing</u> Some Process Defined <u>Post-filing</u> FERC/Process Defined	<u>Pre-filing</u> Collaboratively defined <u>Post-filing</u> FERC/Process Defined	<u>Pre-filing</u> Process Defined <u>Post-filing</u> Process Defined



Process Comparison

	TLP	ALP	ILP
Study Plan Development	<p>Applicant</p> <p>No FERC involvement</p>	<p>Collaborative workgroup meetings</p> <p>FERC assistance</p>	<p>Study plan meetings</p> <p>FERC approved</p>
Study Dispute Resolution	<p><u>Available</u> Agencies Tribes</p> <p>paper</p>	<p><u>Available</u> ALP participants</p> <p>paper</p>	<p><u>Available</u> Mandatory Agency</p> <p>Paper/panel</p>



Process Comparison

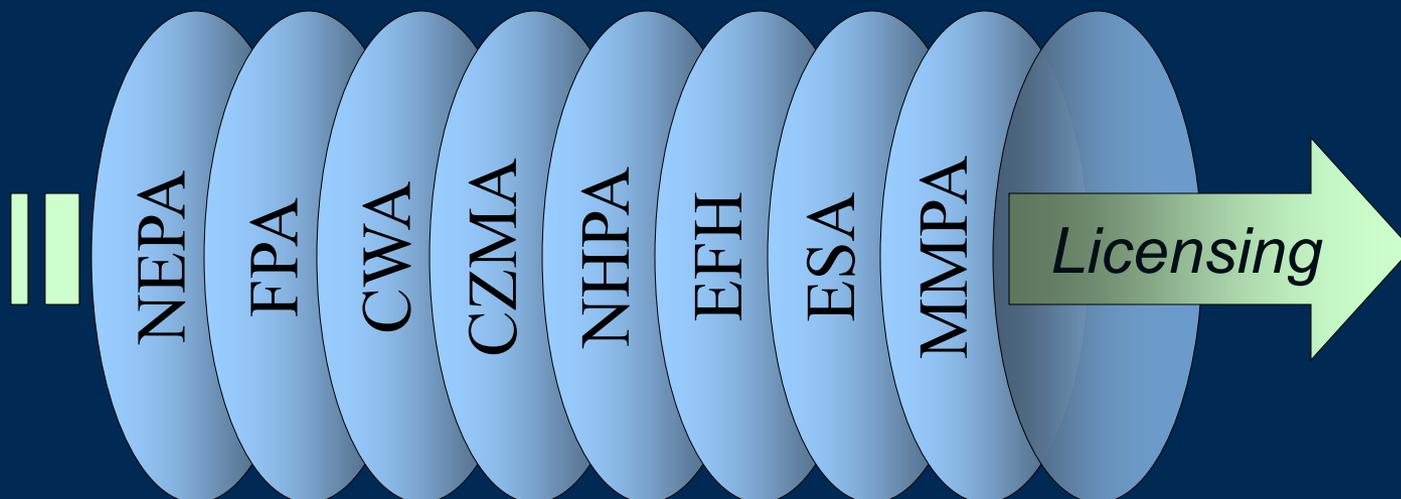
	TLP	ALP	ILP
Application	Exhibit E	May prepare APEA or 3rd party EIS	PLP or Exhibit E follows EA format
Post-filing Additional Information Requests	Yes	limited	No
Timing of Resource Agency Terms and Conditions	60 days after REA Schedule for final	60 days after REA Schedule for final	60 days after REA Modified 60 days after due date for comments on draft NEPA document



Questions?



Other Laws & Regulations



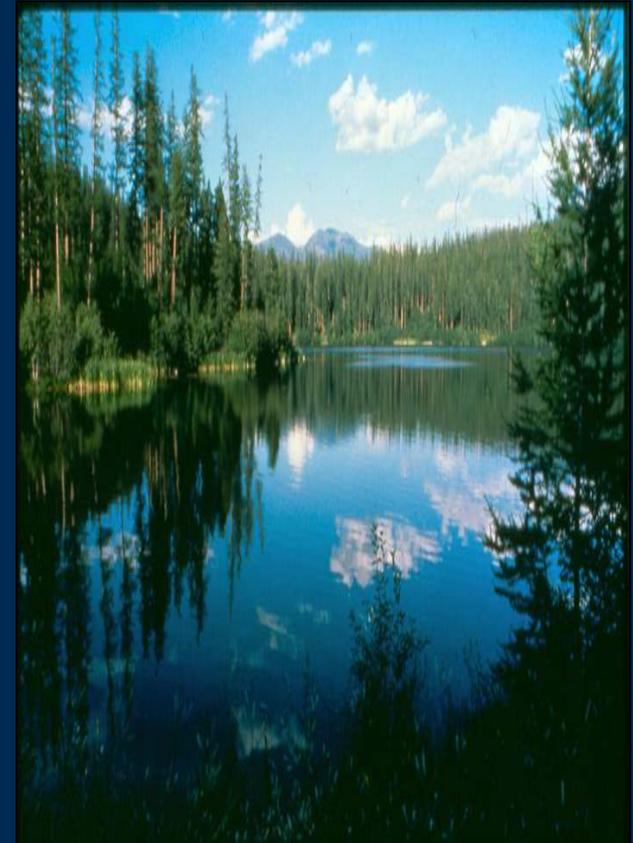
- Information needs/gathering
 - Licensing process provides forum to address information needs of other agencies
- Mandatory conditioning authority



National Environmental Act (NEPA)

Policy

- FERC conducts scoping – public process to identify substantive issues and alternatives, and eliminate unimportant issues
- FERC prepares environmental document (EA/EIS)
- FERC seeks public comments on EA/EIS
- FERC responds to comments in Final EA/EIS





Typical Issues Analyzed in Documents

NEPA

- Water Quality
- Fisheries
- Soils/Geology
- Wildlife/Vegetation
- Historical/Archeological
- Recreation/Land Use
- Aesthetics
- Socioeconomics





Typical Issues Analyzed in Documents

NEPA

- Energy
- Flood Control
- Water Supply
- Irrigation
- Navigation





Licensing Standard Federal Power Act

- Equal consideration - section 4(e)
 - Equal consideration to environmental and developmental values
- Comprehensive development - section 10(a)
 - License project that best serves the public interest (best adapted to comprehensive plan for use of waterway)



Other Licensing Considerations

- Consider state and federal fish and wildlife agency recommendations [10(j)]
- Consider the extent to which the project is consistent with comprehensive plans [10(a)(2)]
- Mandatory conditions in FPA:
 - On reservations [4(e)]
 - For fishways [18]



Other Federal Laws

- Clean Water Act
- Coastal Zone Management Act
- Endangered Species Act
- National Historic Preservation Act
- Pacific Northwest Power Planning and Conservation Act
- Wild and Scenic Rivers Act
- Fish and Wildlife Coordination Act



Special Designations

- Federal Reservation
- CZMA
- LWCFA Lands
- Wild and Scenic River Act
- Wilderness Act





How to Get Involved

- Participate in pre-filing
 - Comment on requested licensing process
 - Stay informed
 - File comments
 - Participate in meetings and study development
- Participate in post-filing
 - Review application
 - Review NEPA document
 - File comments and recommendations
- Become an official party to proceeding

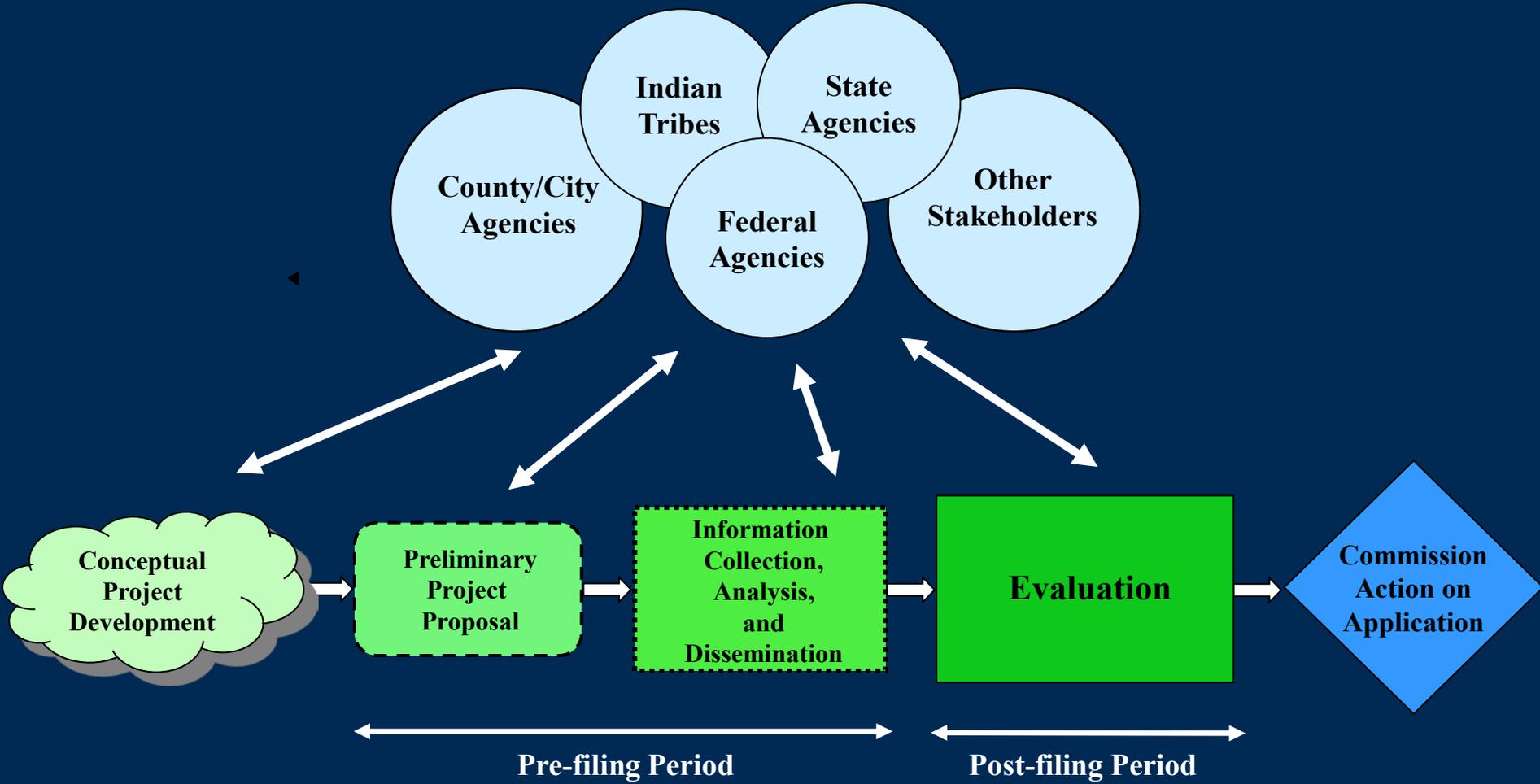


Interventions

- Official party to proceeding
 - Participate in hearings
 - File briefs
 - File for rehearing on Commission decision
 - Legal standing to be heard by Court of Appeals
- Cannot be a cooperating agency
- Must serve any filing on applicant and all other intervenors
- Status terminates when Commission has issued order on rehearing and time for judicial review has expired



Pathway to License





Questions?

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