

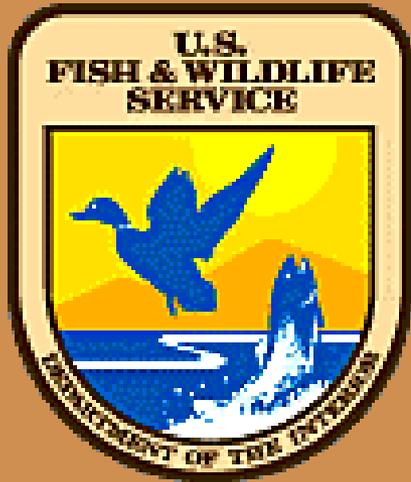
Hydropower Licensing Workshop

U.S. Fish and Wildlife Service

Roles and Responsibilities in Hydropower Licensing

Frankie Green, U.S. Fish and Wildlife Service
National Hydropower Coordinator
Falls Church, VA
(703) 358-1884
Frankie_Green@fws.gov





United States Fish and Wildlife Service Mission Statement

“The mission of the U.S. Fish and Wildlife Service is, working with others to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people.”

Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

- Fish and Wildlife Coordination Act
- Endangered Species Act
- National Environmental Policy Act
- Federal Power Act



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Other Statutes In Play

- **Migratory Bird Treaty Act**
- **Bald and Golden Eagle Protection Act**
- **Clean Water Act**
- **Wild and Scenic Rivers Act**
- **Coastal Zone Management Act**



Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

Fish and Wildlife Coordination Act

- Consultation with FWS and State
- Prevent Loss of and Damage to Fish and Wildlife
- Equal Consideration



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Endangered Species Act

- **Conservation of Ecosystems through Federal Action and Programs**
- **Directs Federal Agencies to utilize their authorities to further the purposes of the ESA**



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Endangered Species Act

- **Section 7 Consultation**

FERC must consult with FWS to ensure the jeopardy and adverse modification of critical habitat is avoided



Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

National Environmental Policy Act

- Federal agencies must document the effects of their actions;
- FWS authorized to provide comments on potential impacts within its jurisdiction by law and special expertise



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Federal Power Act

- Section 4(e)
- Section 10(a)
- Section 10(j)
- Section 18
- Section 30(c)
- Section 33



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Federal Power Act – Section 4(e)

- **Mandatory Conditions for Federal Lands**
 - National Wildlife Refuges
 - Waterfowl Protection Areas
 - National Fish Hatcheries



Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

Federal Power Act – Section 10(a)

- FERC must consider fish and wildlife recommendations of resource agencies and Indian Tribes to ensure projects are “best adapted” to the comprehensive development of the waterway.



Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

Federal Power Act – Section 10(j)

- Fish and wildlife recommendations must be included in license unless inconsistent with other Federal law
- Recommendations must provide for protection, mitigation, and enhancement
- Dispute Resolution
- Consistency Finding



Hydropower Licensing U.S. Fish and Wildlife Service Statutory Authorities

Federal Power Act – Section 18

▪ Mandatory Prescription of Fishways

“The Commission shall require the construction, maintenance, and operation by a licensee at its own expense of such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce.”



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Federal Power Act – Section 30(c)

- **Mandatory Fish and Wildlife Conditions for projects exempted from licensing**
- **Conditions must prevent loss of or damage to Fish and Wildlife**
- **FWS, NOAA Fisheries, State**



Hydropower Licensing

U.S. Fish and Wildlife Service

Statutory Authorities

Federal Power Act – Section 33

- Alternative Conditions and Prescriptions
- Alternatives may be proposed by Any Party!
- Must be Accepted if no less Protective and would cost less to implement
- New Standards for Analysis of Mandatory Conditions



Hydropower Licensing

U.S. Fish and Wildlife Service

Responsibilities

- Analyze impacts on fish and wildlife
- Seek mitigation based on value and abundance of habitat affected
- Build the Administrative Record
- Adopt CEQ's Definition of Mitigation
- Goal: No Net Loss of in-kind Habitat Value.



Hydropower Licensing

U.S. Fish and Wildlife Service

Responsibilities

- Project review and impact assessment
- Develop comments, recommendations, terms and conditions, and prescriptions
- Prepare correspondence to applicant and FERC
- Coordinate the prescription of fishways on behalf of the Secretary

