

FERC-USACE Coordinated Processes

Public Meeting on Draft Materials to Improve FERC-USACE Processes for
Non-Federal Development of Hydropower at USACE Non-Hydropower
Dams



**US Army Corps
of Engineers®**



Welcome and Introductions

Public Meeting Agenda

1:15 - 2:15 p.m.	Overview of the Process and the Draft Interagency Agreement on FERC-USACE Concurrent and Coordinated Processes
2:15 - 2:30 p.m.	<i>Break</i>
2:30 - 4:45 p.m.	Public Comment Period
4:45 - 5:00 p.m.	Next Steps
5:00 p.m.	Adjourn

Meeting Ground Rules

- Please focus your input on the draft materials and the FERC-USACE processes
- Everyone is encouraged to provide input
- Honor the agenda and time limits for oral comment
- There will be no video or audio recording of the meeting
- Respectful interaction
- Cell phones off/silent



**US Army Corps
of Engineers**



How to Provide Comments

- Sign-up to provide oral comments today
 - Each participant will have between 1-2 minutes to speak
- Written comments are to be submitted to hydropermitting@ee.doe.gov by 11:59 p.m. EST on December 18th.



US Army Corps
of Engineers®



Overview of Process to Review FERC-USACE Licensing & Permitting Processes

➤ Purpose

- A potential for 12 GW of new hydropower in the U.S. by adding power at NPDs
 - Approximately 6 GW of that potential exists at USACE facilities
- In 2011, FERC and USACE revised a MOU that describes the agencies' intent to coordinate their regulatory responsibilities for authorizing hydropower generation at USACE NPDs
- A cross-section of developers, consultants, and agency staff have shared concern over the redundancy of the licensing and permitting processes



**US Army Corps
of Engineers®**



Overview of Process to Review FERC-USACE Licensing & Permitting Processes

- **Process Began in 2014**
 - Initial interviews with developers, consultants, FERC and USACE staff
 - Two workshops (October 2014 and January 2015) between FERC, USACE, DOE, and ORNL staff
 - Three webinars (December 2014, July and October 2015) between FERC, USACE, DOE, and ORNL staff
 - Comprehensive Agency review of draft Interagency Agreement



**US Army Corps
of Engineers®**



Overview of Process to Review FERC-USACE Licensing & Permitting Processes

➤ The Result

- **Draft Interagency Agreement** - this document reflects a commitment by both FERC and USACE to coordinate information and regulatory needs for each of the three processes, to work with the developer, relevant agencies and others to achieve an efficient, concurrent or coordinated set of processes.



**US Army Corps
of Engineers®**



Overview of Process to Review FERC-USACE Licensing & Permitting Processes

- **Benefits of Conducting Coordinated Processes**
 - Reduce the Overall License/Permit Application Review Time
 - Increase Efficiencies
 - Result in a Single NEPA Environmental Document
- **Potential Tradeoffs of Conducting the Coordinated Processes**
 - Tradeoffs may need to be made in order to better coordinate the permitting efforts and reduce timeframes
 - Earlier commitment of effort and resources, with a greater investment in project planning and design at an earlier stage



**US Army Corps
of Engineers®**



Overview of the Draft Interagency Agreement on FERC-USACE Concurrent & Coordinated Processes

- What are the differences between Option A and Option B?
 - Option A is concurrent - the developer receives the FERC license, 408 and 404 decisions at or about the same time.
 - Option B is more coordinated than how the processes occur today.
 - Both can be applied to the TLP and ILP processes.
 - Steps 1-6 are the same in both process.



**US Army Corps
of Engineers®**



Step 1: Post-Permit/Pre-NOI and Preliminary Application Document (PAD)

FERC Process

1. Post Permit / Pre-NOI & PAD

USACE 408 Process

1. Conceptual Discussions

USACE Regulatory 404 Process

1. Pre-Application Meeting



**US Army Corps
of Engineers®**



Step 2: Notice of Intent (NOI)/PAD

FERC Process

2. NOI / Pre-Application Document (PAD)

USACE 408 Process

2. NOI / PAD

- 10% Conceptual Design (PAD)
- Provide feedback on the PAD (during comment period)

USACE Regulatory 404 Process

2. NOI / PAD

- USACE Feedback on PAD (during current period)

- Option A: The developer includes information and proposed studies needed for USACE 408 (10% engineering design) and USACE Regulatory 404 (delineation of waters of the U.S.).



**US Army Corps
of Engineers**



Step 3: Initial Consultation or Scoping Meeting

FERC Process

3. Meetings

- Scoping Meeting (ILP)
- Agency/Public Meeting (TLP)

USACE 408 Process

3. Initial Consultation/Scoping

- Agency Scoping Meeting
- Identify Needs and Requirements

USACE Regulatory 404 Process

3. Initial Consultation

- Agency Pre-Application Meeting

- Under the TLP, the developer schedules and conducts a joint agency/public meeting including USACE 408 and USACE Regulatory 404 staff and members of the public.
- Under the ILP, FERC schedules and conducts a public scoping meeting and a separate agency scoping meeting with USACE.
- Held within 30 days after issuance of a notice commencing the ILP
- Held between 30-60 days after FERC’s approval of using the TLP
- USACE determines whether to be a cooperating agency during the NEPA process



**US Army Corps
of Engineers**



Step 4: Study Plan Development

FERC Process

- 4. Study Plan Development**
- Study Plan Meetings

USACE 408 Process

- 4. Study / Survey Plan Development**
- Geotech Exploration Plan
 - If FERC's study determination does not include 408 studies needed, then USACE provides a letter clarifying needs

USACE Regulatory 404 Process

- 4. USACE Regulatory 404 Study Needs in Study Plans**
- If FERC's study determination does not include 404 studies needed, then USACE provides a letter clarifying needs



**US Army Corps
of Engineers®**



Step 5: Studies/Application Preparation

FERC Process

- 5. Studies / Application Preparation**
- Conduct Studies
 - Study Report Meetings (ILP)
 - Joint Technical Meetings (TLP)

USACE 408 Process

- 5. Studies / Application Preparation**
- Joint Technical Meetings on relevant topics (FERC, USACE, Developer)
- (1 year after study determination, initial study report (ISR) distributed, then have meeting within 15 days and additional technical meetings, as needed)*

USACE Regulatory 404 Process

- 5. Studies / Application Preparation**
- Joint Meetings on Relevant Topics
 - Developer to Prepare Studies



**US Army Corps
of Engineers®**



Step 6: FERC Draft License Application and USACE Review

FERC Process

6. Preliminary Licensing Proposal (ILP)/ Draft License Application (TLP)

USACE 408 Process

6. Review FERC Draft License Application

USACE Regulatory 404 Process

6. Review FERC Draft License Application

- Affirm Jurisdiction (Aquatic Resources)
- 404 Alternatives: avoid, minimize, mitigate (occur throughout)
- Identify Information Needs

- TLP - The developer prepares a draft license application
- ILP - The developer prepares a Preliminary Licensing Proposal



**US Army Corps
of Engineers**



Step 7: FERC License Application, 408 Information and 404 Permit Application

➤ Option A

FERC Process	
7.	Final License Application <ul style="list-style-type: none"> • FERC Dam Safety Review

USACE 408 Process	
7.	408 Application and Review <ul style="list-style-type: none"> • Final Design/Detailed ETA (60-100%) • 60% inform and adjust; 100% for dam safety/life safety/environment/operations ultimately needed <ul style="list-style-type: none"> • 100% District to Div/HQ • In progress reviews at Division and HQ at 60/90% levels <ul style="list-style-type: none"> • Division/HQ review

USACE Regulatory 404 Process	
7.	404 Application

➤ Option B

FERC Process	
7.	Final License Application

USACE 408 Process	
7.	FERC License Application <ul style="list-style-type: none"> • 30% Project Design Drawings • Preliminary Engineering Technical Analysis (ETA) <ul style="list-style-type: none"> • Operation Impacts • Mission Impacts • Initial Division (Div) / Headquarters (HQ) Briefing

USACE Regulatory 404 Process	
7.	Ongoing Coordination between FERC, USACE and Developer

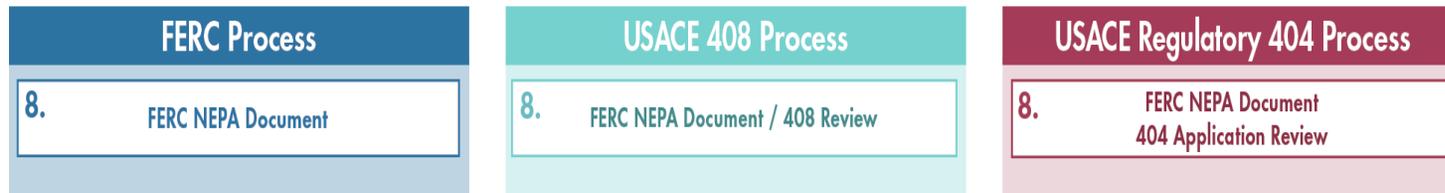


US Army Corps of Engineers

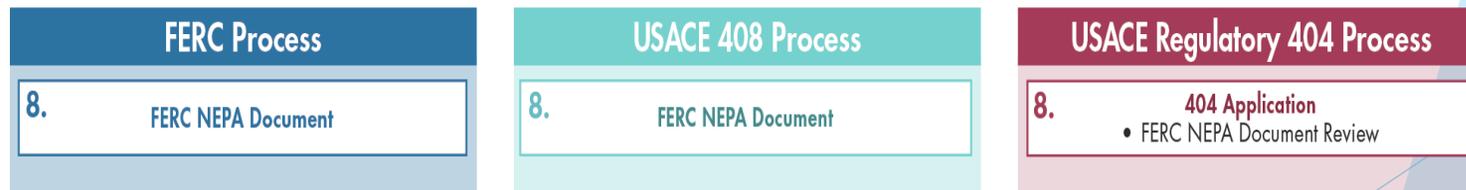


Step 8: FERC NEPA Document, 408 Process, and USACE 404 Application, Notice

➤ Option A



➤ Option B



US Army Corps
of Engineers®



Step 9: USACE Feedback on FERC NEPA Document, 408 and 404 Progress

➤ Option A

FERC Process

9. **FERC NEPA Document / Public Comment**

- EIS Public Meeting, as appropriate

USACE 408 Process

9. **USACE Feedback on FERC NEPA Document**

- USACE Affirm Information Needs
- Joint Meeting, as appropriate

USACE Regulatory 404 Process

9. **USACE Feedback on FERC NEPA Document**

- USACE Feedback on Alternatives Analysis
- Joint Meeting, as appropriate
- USACE Drafts 404 Permit Decision, Supplemental NEPA Information, Pending 408 Decision

➤ Option B

FERC Process

9. **FERC NEPA Document / Public Comment**

- EIS Public Meeting, as appropriate

USACE 408 Process

9. **USACE Feedback on FERC NEPA Document**

- USACE Affirm Information Needs
- Joint Meeting, as appropriate

USACE Regulatory 404 Process

9. **USACE Feedback on FERC NEPA Document**

- USACE Feedback on Alternatives Analysis
- Joint Meeting, as appropriate
- USACE Begins Drafting 404 Permit Decision, Supplemental NEPA Information, Pending 408 Decision



US Army Corps of Engineers



Step 10: FERC Licensing Decision, USACE 408 Decision, USACE 404 Permit

➤ Option A

FERC Process	
10.	Licensing Decision

USACE 408 Process	
10.	408 Decision, Supplement FERC NEPA, As Necessary • Letter of Approval for 408

USACE Regulatory 404 Process	
10.	404 Permit Decision, Supplement FERC NEPA, As Necessary

➤ Option B

FERC Process	
10.	Licensing Decision

USACE 408 Process	
10.	USACE Reviews FERC License

USACE Regulatory 404 Process	
10.	404 Permit Decision, Supplement FERC NEPA, As Necessary



US Army Corps of Engineers



Step 11: Post-Licensing/Dam Safety (For Option B)

➤ Option A

FERC Process

11. Post-Licensing

USACE 408 Process

11. **Post 408 Decision**

- MOA for Design and Construction (list outstanding items to be addressed) (90 days after license issuance)

USACE Regulatory 404 Process

11. Post Licensing / Completion of 408 Review

➤ Option B

FERC Process

11. **Post-Licensing / Dam Safety**

- FERC Dam Safety Review

USACE 408 Process

11. **Post Licensing / Dam Safety 408 Application and Review**

- MOA for Design and Construction (list outstanding items to be addressed) (90 days after license issuance)
- Final Design/Detailed ETA (60-100%) 60% inform and adjust; 100% for dam safety/life safety/environment/operations ultimately needed
 - 100% District to Div/HQ
 - In progress reviews at Division and HQ at 60/90% levels
 - Division/HQ review

USACE Regulatory 404 Process

11. Post Licensing / Completion of 408 Review



US Army Corps of Engineers



Step 12: Construction Authorization, USACE 408 Decisions

➤ Option A

FERC Process

12. FERC Authorizes Construction

USACE 408 Process

12. FERC Authorizes Construction

USACE Regulatory 404 Process

12. FERC Authorizes Construction

➤ Option B

FERC Process

12. FERC Authorizes Construction

USACE 408 Process

12. 408 Decision, Supplement FERC NEPA, As Necessary

- Letter of Approval for 408

USACE Regulatory 404 Process

12. 404 Permit Decision, Supplemental NEPA, As Necessary



US Army Corps of Engineers®



Step 13: Construction

➤ Option A

FERC Process	
13.	Construction <ul style="list-style-type: none">• Site Access Agreement is needed for construction• Operating Plan is needed to operate

USACE 408 Process	
13.	Construction

USACE Regulatory 404 Process	
13.	Construction

➤ Option B

FERC Process	
13.	Construction <ul style="list-style-type: none">• Site Access Agreement is needed for construction• Operating Plan is needed to operate

USACE 408 Process	
13.	Construction

USACE Regulatory 404 Process	
13.	Construction



US Army Corps of Engineers®



Step 14: Operations / Permit Compliance

➤ Option A

FERC Process	
14.	Operations <ul style="list-style-type: none">• Site Access Agreement is needed for construction• Operating Plan is needed to operate

USACE 408 Process	
14.	Operations

USACE Regulatory 404 Process	
14.	Permit Compliance

➤ Option B

FERC Process	
14.	Operations <ul style="list-style-type: none">• Site Access Agreement is needed for construction• Operating Plan is needed to operate

USACE 408 Process	
14.	Operations

USACE Regulatory 404 Process	
14.	Permit Compliance



**US Army Corps
of Engineers®**



Questions?



**US Army Corps
of Engineers®**



How to Provide Comments

- Sign-up to provide oral comments today
 - Each participant will have between 1-2 minutes to speak
- Written comments are to be submitted to hydropermitting@ee.doe.gov by 11:59 p.m. EST on December 18th.



**US Army Corps
of Engineers®**

