



Navigating the FERC Relicensing Process

Step 1: Determining Your Filing Process

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As a hydro facility owner, you make many critical decisions. Such is the case when you receive the Federal Energy Regulatory Commission (FERC) letter “Notice of License Expiration and Request for Information Regarding Process Selection.” If you apply for license renewal, you must decide which licensing process option to employ. But how do you know which is best for you and your facility?

The following portion of Kleinschmidt’s forthcoming guidebook, *Best Practices for Navigating the Hydro Relicensing Process*, is part of a series of articles aimed at helping facility owners/investors to understand key regulatory processes. This article discusses key considerations regarding the three FERC licensing process options: integrated (ILP), traditional (TLP), and alternative (ALP).

The Importance of Carefully Considering Your Options

After receiving the FERC letter, which occurs approximately seven years before your project’s license ends, you should begin preparing for the relicensing process. Notably, you should begin to consider which process option—the ILP, TLP, or ALP—best supports your strategic plan for continued operation of your project.

This decision—the first of the five-step FERC relicensing process (see *Figure 1*)—is a key factor in the amount of time, cost, frustration, and success associated with your remaining process steps.

For instance, consider the wide range of costs associated with today’s relicensing efforts, from application processing and FERC efforts to studies, stakeholder meetings, other filings, and more. While the simplest relicensing efforts may entail costs in the tens of thousands of dollars, more complex projects, including those with controversy, may cost more than \$1 million.

Weighing the Costs of Relicensing Versus Surrendering Your Project

With the potentially significant costs of relicensing and subsequent compliance, it may be tempting to surrender your project license. Indeed, weighing the costs of surrendering against relicensing can be a useful exercise for strategic planning as well as for determining your budget.

However, in some cases surrender can be as expensive as relicensing. Surrender applications must include a decommissioning plan detailing the:

- Facility(ies)
- Environmental, social, and economic effects expected due to the surrender
- Measures that could mitigate the environmental effects

In addition, you must submit a schedule for implementing the proposed measures, as well as copies of consultations with relevant federal and state agencies. If your project is on federal land, your application must also include restoration plans that are acceptable to applicable land management agencies. You may also need to conduct environmental studies to determine the effects and potential mitigation.

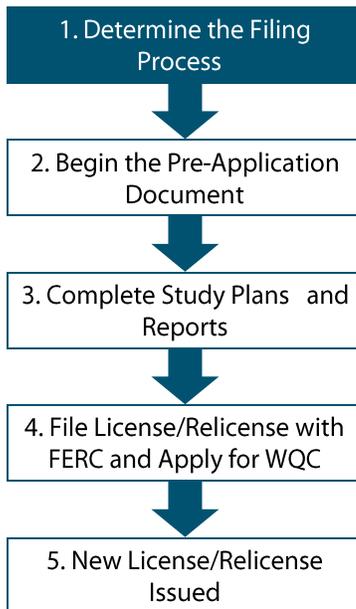


Figure 1. Step 1 of the Five-Step FERC Relicensing Process

Benefits and Drawbacks of Each Relicensing Process Option

If you opt to file a Notice of Intent to relicense your project, it is important to understand the differences between each process option. As shown in *Figure 2*, each has unique benefits and limitations, so an option that may be best suited for another facility may not be right for yours.

For instance, while some owners prefer the ILP since FERC is involved in all process stages, others benefit from the more flexible TLP when their project has no complex resource issues or significant disputes over studies.

Meanwhile, some owners consider the ALP when the licensee’s goal is to reach consensus on environmental issues with stakeholders, as the process encourages licensees and stakeholders to address issues and reach a settlement agreement prior to submission of the application.

Process Option	Benefits	Drawbacks
ILP	<ul style="list-style-type: none"> More structured relicensing steps Well-defined timelines More predictable cost and time requirements 	<ul style="list-style-type: none"> Less flexible Potentially challenging deadlines
TLP	<ul style="list-style-type: none"> More flexible process and schedule Fosters collaboration with stakeholders outside of direct FERC-driven process 	<ul style="list-style-type: none"> Can be time consuming Higher risk of unresolved study disputes
ALP	<ul style="list-style-type: none"> Flexible timelines Designed to resolve concerns by consensus before FERC is involved 	<ul style="list-style-type: none"> Can require numerous meetings to reach consensus Greater risk of a stalled process

Figure 2. Benefits and Drawbacks of Each Relicensing Process Option

Option 1: Integrated License Process

The ILP is the default method of relicensing and is ideal for owners who want FERC’s involvement throughout all process stages. This option is particularly well suited for projects with complex issues and study needs, or with adversarial stakeholders, as it allows for ongoing FERC assistance and greater confidence that all concerns have been addressed by the time the relicensing application is submitted.

Since the goal of the ILP is for you to have completed all studies prior to application, meeting its numerous and often tight deadlines can be challenging for you and stakeholders. Also, while scheduling is predictable and typically efficient, the ILP may not be ideal for owners who desire process and timeline flexibility.

Further, while the ILP does not preclude settlement negotiations with stakeholders, some licensees may find it challenging to work settlement discussions into the structured ILP schedule.

While the ILP has challenging deadlines and less flexibility, it is ideal for projects that have complex issues and study needs and owners who want ongoing FERC involvement.

Given the risk of unexpected delays and costs, the ALP is suitable only for projects with concerns that can be effectively resolved via mediation with minimal input from FERC.

Option 2: Traditional Licensing Process

Unlike the ILP, the TLP is flexible, with few deadlines after the initial joint agency public meeting. With minimal FERC involvement, the more flexible schedule can encourage collaboration with stakeholders and foster better settlement discussions.

But, while minimal FERC involvement allows for greater flexibility, it also yields a greater risk of disputes being unresolved at the time the application is submitted—resulting in unexpected delays and costs. Therefore, the TLP is generally more appropriate for projects with little or no complex resource issues, controversy, or study needs.

Option 3: Alternative Licensing Process

Though rarely used, the ALP is flexible and consensus based, designed to resolve concerns before FERC is involved. If you experience difficulties prior to submitting the application, you can request FERC assistance.

However, the ALP entails significant risk of unexpected delays and costs. For example, applicants must show majority support of affected agencies, tribes, and non-governmental organizations. So, if you do not achieve this majority support, the process can stall, requiring you to revert to earlier process steps.

Hence, the ALP should be considered only for projects with concerns that can be effectively resolved through mediation with minimal input from FERC.

Ultimately, selecting the right process for you and your project can be a daunting decision, especially if your project is complex or may be problematic with stakeholders. But, with the proper planning, budgeting, collaboration, and analysis, you can begin your relicensing journey with a decision that sets the foundation for an efficient and dependable process.

FERC Relicensing Checklist (through Step 1)

✓ Relicensing Process Step	Timing (Years before License Expires)							
	7	6-7	5-6	4-5	3-4	2-3	1-2	0-1
1. Determine the Filing Process								
Receive FERC letter “Notice of License Expiration and Request for Information Regarding Process Selection”								
Determine whether you will apply for relicensing or surrender of your facility license*								
Analyze your preferences and project qualities relative to the relicensing process (e.g., flexibility, dependability, structure)								
Identify your preferred relicensing process option (ILP, TLP, or ALP)								
Submit a Notice of Intent to FERC regarding your application for relicensing								

*If you decide to apply for surrender of your facility license, please contact Kleinschmidt for guidance.

About Kleinschmidt Associates

Kleinschmidt has completed hundreds of FERC licensing, relicensing, and amendment projects for small hydro, large hydro, and pumped storage projects across North America. From the traditional, three-stage consultation process to applicant-prepared environmental assessments and FERC’s current ILP, Kleinschmidt helps owners and investors to successfully license or relicense their hydroelectric projects.

Learn more at www.kleinschmidtgroup.com.

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