



Understanding the Study Criteria

Integrated Licensing Process

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Reaching agreement on study needs can be difficult and contentious. Historically, deferring resolution of fundamental issues about what information gathering and studies are necessary until after the license has been filed with the Commission has in some cases resulted in lengthy licensing proceedings. The Integrated Licensing Process (ILP) is designed to eliminate that problem. Working collaboratively with the hydro industry, state and federal resource agencies, tribes, and non-governmental organizations, the Commission developed seven criteria that must be addressed by parties requesting studies in the ILP. Following these criteria will help formulate a well structured and thought out request that can help focus discussions about the merits and applicability of a study to evaluate the effects of a project on environmental resources.

This document is intended to explain the study criteria and help stakeholders craft study requests (18 CFR § 5.9(b)) that will clearly identify their information needs and expectations and explain why they need the information. A clear understanding of the study criteria and adherence to these criteria in formulating study requests should facilitate the development of study plans (18 CFR § 5.11 (b)-(e)).

While the reader may wish to use the suggested structure as a template for a request, there are a number of variables that will determine whether a study or a totally different approach would be best suited to a particular project and approved by the Commission.

Study Request Criteria

As specified by CFR 18, § 5.9(b) of FERC's regulations on the ILP, any study request must:

- (1) Describe the goals and objectives of each study proposal and the information to be obtained;
- (2) If applicable, explain the relevant resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied;
- (3) If the requester is a not resource agency, explain any relevant public interest considerations in regard to the proposed study;
- (4) Describe existing information concerning the subject of the study proposal, and the need for additional information;
- (5) Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied, and how the study results would inform the development of license requirements;
- (6) Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate filed season(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers relevant tribal values and knowledge; and
- (7) Describe considerations of level of effort and cost, as applicable, and why any proposed alternative studies would not be sufficient to meet the stated information needs.

Study Plan Criteria

CFR 18 § 5.11 (b)-(e) specifies the following requirements for the applicant's proposed study plan. Note that these requirements closely parallel those described in § 5.9(b).

(b) The potential applicant's proposed study plan must include with respect to each proposed study:

- (1) A detailed description of the study and the methodology to be used;
- (2) A schedule for conducting the study;
- (3) Provisions for periodic progress reports, including the manner and extent to which information will be shared; and sufficient time for technical review of the analysis and results; and

- (4) If the potential applicant does not adopt a requested study, an explanation of why the request was not adopted, with reference to the criteria set forth in [5.9\(b\)](#).

(c) The potential applicant's proposed study plan must also include provisions for the initial and updated study reports and meetings provided for in [5.15](#).

(d) The applicant's proposed study plan must:

- (1) Describe the goals and objectives of each study proposal and the information to be obtained;

- (2) Address any known resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied;

- (3) Describe existing information concerning the subject of the study proposal, and the need for additional information;

- (4) Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied;

- (5) Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate field season(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers any known tribal interests;

- (6) Describe considerations of level of effort and cost, as applicable.

(e) The potential applicant's proposed study plan must be accompanied by a proposal for conducting a study plan meeting or meetings during the 90-day period provided for in [5.12](#) for the purpose of clarifying the potential applicant's proposed study plan and any initial information gathering or study requests, and to resolve any outstanding issues with respect to the proposed study plan. The initial study plan meeting must be held no later than 30 days after the deadline date for filing of the potential applicant's proposed study plan.

Goals and Objectives

§5.9(b)(1) Describe the goals and objectives of each study proposal and the information to be obtained;

This paragraph describes what the study is intended to accomplish, the goals and objectives of the study, and specific information to be obtained. The goals of the study should clearly relate to the need to evaluate the effects of the project on a particular resource. The objectives are the specific information needs to be gathered to allow achievement of the study goal. This section provides the context for why the study is being requested.

Relevant Resource Management Goals

§5.9(b)(2) If applicable, explain the relevant resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied;

§5.9(b)(3) If the requester is a not resource agency, explain any relevant public interest considerations in regard to the proposed study;

This discussion should clearly establish the connection between the study request and the management goals of the requesting agency or tribe, or in the case of non-governmental agencies or others without a jurisdictional mandate or obligation, between the study and resource of interest. A statement by an agency connecting its study request to a legal, regulatory, or policy mandate is entitled to appropriate consideration. However, it is much easier to understand the relationship of an information need to a specific management goal than to broadly stated mandates established in law or regulation. Where such mandates are integral to the need for the information, the requester needs to thoroughly explain how the mandate relates to the study request and, in turn, project impacts.

Background and Existing Information

§5.9(b)(4) Describe existing information concerning the subject of the study proposal, and the need for additional information;

The purpose of this discussion is to highlight the gap in existing data, giving full consideration to what has been provided in the PAD or is known from other information sources relevant to the project. This discussion should clearly explain why the existing information is inadequate and the need for additional information.

Project Nexus

§5.9(b)(5) Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied, and how the study results would inform the development of license requirements;

This discussion should clearly draw the connection between project operations and the effects (direct, indirect, and/or cumulative) on the applicable resource. Just as important, this discussion should explain how the requester will use the information to develop protection, mitigation, and enhancement measures, including those related to an agency's mandatory conditioning authority under 401 of the Clean Water Act or sections 4(e) and 18 of the Federal Power Act.

Proposed Methodology

§5.9(b)(6) Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate field season(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers relevant tribal values and knowledge;

Study requests should be as detailed as possible. It is important to relay to the applicant your expectations on the scope and methods so that an adequate study plan can be developed. The requester may describe the proposed methodology by outlining specific methods to be implemented (e.g. study area, study sites, data collection methods, etc.) or simply by referencing an approved and established study protocol or methodology (e.g. Henderson 1999, or Missouri State Water Quality Sampling Protocols for Lead, 1999). If providing a detailed methodology, the requester should demonstrate how the requested methodology is consistent with generally accepted practice within the scientific community or, as appropriate, considers relevant tribal values and knowledge. The requested study must be generally accepted in the context of how it is being used. For example, just because an IFIM is a generally accepted methodology for determining the relationship of flow to available habitat, it doesn't mean you would use IFIM for answering questions about fish populations.

LEVEL OF EFFORT AND COST

§5.9(b)(7) Describe considerations of level of effort and cost, as applicable, and why any proposed alternative studies would not be sufficient to meet the stated information needs.

This section should describe your expectations of the level of effort and costs associated with the development and implementation of the requested study. This would be used to provide the applicant with a better understanding of your expectations for the completion of the study. Within this section, you should also provide a justification as to why any proposed alternative studies would not be sufficient to meet the stated information needs. Proposed alternative studies could be studies being proposed by the applicant in the PAD or those being requested by other parties.