

112TH CONGRESS
1ST SESSION

H. R. 3680

To improve hydropower, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2011

Mrs. MCMORRIS RODGERS (for herself and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Natural Resources, and Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve hydropower, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hydropower Regulatory Efficiency Act of 2011”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Promoting small hydroelectric power projects.
- Sec. 4. Promoting conduit hydropower projects.

Sec. 5. FERC authority to extend preliminary permit terms.

Sec. 6. Promoting hydropower development at nonpowered dams and closed loop pumped storage projects.

Sec. 7. DOE study of pumped storage and potential hydropower from conduits.

Sec. 8. Report on memorandum of understanding on hydropower.

Sec. 9. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the hydropower industry currently employs
4 approximately 300,000 workers across the United
5 States;

6 (2) hydropower is the largest source of clean,
7 renewable electricity in the United States;

8 (3) as of the date of enactment of this Act, hy-
9 dropower resources, including pumped storage facili-
10 ties, provide—

11 (A) nearly 7 percent of the electricity gen-
12 erated in the United States; and

13 (B) approximately 100,000 megawatts of
14 electric capacity in the United States;

15 (4) only 3 percent of the 80,000 dams in the
16 United States generate electricity, so there is sub-
17 stantial potential for adding hydropower generation
18 to nonpowered dams; and

19 (5) by utilizing currently untapped resources,
20 the United States could add approximately 60,000
21 megawatts of new hydropower capacity by 2025,

1 which could create 700,000 new direct jobs over the
2 next 14 years.

3 **SEC. 3. PROMOTING SMALL HYDROELECTRIC POWER**
4 **PROJECTS.**

5 Subsection (d) of section 405 of the Public Utility
6 Regulatory Policies Act of 1978 (16 U.S.C. 2705) is
7 amended by striking “5,000” and inserting “10,000”.

8 **SEC. 4. PROMOTING CONDUIT HYDROPOWER PROJECTS.**

9 (a) APPLICABILITY OF, AND EXEMPTION FROM, LI-
10 CENSING REQUIREMENTS.—Section 30 of the Federal
11 Power Act (16 U.S.C. 823a) is amended—

12 (1) by striking subsection (b);

13 (2) by redesignating subsection (a) as sub-
14 section (b);

15 (3) by inserting before subsection (b), as redес-
16 igned by paragraph (2) of this subsection, the fol-
17 lowing:

18 “(a)(1) A facility described in this paragraph shall
19 not be required to be licensed under this part. A facility
20 described in this paragraph is a facility that—

21 “(A) is constructed, operated, or main-
22 tained for the generation of electric power and
23 uses for such generation only the hydroelectric
24 potential of a non-federally owned conduit;

1 “(B) is located on non-Federal lands or
2 Federal lands;

3 “(C) has an installed capacity that does
4 not exceed 5 megawatts; and

5 “(D) on or before the date of enactment of
6 the Hydropower Regulatory Efficiency Act of
7 2011, is not licensed under, or exempted from
8 the license requirements contained in, this part.

9 “(2) For purposes of this section, the term ‘conduit’
10 means any tunnel, canal, pipeline, aqueduct, flume, ditch,
11 or similar manmade water conveyance that is operated for
12 the distribution of water for agricultural, municipal, or in-
13 dustrial consumption and not primarily for the generation
14 of electricity.”;

15 (4) in subsection (b), as redesignated by para-
16 graph (2) of this subsection—

17 (A) in the matter preceding paragraph (1),
18 by striking “(b) or”;

19 (B) in paragraph (1), by striking “, and”
20 and inserting “or Federal lands;”;

21 (C) in paragraph (2), by striking “man-
22 made conduit, which is operated for the dis-
23 tribution of water for agricultural, municipal, or
24 industrial consumption and not primarily for

1 the generation of electricity.” and inserting
2 “conduit; and”; and

3 (D) by adding at the end the following new
4 paragraph:

5 “(3) has an installed capacity that does not exceed
6 40 megawatts.”;

7 (5) in subsection (c), by striking “subsection
8 (a)” and inserting “subsection (b)”; and

9 (6) in subsection (d), by striking “subsection
10 (a)” and inserting “subsection (b)”.

11 (b) CONFORMING AMENDMENT.—Subsection (d) of
12 section 405 of the Public Utility Regulatory Policies Act
13 of 1978 (16 U.S.C. 2705), as amended, is further amend-
14 ed by striking “subsection (a) of such section 30” and in-
15 serting “subsection (b) of such section 30”.

16 **SEC. 5. FERC AUTHORITY TO EXTEND PRELIMINARY PER-**
17 **MIT TERMS.**

18 Section 5 of the Federal Power Act (16 U.S.C. 798)
19 is amended—

20 (1) by designating the first, second, and third
21 sentences as subsections (a), (c), and (d), respec-
22 tively; and

23 (2) by inserting after subsection (a) (as so des-
24 ignated) the following:

1 “(b) **EXTENSION.**—The Commission may extend the
2 term of a preliminary permit once for not more than 2
3 additional years if the Commission finds that the per-
4 mittee has carried out activities under the permit in good
5 faith and with reasonable diligence.”.

6 **SEC. 6. PROMOTING HYDROPOWER DEVELOPMENT AT**
7 **NONPOWERED DAMS AND CLOSED LOOP**
8 **PUMPED STORAGE PROJECTS.**

9 (a) **IN GENERAL.**—To improve the regulatory process
10 and reduce delays and costs for hydropower development
11 at nonpowered dams and closed loop pumped storage
12 projects, the Federal Energy Regulatory Commission (re-
13 ferred to in this section as the “Commission”) shall inves-
14 tigate the feasibility of the issuance of a license for hydro-
15 power development at nonpowered dams and closed loop
16 pumped storage projects in a 2-year period (referred to
17 in this section as a “2-year process”). Such a 2-year pro-
18 cess shall include any pre-filing licensing process of the
19 Commission.

20 (b) **WORKSHOPS AND PILOTS.**—The Commission
21 shall—

22 (1) not later than 60 days after the date of en-
23 actment of this Act, hold an initial workshop to so-
24 licit public comment and recommendations on how
25 to implement a 2-year process;

1 (2) develop criteria for identifying projects fea-
2 turing hydropower development at nonpowered dams
3 and closed loop pumped storage projects that may be
4 appropriate for licensing within a 2-year process;

5 (3) not later than 180 days after the date of
6 enactment of this Act, develop and implement pilot
7 projects to test a 2-year process, if practicable; and

8 (4) not later than 3 years after the date of im-
9 plementation of the final pilot project testing a 2-
10 year process, hold a final workshop to solicit public
11 comment on the effectiveness of each tested 2-year
12 process.

13 (c) MEMORANDUM OF UNDERSTANDING.—The Com-
14 mission shall, to the extent practicable, enter into a memo-
15 randum of understanding with any applicable Federal or
16 State agency to implement a pilot project described in sub-
17 section (b).

18 (d) REPORTS.—

19 (1) PILOT PROJECTS NOT IMPLEMENTED.—If
20 the Commission determines that no pilot project de-
21 scribed in subsection (b) is practicable because no 2-
22 year process is practicable, not later than 240 days
23 after the date of enactment of this Act, the Commis-
24 sion shall submit to the Committee on Energy and
25 Commerce of the House of Representatives and the

1 Committee on Energy and Natural Resources of the
2 Senate a report that—

3 (A) describes the public comments received
4 as part of the initial workshop held under sub-
5 section (b)(1); and

6 (B) identifies the process, legal, environ-
7 mental, economic, and other issues that justify
8 the determination of the Commission that no 2-
9 year process is practicable, with recommenda-
10 tions on how Congress may address or remedy
11 the identified issues.

12 (2) PILOT PROJECTS IMPLEMENTED.—If the
13 Commission develops and implements pilot projects
14 involving a 2-year process, not later than 60 days
15 after the date of completion of the final workshop
16 held under subsection (b)(4), the Commission shall
17 submit to the Committee on Energy and Commerce
18 of the House of Representatives and the Committee
19 on Energy and Natural Resources of the Senate a
20 report that—

21 (A) describes the outcomes of the pilot
22 projects;

23 (B) describes the public comments from
24 the final workshop on the effectiveness of each
25 tested 2-year process; and

1 (C)(i) outlines how the Commission will
2 adopt policies under existing law (including reg-
3 ulations) that result in a 2-year process;

4 (ii) outlines how the Commission will issue
5 new regulations to adopt a 2-year process; or

6 (iii) identifies the process, legal, environ-
7 mental, economic, and other issues that justify
8 a determination of the Commission that no 2-
9 year process is practicable, with recommenda-
10 tions on how Congress may address or remedy
11 the identified issues.

12 **SEC. 7. DOE STUDY OF PUMPED STORAGE AND POTENTIAL**
13 **HYDROPOWER FROM CONDUITS.**

14 (a) IN GENERAL.—The Secretary of Energy shall
15 conduct a study—

16 (1) of the potential megawatts of hydropower
17 that may be obtained from conduits (as defined by
18 the Secretary) in the United States; and

19 (2) of land, including identification of land, that
20 is well-suited for pumped storage sites and is located
21 near existing or potential sites of intermittent renew-
22 able energy resource development, such as wind
23 farms.

24 (b) REPORT.—Not later than 1 year after the date
25 of enactment of this Act, the Secretary of Energy shall

1 submit to the Committee on Energy and Commerce of the
2 House of Representatives and the Committee on Energy
3 and Natural Resources of the Senate a report that de-
4 scribes the results of the study conducted under subsection
5 (a), including any recommendations.

6 **SEC. 8. REPORT ON MEMORANDUM OF UNDERSTANDING**
7 **ON HYDROPOWER.**

8 Not later than 180 days after the date of enactment
9 of this Act, the President shall submit to the Committee
10 on Energy and Commerce of the House of Representatives
11 and the Committee on Energy and Natural Resources of
12 the Senate a report on actions taken by the Department
13 of Energy and other Federal agencies to carry out the
14 memorandum of understanding on hydropower entered
15 into on March 24, 2010, with particular emphasis on ac-
16 tions taken by the agencies to work together and inves-
17 tigate ways to efficiently and responsibly facilitate the
18 Federal permitting process for Federal and non-Federal
19 hydropower projects at Federal facilities, within existing
20 authority.

21 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated \$5,000,000 to carry out this
24 Act and the amendments made by this Act, of which not

1 more than \$1,000,000 shall be appropriated to the De-
2 partment of Energy.

3 (b) OFFSET.—Section 422(f) of the Energy Inde-
4 pendence and Security Act of 2007 (42 U.S.C. 17082(f))
5 is amended—

6 (1) by redesignating paragraph (4) as para-
7 graph (5);

8 (2) in paragraph (3), by striking “2012; and”
9 and inserting “2012;”;

10 (3) by inserting after paragraph (3) the fol-
11 lowing paragraph:

12 “(4) \$145,000,000 for fiscal year 2013; and”;
13 and

14 (4) in paragraph (5), as redesignated by para-
15 graph (1) of this subsection, by striking “2013” and
16 inserting “2014”.

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