

## Calendar No. 69

113TH CONGRESS  
1ST SESSION**S. 545**

To improve hydropower, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2013

Ms. MURKOWSKI (for herself, Mr. WYDEN, Mr. RISCH, Ms. CANTWELL, Mr. CRAPO, Mrs. MURRAY, Mr. BEGICH, Mr. BENNET, Mr. UDALL of Colorado, Mr. COONS, Mrs. FEINSTEIN, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 13, 2013

Reported by Mr. WYDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**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 Improvement Act of 2013”.~~

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: Definitions.  
 Sec. 4: Sense of the Senate on the use of hydropower renewable resources.  
 Sec. 5: Promoting hydropower development at nonpowered dams and closed loop pumped storage projects.  
 Sec. 6: Promoting conduit hydropower projects.  
 Sec. 7: Promoting small hydroelectric power projects.  
 Sec. 8: FERC authority to extend preliminary permit terms.  
 Sec. 9: Study of pumped storage and potential hydropower from conduits.  
 Sec. 10: Report on memorandum of understanding on hydropower.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) hydropower is the largest source of clean,  
 4 renewable electricity in the United States;

5 (2) as of the date of enactment of this Act, hy-  
 6 dropower resources, including pumped storage facili-  
 7 ties, provide—

8 (A) nearly 7 percent of the electricity gen-  
 9 erated in the United States, avoiding approxi-  
 10 mately 200,000,000 metric tons of carbon emis-  
 11 sions each year; and

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

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

18 (4) in every State, a tremendous untapped  
 19 growth potential exists in hydropower resources, in-  
 20 cluding—

1           (A) efficiency improvements and capacity  
2 additions;

3           (B) adding generation to nonpower dams;

4           (C) conduit hydropower;

5           (D) conventional hydropower;

6           (E) pumped storage facilities; and

7           (F) new marine and hydrokinetic re-  
8 sources; and

9           (5) improvements in increased hydropower pro-  
10 duction in the United States have the potential—

11           (A) to increase the clean energy generation  
12 of the United States;

13           (B) to improve project performance and re-  
14 sult in better environmental outcomes; and

15           (C) to provide ancillary benefits that in-  
16 clude grid reliability, energy storage, and inte-  
17 gration services for variable renewable re-  
18 sources.

19 **SEC. 3. DEFINITIONS.**

20       In this Act:

21           (1) **CONDUIT.**—The term “conduit” means any  
22 tunnel, canal, pipeline, aqueduct, flume, ditch, or  
23 similar manmade water conveyance that is operated  
24 for the distribution of water for agricultural, munic-

1        ipal, or industrial consumption and not primarily for  
 2        the generation of electricity.

3            ~~(2) SECRETARY.~~—The term “Secretary” means  
 4        the Secretary of Energy.

5            ~~(3) SMALL HYDROELECTRIC POWER~~  
 6        ~~PROJECT.~~—The term “small hydroelectric power  
 7        project” has the meaning given the term in section  
 8        4.30 of title 18, Code of Federal Regulations.

9        **SEC. 4. SENSE OF THE SENATE ON THE USE OF HYDRO-**  
 10        **POWER RENEWABLE RESOURCES.**

11        It is the sense of the Senate that the United States  
 12        should increase substantially the capacity and generation  
 13        of clean, renewable hydropower which will improve the en-  
 14        vironmental quality of resources in the United States and  
 15        support local job creation and economic investment across  
 16        the United States.

17        **SEC. 5. PROMOTING HYDROPOWER DEVELOPMENT AT**  
 18        **NONPOWERED DAMS AND CLOSED LOOP**  
 19        **PUMPED STORAGE PROJECTS.**

20        ~~(a) IN GENERAL.~~—To improve the regulatory process  
 21        and reduce delays and costs for hydropower development  
 22        at nonpowered dams and closed loop pumped storage  
 23        projects, the Federal Energy Regulatory Commission (re-  
 24        ferred to in this section as the “Commission”) shall inves-  
 25        tigate the feasibility of the issuance of a license for certain

1 hydropower development during the 2-year period begin-  
 2 ning on the date of commencement of the prefilings licens-  
 3 ing process of the Commission (referred to in this section  
 4 as a “2-year process”).

5 (b) WORKSHOPS AND PILOTS.—The Commission  
 6 shall—

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

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

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

18 (4) not later than 3 years after the date of im-  
 19 plementation of any pilot project to test a 2-year  
 20 process, hold a final workshop to solicit public com-  
 21 ment on the effectiveness of the pilot project.

22 (c) MEMORANDUM OF UNDERSTANDING.—The Com-  
 23 mission shall, to the maximum extent practicable, enter  
 24 into a memorandum of understanding with any applicable

1 Federal or State agency to implement a pilot project de-  
 2 scribed in subsection (b).

3 ~~(d) REPORTS.—~~

4 ~~(1) PILOT PROJECTS NOT IMPLEMENTED.—If~~  
 5 the Commission determines that the pilot projects  
 6 described in subsection (b) are not practicable, not  
 7 later than 240 days after the date of enactment of  
 8 this Act, the Commission shall submit to the Com-  
 9 mittee on Energy and Natural Resources of the Sen-  
 10 ate and the Committee on Energy and Commerce of  
 11 the House of Representatives a report that—

12 ~~(A) describes the public comments received~~  
 13 as part of the initial workshop held under sub-  
 14 section (b)(1); and

15 ~~(B) identifies the process, legal, environ-~~  
 16 mental, economic, and other issues that justify  
 17 the determination of the Commission that a 2-  
 18 year process is not practicable, with rec-  
 19 ommendations on how Congress may address or  
 20 remedy the identified issues.

21 ~~(2) PILOT PROJECTS IMPLEMENTED.—If the~~  
 22 Commission develops and implements pilot projects  
 23 involving a 2-year process described in subsection  
 24 (b), not later than 60 days after the date of comple-  
 25 tion of any final workshop held under subsection

(b)(4), the Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(A) describes the outcomes of the pilot projects;

(B) describes the public comments from the final workshop on the effectiveness of the pilot projects; and

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

(ii) outlines how the Commission will proceed with a rulemaking to adopt a 2-year process in the regulations of the Commission; or

(iii) identifies the process, legal, environmental, economic, and other issues that justify the determination of the Commission that a 2-year process is not practicable, with recommendations on how Congress may address or remedy the identified issues.

## **SEC. 6. PROMOTING CONDUIT HYDROPOWER PROJECTS.**

(a) **APPLICABILITY OF, AND EXEMPTION FROM, LICENSING REQUIREMENTS.**—Section 30 of the Federal Power Act (16 U.S.C. 823a) is amended—

1           (1) by redesignating subsections (e) through (e)  
2           as subsections (d) through (f), respectively;

3           (2) by striking “SEC. 30.” and all that follows  
4           through the end of subsection (b) and inserting the  
5           following:

6   **“SEC. 30. CONDUIT HYDROPOWER FACILITIES.**

7           “(a) DEFINITIONS.—In this section:

8           “(1) CONDUIT.—The term ‘conduit’ means any  
9           tunnel, canal, pipeline, aqueduct, flume, ditch, or  
10          similar manmade water conveyance that is oper-  
11          ated—

12                  “(A) for the distribution of water for agri-  
13          cultural, municipal, or industrial consumption;  
14          and

15                  “(B) not primarily for the generation of  
16          electricity.

17          “(2) QUALIFYING CONDUIT HYDROPOWER FA-  
18          CILITY.—The term ‘qualifying conduit hydropower  
19          facility’ means a facility (not including any dam or  
20          other impoundment) that is determined or deemed  
21          under subsection (b)(2)(D) to meet the qualifying  
22          criteria.

23          “(3) QUALIFYING CRITERIA.—The term ‘quali-  
24          fying criteria’ means, with respect to a facility,  
25          that—

1           “(A) the facility is constructed, operated,  
2           or maintained for the generation of electric  
3           power and uses for the generation only the hy-  
4           droelectric potential of a non-federally owned  
5           conduit;

6           “(B) the facility has an installed capacity  
7           that does not exceed 5 megawatts; and

8           “(C) on or before the date of enactment of  
9           the Hydropower Improvement Act of 2013, the  
10          facility is not licensed under, or exempted from  
11          the license requirements contained in, this part.

12       “(b) ADMINISTRATION.—

13           “(1) IN GENERAL.—A qualifying conduit hydro-  
14          power facility shall not be required to be licensed  
15          under this part.

16           “(2) NOTICE OF INTENT TO CONSTRUCT FACIL-  
17          ITY.—

18           “(A) IN GENERAL.—Any person, State, or  
19          municipality proposing to construct a qualifying  
20          conduit hydropower facility shall file with the  
21          Commission a notice of intent to construct the  
22          qualifying conduit hydropower facility.

23           “(B) INFORMATION.—The notice shall in-  
24          clude sufficient information to demonstrate that  
25          the facility meets the qualifying criteria.

1           “(C) INITIAL DETERMINATION.—Not later  
 2           than 15 days after receipt of a notice of intent  
 3           is filed under subparagraph (A), the Commis-  
 4           sion shall—

5                   “(i) make an initial determination as  
 6                   to whether the facility meets the qualifying  
 7                   criteria; and

8                   “(ii) if the Commission makes an ini-  
 9                   tial determination, pursuant to clause (i)  
 10                  that the facility meets the qualifying cri-  
 11                  teria, publish public notice of the notice of  
 12                  intent filed under subparagraph (A).

13           “(D) FINAL DETERMINATION.—If, not  
 14           later than 45 days after the date of publication  
 15           of the public notice described in subparagraph  
 16           (C)(ii)—

17                   “(i) an entity contests whether the fa-  
 18                   cility meets the qualifying criteria, the  
 19                   Commission shall promptly issue a written  
 20                   determination as to whether the facility  
 21                   meets the qualifying criteria; or

22                   “(ii) no entity contests whether the  
 23                   facility meets the qualifying criteria, the  
 24                   facility shall be considered to meet the  
 25                   qualifying criteria.

1       “(c) EXEMPTIONS.—Subject to subsection (d), the  
 2 Commission may grant an exemption in whole or in part  
 3 from the requirements of this part, including any license  
 4 requirements contained in this part, to any facility (not  
 5 including any dam or other impoundment) constructed,  
 6 operated, or maintained for the generation of electric  
 7 power that the Commission determines, by rule or order—

8               “(1) uses for the generation only the hydro-  
 9 electric potential of a conduit; and

10              “(2) has an installed capacity that does not ex-  
 11 ceed 40 megawatts.”;

12              ~~(3) in subsection (d) (as redesigned by para-~~  
 13 ~~graph (1)), by striking “subsection (a)” and insert-~~  
 14 ~~ing “subsection (c)”;~~ and

15              ~~(4) in subsection (e) (as so redesignated), by~~  
 16 ~~striking “subsection (a)” and inserting “subsection~~  
 17 ~~(e)”.~~

18       (b) CONFORMING AMENDMENTS.—

19              (1) Section 210(j)(3) of the Public Utility Reg-  
 20 ulatory Policies Act of 1978 (16 U.S.C. 824a-  
 21 3(j)(3)) is amended by striking “section 30(c)” and  
 22 inserting “section 30(d)”.

23              (2) Section 405(d) of the Public Utility Regu-  
 24 latory Policies Act of 1978 (16 U.S.C. 2705(d)) is  
 25 amended in the first sentence—

1           (A) by striking “subsections (c) and (d)”  
 2           each place it appears and inserting “subsections  
 3           (d) and (e)”; and

4           (B) by striking “subsection (a) of such sec-  
 5           tion 30” and inserting “section 30(e) of that  
 6           Act”.

7           (3) Section 3401(a)(2) of the Omnibus Budget  
 8           Reconciliation Act of 1986 (42 U.S.C. 7178(a)(2)) is  
 9           amended by striking “30(e)” and inserting “30(f)”.

10          (4) Section 242(b)(3) of the Energy Policy Act  
 11          of 2005 (42 U.S.C. 15881(b)(3)) is amended by  
 12          striking “section 30(a)(2) of the Federal Power Act  
 13          (16 U.S.C. 823a(a)(2))” and inserting “section  
 14          30(a) of the Federal Power Act (16 U.S.C.  
 15          823a(a))”.

16 **SEC. 7. PROMOTING SMALL HYDROELECTRIC POWER**  
 17 **PROJECTS.**

18          Section 405(d) of the Public Utility Regulatory Poli-  
 19          cies Act of 1978 (16 U.S.C. 2705(d)) is amended in the  
 20          first sentence by striking “5,000” and inserting “10,000”.

21 **SEC. 8. FERC AUTHORITY TO EXTEND PRELIMINARY PER-**  
 22 **MIT TERMS.**

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

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

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

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

11       **SEC. 9. STUDY OF PUMPED STORAGE AND POTENTIAL HY-**  
12               **DROPOWER FROM CONDUITS.**

13          (a) IN GENERAL.—The Secretary shall conduct a  
14          study—

15               (1)(A) of the technical flexibility that existing  
16               pumped storage facilities can provide to support  
17               intermittent renewable electric energy generation, in-  
18               cluding the potential for those existing facilities to  
19               be upgraded or retrofitted with advanced commer-  
20               cially available technology; and

21               (B) of the technical potential of existing  
22               pumped storage facilities and new advanced pumped  
23               storage facilities, to provide grid reliability benefits;  
24               and

1           (2)(A) to identify the range of opportunities for  
 2           hydropower that may be obtained from conduits (as  
 3           defined by the Secretary) in the United States; and  
 4           (B) through case studies, to assess amounts of  
 5           potential energy generation from such conduit hy-  
 6           dropower projects.

7           (b) REPORT.—Not later than 1 year after the date  
 8           of enactment of this Act, the Secretary shall submit to  
 9           the Committee on Energy and Natural Resources of the  
 10          Senate and the Committee on Energy and Commerce of  
 11          the House of Representatives a report that describes the  
 12          results of the study conducted under subsection (a), in-  
 13          cluding any recommendations.

14       **SEC. 10. REPORT ON MEMORANDUM OF UNDERSTANDING**  
 15               **ON HYDROPOWER.**

16          Not later than 180 days after the date of enactment  
 17          of this Act, the President shall submit to the Committee  
 18          on Energy and Natural Resources of the Senate and the  
 19          Committee on Energy and Commerce of the House of  
 20          Representatives a report on actions taken by the Depart-  
 21          ment of Energy, the Department of the Interior, and the  
 22          Corps of Engineers to carry out the memorandum of un-  
 23          derstanding on hydropower entered into on March 24,  
 24          2010, with particular emphasis on actions taken by the  
 25          agencies to work together and investigate ways to effi-

1 efficiently and responsibly facilitate the Federal permitting  
 2 process for Federal and non-Federal hydropower projects  
 3 at Federal facilities, within existing authority.

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

5 (a) *SHORT TITLE.*—*This Act may be cited as the “Hy-*  
 6 *dropower Regulatory Efficiency Act of 2013”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*  
 8 *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 periods.*

*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.*

9 **SEC. 2. FINDINGS.**

10 *Congress finds that—*

11 (1) *the hydropower industry currently employs*  
 12 *approximately 300,000 workers across the United*  
 13 *States;*

14 (2) *hydropower is the largest source of clean, re-*  
 15 *newable electricity in the United States;*

16 (3) *as of the date of enactment of this Act, hy-*  
 17 *dropower resources, including pumped storage facili-*  
 18 *ties, provide—*

19 (A) *nearly 7 percent of the electricity gen-*  
 20 *erated in the United States; and*

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

3                   (4) only 3 percent of the 80,000 dams in the  
4                   United States generate electricity, so there is substan-  
5                   tial potential for adding hydropower generation to  
6                   nonpowered dams; and

7                   (5) according to one study, by utilizing currently  
8                   untapped resources, the United States could add ap-  
9                   proximately 60,000 megawatts of new hydropower ca-  
10                  pacity by 2025, which could create 700,000 new jobs  
11                  over the next 13 years.

12 **SEC. 3. PROMOTING SMALL HYDROELECTRIC POWER**  
13 **PROJECTS.**

14                  Subsection (d) of section 405 of the Public Utility Reg-  
15                  ulatory Policies Act of 1978 (16 U.S.C. 2705) is amended  
16                  by striking “5,000” and inserting “10,000”.

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

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

21                  (1) by striking subsections (a) and (b) and in-  
22                  serting the following:

23                  “(a)(1) A qualifying conduit hydropower facility shall  
24                  not be required to be licensed under this part.

1       “(2)(A) Any person, State, or municipality proposing  
 2   to construct a qualifying conduit hydropower facility shall  
 3   file with the Commission a notice of intent to construct such  
 4   facility. The notice shall include sufficient information to  
 5   demonstrate that the facility meets the qualifying criteria.

6       “(B) Not later than 15 days after receipt of a notice  
 7   of intent filed under subparagraph (A), the Commission  
 8   shall—

9               “(i) make an initial determination as to whether  
 10   the facility meets the qualifying criteria; and

11              “(ii) if the Commission makes an initial deter-  
 12   mination, pursuant to clause (i), that the facility  
 13   meets the qualifying criteria, publish public notice of  
 14   the notice of intent filed under subparagraph (A).

15       “(C) If, not later than 45 days after the date of publi-  
 16   cation of the public notice described in subparagraph  
 17   (B)(ii)—

18              “(i) an entity contests whether the facility meets  
 19   the qualifying criteria, the Commission shall prompt-  
 20   ly issue a written determination as to whether the fa-  
 21   cility meets such criteria; or

22              “(ii) no entity contests whether the facility meets  
 23   the qualifying criteria, the facility shall be deemed to  
 24   meet such criteria.

25       “(3) For purposes of this section:

1           “(A) The term ‘conduit’ means any tunnel,  
 2 canal, pipeline, aqueduct, flume, ditch, or similar  
 3 manmade water conveyance that is operated for the  
 4 distribution of water for agricultural, municipal, or  
 5 industrial consumption and not primarily for the  
 6 generation of electricity.

7           “(B) The term ‘qualifying conduit hydropower  
 8 facility’ means a facility (not including any dam or  
 9 other impoundment) that is determined or deemed  
 10 under paragraph (2)(C) to meet the qualifying cri-  
 11 teria.

12           “(C) The term ‘qualifying criteria’ means, with  
 13 respect to a facility—

14               “(i) the facility is constructed, operated, or  
 15 maintained for the generation of electric power  
 16 and uses for such generation only the hydro-  
 17 electric potential of a non-federally owned con-  
 18 duit;

19               “(ii) the facility has an installed capacity  
 20 that does not exceed 5 megawatts; and

21               “(iii) on or before the date of enactment of  
 22 the Hydropower Regulatory Efficiency Act of  
 23 2013, the facility is not licensed under, or ex-  
 24 empted from the license requirements contained  
 25 in, this part.

1       “(b) Subject to subsection (c), the Commission may  
 2   grant an exemption in whole or in part from the require-  
 3   ments of this part, including any license requirements con-  
 4   tained in this part, to any facility (not including any dam  
 5   or other impoundment) constructed, operated, or main-  
 6   tained for the generation of electric power which the Com-  
 7   mission determines, by rule or order—

8               “(1) utilizes for such generation only the hydro-  
 9   electric potential of a conduit; and

10              “(2) has an installed capacity that does not ex-  
 11   ceed 40 megawatts.”;

12              “(2) in subsection (c), by striking “subsection (a)”  
 13   and inserting “subsection (b)”;

14              “(3) in subsection (d), by striking “subsection  
 15   (a)” and inserting “subsection (b)”.

16   (b) **CONFORMING AMENDMENT.**—Subsection (d) of sec-  
 17   tion 405 of the Public Utility Regulatory Policies Act of  
 18   1978 (16 U.S.C. 2705), as amended, is further amended by  
 19   striking “subsection (a) of such section 30” and inserting  
 20   “subsection (b) of such section 30”.

21   **SEC. 5. FERC AUTHORITY TO EXTEND PRELIMINARY PER-**  
 22               **MIT PERIODS.**

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

1           (1) *by designating the first, second, and third*  
 2           *sentences as subsections (a), (c), and (d), respectively;*  
 3           *and*

4           (2) *by inserting after subsection (a) (as so des-*  
 5           *ignated) the following:*

6           “(b) *The Commission may extend the period of a pre-*  
 7           *liminary permit once for not more than 2 additional years*  
 8           *beyond the 3 years permitted by subsection (a) if the Com-*  
 9           *mission finds that the permittee has carried out activities*  
 10          *under such permit in good faith and with reasonable dili-*  
 11          *gence.”.*

12   **SEC. 6. PROMOTING HYDROPOWER DEVELOPMENT AT NON-**  
 13                           **POWERED DAMS AND CLOSED LOOP PUMPED**  
 14                           **STORAGE PROJECTS.**

15          (a) *IN GENERAL.—To improve the regulatory process*  
 16          *and reduce delays and costs for hydropower development*  
 17          *at nonpowered dams and closed loop pumped storage*  
 18          *projects, the Federal Energy Regulatory Commission (re-*  
 19          *ferred to in this section as the “Commission”) shall inves-*  
 20          *tigate the feasibility of the issuance of a license for hydro-*  
 21          *power development at nonpowered dams and closed loop*  
 22          *pumped storage projects in a 2-year period (referred to in*  
 23          *this section as a “2-year process”). Such a 2-year process*  
 24          *shall include any prefiling licensing process of the Commis-*  
 25          *sion.*

1       (b) *WORKSHOPS AND PILOTS.*—*The Commission*  
 2 *shall—*

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

7           (2) *develop criteria for identifying projects fea-*  
 8 *turing hydropower development at nonpowered dams*  
 9 *and closed loop pumped storage projects that may be*  
 10 *appropriate for licensing within a 2-year process;*

11          (3) *not later than 180 days after the date of en-*  
 12 *actment of this Act, develop and implement pilot*  
 13 *projects to test a 2-year process, if practicable; and*

14          (4) *not later than 3 years after the date of imple-*  
 15 *mentation of the final pilot project testing a 2-year*  
 16 *process, hold a final workshop to solicit public com-*  
 17 *ment on the effectiveness of each tested 2-year process.*

18       (c) *MEMORANDUM OF UNDERSTANDING.*—*The Com-*  
 19 *mission shall, to the extent practicable, enter into a memo-*  
 20 *randum of understanding with any applicable Federal or*  
 21 *State agency to implement a pilot project described in sub-*  
 22 *section (b).*

23       (d) *REPORTS.*—

24           (1) *PILOT PROJECTS NOT IMPLEMENTED.*—*If the*  
 25 *Commission determines that no pilot project described*

1     *in subsection (b) is practicable because no 2-year*  
 2     *process is practicable, not later than 240 days after*  
 3     *the date of enactment of this Act, the Commission*  
 4     *shall submit to the Committee on Energy and Com-*  
 5     *merce of the House of Representatives and the Com-*  
 6     *mittee on Energy and Natural Resources of the Sen-*  
 7     *ate a report that—*

8             *(A) describes the public comments received*  
 9             *as part of the initial workshop held under sub-*  
 10            *section (b)(1); and*

11            *(B) identifies the process, legal, environ-*  
 12            *mental, economic, and other issues that justify*  
 13            *the determination of the Commission that no 2-*  
 14            *year process is practicable, with recommenda-*  
 15            *tions on how Congress may address or remedy*  
 16            *the identified issues.*

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

1           (A) describes the outcomes of the pilot  
2           projects;

3           (B) describes the public comments from the  
4           final workshop on the effectiveness of each tested  
5           2-year process; and

6           (C)(i) outlines how the Commission will  
7           adopt policies under existing law (including reg-  
8           ulations) that result in a 2-year process for ap-  
9           propriate projects;

10          (ii) outlines how the Commission will issue  
11          new regulations to adopt a 2-year process for ap-  
12          propriate projects; or

13          (iii) identifies the process, legal, environ-  
14          mental, economic, and other issues that justify a  
15          determination of the Commission that no 2-year  
16          process is practicable, with recommendations on  
17          how Congress may address or remedy the identi-  
18          fied issues.

19 **SEC. 7. DOE STUDY OF PUMPED STORAGE AND POTENTIAL**  
20 **HYDROPOWER FROM CONDUITS.**

21          (a) *IN GENERAL.*—The Secretary of Energy shall con-  
22          duct a study—

23               (1)(A) of the technical flexibility that existing  
24               pumped storage facilities can provide to support  
25               intermittent renewable electric energy generation, in-

1       cluding the potential for such existing facilities to be  
2       upgraded or retrofitted with advanced commercially  
3       available technology; and

4               (B) of the technical potential of existing pumped  
5       storage facilities and new advanced pumped storage  
6       facilities, to provide grid reliability benefits; and

7               (2)(A) to identify the range of opportunities for  
8       hydropower that may be obtained from conduits (as  
9       defined by the Secretary) in the United States; and

10              (B) through case studies, to assess amounts of  
11       potential energy generation from such conduit hydro-  
12       power projects.

13       (b) *REPORT*.—Not later than 1 year after the date of  
14       enactment of this Act, the Secretary of Energy shall submit  
15       to the Committee on Energy and Commerce of the House  
16       of Representatives and the Committee on Energy and Nat-  
17       ural Resources of the Senate a report that describes the re-  
18       sults of the study conducted under subsection (a), including  
19       any recommendations.



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**S. 545**

**A BILL**

To improve hydropower, and for other purposes.

May 13, 2013

Reported with an amendment