

115TH CONGRESS
1ST SESSION

H. R. 2880

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2017

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To amend the Federal Power Act to promote closed-loop
pumped storage 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Promoting Closed-
3 Loop Pumped Storage Hydropower Act”.

4 **SEC. 2. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

5 Part I of the Federal Power Act (16 U.S.C. 792 et
6 seq.) is amended by adding at the end the following:

7 **“SEC. 34. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

8 “(a) EXPEDITED LICENSING PROCESS FOR CLOSED-
9 LOOP PUMPED STORAGE PROJECTS.—

10 “(1) IN GENERAL.—As provided in this section,
11 the Commission may issue and amend licenses and
12 preliminary permits, as appropriate, for closed-loop
13 pumped storage projects.

14 “(2) RULE.—Not later than 180 days after the
15 date of enactment of this section, the Commission
16 shall issue a rule establishing an expedited process
17 for issuing and amending licenses and preliminary
18 permits for closed-loop pumped storage projects
19 under this section.

20 “(3) INTERAGENCY TASK FORCE.—In estab-
21 lishing the expedited process under this section, the
22 Commission shall convene an interagency task force,
23 with appropriate Federal and State agencies and In-
24 dian tribes represented, to coordinate the regulatory
25 processes associated with the authorizations required

1 to construct and operate closed-loop pumped storage
2 projects.

3 “(4) LENGTH OF PROCESS.—The Commission
4 shall ensure that the expedited process under this
5 section will result in final decision on an application
6 for a license by not later than 2 years after receipt
7 of a completed application for such license.

8 “(b) DAM SAFETY.—Before issuing any license for
9 a closed-loop pumped storage project, the Commission
10 shall assess the safety of existing dams and other struc-
11 tures related to the project (including possible con-
12 sequences associated with failure of such structures).

13 “(c) EXEMPTIONS FROM OTHER REQUIREMENTS.—

14 “(1) IN GENERAL.—In issuing or amending a
15 license or preliminary permit pursuant to the expe-
16 dited process established under this section, the
17 Commission may grant an exemption from any other
18 requirement of this part with respect to any part of
19 the closed-loop pumped storage project (not includ-
20 ing any dam or other impoundment).

21 “(2) CONSULTATION.—In granting an exemp-
22 tion under paragraph (1), the Commission shall con-
23 sult with the United States Fish and Wildlife Serv-
24 ice and the State agency exercising administration
25 over the fish and wildlife resources of the State in

1 which the closed-loop pumped storage project is or
2 will be located, in the manner provided by the Fish
3 and Wildlife Coordination Act (16 U.S.C. 661 et
4 seq.).

5 “(3) TERMS AND CONDITIONS.—In granting an
6 exemption under paragraph (1), the Commission
7 shall include in any such exemption—

8 “(A) such terms and conditions as the
9 Fish and Wildlife Service, National Marine
10 Fisheries Service, and the State agency de-
11 scribed in paragraph (2) each determine are ap-
12 propriate to prevent loss of, or damage to, fish
13 and wildlife resources and to otherwise carry
14 out the purposes of the Fish and Wildlife Co-
15 ordination Act; and

16 “(B) such terms and conditions as the
17 Commission deems appropriate to ensure that
18 such closed-loop pumped storage project con-
19 tinues to comply with the provisions of this sec-
20 tion and terms and conditions included in any
21 such exemption.

22 “(4) FEES.—The Commission, in addition to
23 the requirements of section 10(e), shall establish
24 fees which shall be paid by an applicant for a license
25 for a closed-loop pumped storage project that is re-

1 quired to meet terms and conditions set by fish and
2 wildlife agencies under paragraph (3). Such fees
3 shall be adequate to reimburse the fish and wildlife
4 agencies referred to in paragraph (3) for any reason-
5 able costs incurred in connection with any studies or
6 other reviews carried out by such agencies for pur-
7 poses of compliance with this section. The fees shall,
8 subject to annual appropriations Acts, be transferred
9 to such agencies by the Commission for use solely
10 for purposes of carrying out such studies and shall
11 remain available until expended.

12 “(d) TRANSFERS.—Notwithstanding section 5, and
13 regardless of whether the holder of a preliminary permit
14 for a closed-loop pumped storage project claimed munic-
15 ipal preference under section 7(a) when obtaining the per-
16 mit, the Commission may, to facilitate development of a
17 closed-loop pumped storage project—

18 “(1) add entities as joint permittees following
19 issuance of a preliminary permit; and

20 “(2) transfer a license in part to one or more
21 nonmunicipal entities as co-licensees with a munici-
22 pality, if the municipality retains majority ownership
23 of the project for which the license was issued.

24 “(e) INTERAGENCY COMMUNICATIONS.—Interagency
25 cooperation in the preparation of environmental docu-

1 ments under the National Environmental Policy Act of
2 1969 (42 U.S.C. 4321 et seq.) with respect to an applica-
3 tion for a license for a closed-loop pumped storage project
4 submitted pursuant to this section, and interagency com-
5 munications relating to licensing process coordination pur-
6 suant to this section, shall not—

7 “(1) be considered to be ex parte communica-
8 tions under Commission rules; or

9 “(2) preclude an agency from participating in a
10 licensing proceeding under this part.

11 “(f) DEVELOPING ABANDONED MINES FOR PUMPED
12 STORAGE.—

13 “(1) WORKSHOP.—Not later than 6 months
14 after the date of enactment of this section, the Com-
15 mission shall hold a workshop to explore potential
16 opportunities for development of closed-loop pumped
17 storage projects at abandoned mine sites.

18 “(2) GUIDANCE.—Not later than 1 year after
19 the date of enactment of this section, the Commis-
20 sion shall issue guidance to assist applicants for li-
21 censes or preliminary permits for closed-loop
22 pumped storage projects at abandoned mine sites.

23 “(g) QUALIFYING CRITERIA FOR CLOSED-LOOP
24 PUMPED STORAGE PROJECTS.—

1 “(1) IN GENERAL.—The Commission shall es-
 2 tablish criteria that a pumped storage project shall
 3 meet in order to qualify as a closed-loop pumped
 4 storage project eligible for the expedited process es-
 5 tablished under this section.

6 “(2) INCLUSIONS.—In establishing the criteria
 7 under paragraph (1), the Commission shall include
 8 criteria requiring that the pumped storage project—

9 “(A) cause little to no change to existing
 10 surface and groundwater flows and uses; and

11 “(B) is unlikely to adversely affect species
 12 listed as a threatened species or endangered
 13 species under the Endangered Species Act of
 14 1973.”.

15 **SEC. 3. OBLIGATION FOR PAYMENT OF ANNUAL CHARGES.**

16 Section 10(e) of the Federal Power Act (16 U.S.C.
 17 803(e)) is amended by adding at the end the following:

18 “(5) Any obligation of a licensee for payment of an-
 19 nual charges under this subsection shall commence when
 20 the construction of the applicable facility commences.”.

 Passed the House of Representatives December 12,
 2017.

Attest:

KAREN L. HAAS,

Clerk.