

## Union Calendar No.

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2880

[Report No. 115-]

To amend the Federal Power Act to promote closed-loop pumped storage hydropower, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2017

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER --, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 12, 2017]

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Promoting Closed-Loop*  
5 *Pumped Storage Hydropower Act”.*

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

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

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

10 *“(a) EXPEDITED LICENSING PROCESS FOR CLOSED-*  
11 *LOOP PUMPED STORAGE PROJECTS.—*

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

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

22 *“(3) INTERAGENCY TASK FORCE.—In estab-*  
23 *lishing the expedited process under this section, the*  
24 *Commission shall convene an interagency task force,*  
25 *with appropriate Federal and State agencies and In-*

1        *dian tribes represented, to coordinate the regulatory*  
2        *processes associated with the authorizations required*  
3        *to construct and operate closed-loop pumped storage*  
4        *projects.*

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

10          *“(b) DAM SAFETY.—Before issuing any license for a*  
11        *closed-loop pumped storage project, the Commission shall*  
12        *assess the safety of existing dams and other structures re-*  
13        *lated to the project (including possible consequences associ-*  
14        *ated with failure of such structures).*

15          *“(c) EXEMPTIONS FROM OTHER REQUIREMENTS.—*

16            *“(1) IN GENERAL.—In issuing or amending a li-*  
17        *cence or preliminary permit pursuant to the expe-*  
18        *ditated process established under this section, the Com-*  
19        *mission may grant an exemption from any other re-*  
20        *quirement of this part with respect to any part of the*  
21        *closed-loop pumped storage project (not including any*  
22        *dam or other impoundment).*

23            *“(2) CONSULTATION.—In granting an exemption*  
24        *under paragraph (1), the Commission shall consult*  
25        *with the United States Fish and Wildlife Service and*

1        *the State agency exercising administration over the*  
2        *fish and wildlife resources of the State in which the*  
3        *closed-loop pumped storage project is or will be lo-*  
4        *cated, in the manner provided by the Fish and Wild-*  
5        *life Coordination Act (16 U.S.C. 661 et seq.).*

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

9            “(A) *such terms and conditions as the Fish*  
10        *and Wildlife Service, National Marine Fisheries*  
11        *Service, and the State agency described in para-*  
12        *graph (2) each determine are appropriate to pre-*  
13        *vent loss of, or damage to, fish and wildlife re-*  
14        *sources and to otherwise carry out the purposes*  
15        *of the Fish and Wildlife Coordination Act; and*

16            “(B) *such terms and conditions as the Com-*  
17        *mission deems appropriate to ensure that such*  
18        *closed-loop pumped storage project continues to*  
19        *comply with the provisions of this section and*  
20        *terms and conditions included in any such ex-*  
21        *emption.*

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

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

12      “(d) *TRANSFERS.*—Notwithstanding section 5, and re-  
13      gardless of whether the holder of a preliminary permit for  
14      a closed-loop pumped storage project claimed municipal  
15      preference under section 7(a) when obtaining the permit,  
16      the Commission may, to facilitate development of a closed-  
17      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 municipi-  
22             pality, if the municipality retains majority owner-  
23             ship of the project for which the license was issued.

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

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

7           “(1) *be considered to be ex parte communications*  
8           *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 after*  
14               *the date of enactment of this section, the Commission*  
15               *shall hold a workshop to explore potential opportuni-*  
16               *ties for development of closed-loop pumped storage*  
17               *projects at abandoned mine sites.*

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

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

1           “(1) *IN GENERAL.*—*The Commission shall estab-*  
2           *lish criteria that a pumped storage project shall meet*  
3           *in order to qualify as a closed-loop pumped storage*  
4           *project eligible for the expedited process established*  
5           *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 spe-*  
13                    *cies under the Endangered Species Act of 1973.”.*

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

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

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