

1 **SEC. 2. CONFIRMING THAT HYDROPOWER IS AN ESSENTIAL**
2 **RENEWABLE RESOURCE.**

3 (a) SENSE OF CONGRESS ON THE USE OF HYDRO-
4 POWER RENEWABLE RESOURCES.—It is the sense of Con-
5 gress that—

6 (1) hydropower is a renewable resource for pur-
7 poses of all Federal programs and is an essential
8 source of energy in the United States; and

9 (2) the United States should protect existing
10 hydropower resources and increase substantially the
11 capacity and generation of clean, renewable hydro-
12 power resources to address a changing climate and
13 improve environmental quality in the United States.

14 (b) MODIFYING DEFINITIONS OF RENEWABLE EN-
15 ERGY TO INCLUDE HYDROPOWER.—

16 (1) ENERGY POLICY ACT OF 2005.—Section 203
17 of the Energy Policy Act of 2005 (42 U.S.C. 15852)
18 is amended—

19 (A) in subsection (a), by amending para-
20 graphs (1) through (3) to read as follows:

21 “(1) Not less than 20 percent in fiscal years
22 2024 through 2025.

23 “(2) Not less than 23 percent in fiscal years
24 2026 through 2027.

25 “(3) Not less than 25 percent in fiscal year
26 2028 and each fiscal year thereafter.”; and

1 (B) in subsection (b), by striking para-
2 graph (2) and inserting the following:

3 “(2) RENEWABLE ENERGY.—The term ‘renew-
4 able energy’ means energy produced from solar,
5 wind, biomass, landfill gas, ocean (including tidal,
6 wave, current, and thermal), geothermal, municipal
7 solid waste, or hydropower.”.

8 (2) OTHER FEDERAL REGULATIONS, ORDERS,
9 AND POLICIES.—Not later than 180 days after the
10 date of enactment of this Act, each Federal depart-
11 ment and agency shall submit to the Committee on
12 Energy and Natural Resources of the Senate and
13 the Committee on Energy and Commerce of the
14 House of Representatives a report demonstrating
15 that the department or agency has amended any ap-
16 plicable regulation, order, or other policy of the de-
17 partment or agency related to renewable energy to
18 ensure treatment of hydropower by the Federal Gov-
19 ernment consistent with the amendments made by
20 paragraph (1).

21 (c) LICENSES FOR CONSTRUCTION.—Section 4(e) of
22 the Federal Power Act (16 U.S.C. 797(e)) is amended,
23 in the first sentence, by inserting “to mitigate the effects
24 of the applicable project on such reservation, so as to pro-
25 vide” after “deem necessary” in the first proviso.

1 (d) CONDITIONS FOR LICENSES.—Section 10(j)(1) of
2 the Federal Power Act (16 U.S.C. 803(j)(1)) is amended
3 by inserting at the end the following: “Such conditions
4 may be based on recommendations received from affected
5 Indian Tribes pursuant to consultation with such affected
6 Indian Tribes.”.

7 (e) OPERATION OF NAVIGATION FACILITIES.—Sec-
8 tion 18 of the Federal Power Act (16 U.S.C. 811) is
9 amended by adding before the period at the end of the
10 first sentence “to mitigate effects of the applicable
11 project”.

12 **SEC. 3. PROTECTING AND PROMOTING SMALL AND NEXT-**
13 **GENERATION HYDROPOWER PROJECTS.**

14 (a) EXEMPTIONS FROM LICENSING REQUIREMENTS
15 FOR CERTAIN SMALL HYDROELECTRIC POWER
16 PROJECTS.—Section 405 of the Public Utility Regulatory
17 Policies Act of 1978 (16 U.S.C. 2705) is amended by
18 striking subsection (d) and inserting the following:

19 “(d) EXEMPTIONS FROM LICENSING IN CERTAIN
20 CASES.—

21 “(1) IN GENERAL.—Subject to paragraphs (2)
22 and (3), the Commission may in its discretion (by
23 rule or order), upon application and on a case-by-
24 case basis or on the basis of classes or categories of
25 projects, grant an exemption in whole or in part

1 from the requirements (including the licensing re-
2 quirements) of part I of the Federal Power Act to
3 any small hydroelectric power project—

4 “(A) having a proposed installed capacity
5 of 40 megawatts or less; or

6 “(B) for which a license was issued under
7 part I of the Federal Power Act and the li-
8 censee applies for an exemption under this sub-
9 section, if—

10 “(i) the license was issued after the
11 date of enactment of the Electric Con-
12 sumers Protection Act of 1986;

13 “(ii) the Commission determines,
14 based on information available to the Com-
15 mission, that continued operation of the
16 project is not likely to jeopardize the con-
17 tinued existence of any species listed as a
18 threatened species or an endangered spe-
19 cies under the Endangered Species Act of
20 1973;

21 “(iii) the Commission determines,
22 based on information available to the Com-
23 mission, that continued operation of the
24 project is not likely to result in the de-
25 struction or adverse modification of an

1 area designated as critical habitat for any
2 species listed as a threatened species or an
3 endangered species under the Endangered
4 Species Act of 1973; and

5 “(iv) the project has an installed ca-
6 pacity of 40 megawatts or less.

7 “(2) REQUIREMENTS.—An exemption granted
8 under paragraph (1) shall be subject to the same
9 limitations (to ensure protection for fish and wildlife
10 as well as other environmental concerns) as those
11 which are set forth in subsections (c) and (d) of sec-
12 tion 30 of the Federal Power Act with respect to de-
13 terminations made and exemptions granted under
14 subsection (b) of such section 30 and subsections (c)
15 and (d) of such section 30 shall apply with respect
16 to actions taken and exemptions granted under this
17 subsection.

18 “(3) EFFECTS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), the granting of an exemp-
21 tion to a project under this subsection shall in
22 no case have the effect of waiving or limiting
23 the application (to such project) of the second
24 sentence of subsection (b) of this section.

1 “(1) EMERGING HYDROPOWER TECHNOLOGY
2 PROJECT.—The term ‘emerging hydropower tech-
3 nology project’ means a project that the Commission
4 determines—

5 “(A) will produce electricity from a gener-
6 ator driven by a turbine that converts the po-
7 tential energy of falling or flowing water;

8 “(B) will utilize turbine or generating tech-
9 nology, an energy storage method, or a measure
10 to protect, mitigate, or enhance environmental
11 resources, that is not in widespread, utility-
12 scale use in the United States as of the date of
13 enactment of this section;

14 “(C) will not be, based on information
15 available to the Commission, likely to jeopardize
16 the continued existence of any species listed as
17 a threatened species or an endangered species
18 under the Endangered Species Act of 1973; and

19 “(D) will not be, based on information
20 available to the Commission, likely to result in
21 the destruction or adverse modification of an
22 area designated as critical habitat for any spe-
23 cies listed as a threatened species or an endan-
24 gered species under the Endangered Species
25 Act of 1973.

1 “(2) NEXT-GENERATION HYDROPOWER
2 PROJECT.—The term ‘next-generation hydropower
3 project’ means a project that—

4 “(A) may be licensed under this Act;

5 “(B) is not—

6 “(i) a qualifying conduit hydropower
7 facility under section 30; or

8 “(ii) exempted from licensing under—

9 “(I) section 30; or

10 “(II) section 405 of the Public
11 Utility Regulatory Policies Act of
12 1978; and

13 “(C) is—

14 “(i) an emerging hydropower tech-
15 nology project;

16 “(ii) a qualifying facility, as defined in
17 section 34;

18 “(iii) a qualifying closed-loop pumped
19 storage project, as defined in section 35;

20 “(iv) a marine or hydrokinetic project,
21 including a project that utilizes a wave
22 technology, tidal technology, or in-river
23 technology; or

24 “(v) a hydropower facility within an
25 irrigation, water supply, industrial, agricul-

1 tural, or other open or closed water con-
2 duit system.

3 “(c) EXPEDITED LICENSING PROCESS.—

4 “(1) NOTIFICATION OF INTENT.—

5 “(A) FILING OF NOTIFICATION.—An appli-
6 cant for any next-generation hydropower project
7 shall commence the licensing process by filing a
8 notification of intent with the Commission.

9 “(B) DEADLINE FOR FILING.—Notwith-
10 standing section 15(b)(1), an applicant for a
11 next-generation hydropower project shall file a
12 notification of intent at least 2 years before the
13 expiration of the existing license, if applicable.

14 “(2) FILING OF APPLICATION.—

15 “(A) GENERAL DEADLINE.—An applicant
16 for a next-generation hydropower project shall
17 submit to the Commission an application not
18 later than 1 year after filing the notification of
19 intent under paragraph (1).

20 “(B) EXISTING LICENCEE DEADLINE.—
21 Notwithstanding section 15(c)(1), an applica-
22 tion for any next-generation hydropower project
23 shall be filed with the Commission at least 1
24 year before the expiration of the term of the ex-
25 isting license, if applicable.

1 “(3) DEADLINE FOR ISSUANCE.—The Commis-
2 sion shall take final action on a license for a next-
3 generation hydropower project under this section not
4 later than 2 years after the applicant notifies the
5 Commission of its intent to file an application for a
6 license, as provided under paragraph (1).

7 “(d) REQUIREMENTS.—In issuing a license under
8 this section the Commission and all resource agencies with
9 regulatory responsibilities in the licensing process shall—

10 “(1) maximize reliance on existing studies and
11 information and require any person or agency re-
12 questing a new study or information to demonstrate
13 that collection of any new data or preparation of any
14 new study will not jeopardize the Commission’s abil-
15 ity to meet the licensing deadline under subsection
16 (c)(3);

17 “(2) consider whether obligations under the Na-
18 tional Environmental Protection Act of 1969 may be
19 met through preparation of an environmental assess-
20 ment or supplementing a previously prepared envi-
21 ronmental assessment or environmental impact
22 statement;

23 “(3) eliminate any nonessential meetings, re-
24 ports, and paperwork, including interim study re-
25 ports and a draft license application or similar docu-

1 (1) IN GENERAL.—Not later than 270 days
2 after the date of enactment of this Act, the Federal
3 Energy Regulatory Commission, in consultation with
4 the Secretary of Energy, shall submit to the Com-
5 mittee on Energy and Natural Resources of the Sen-
6 ate and the Committee on Energy and Commerce of
7 the House of Representatives a report—

8 (A) describing any barriers to the develop-
9 ment and proper compensation of conventional,
10 storage, conduit, and emerging hydropower
11 technologies caused by—

12 (i) rules of Transmission Organiza-
13 tions (as defined in section 3 of the Fed-
14 eral Power Act (16 U.S.C. 796));

15 (ii) regulations or policies—

16 (I) of the Commission; or

17 (II) under the Federal Power Act
18 (16 U.S.C. 791a et seq.); or

19 (iii) other Federal and State laws and
20 policies unique to hydropower development,
21 operation, and regulation, as compared to
22 other sources of electricity;

23 (B) containing recommendations of the
24 Commission for reducing barriers described in

1 subparagraph (A) across regulatory and market
2 sectors;

3 (C) identifying and determining any regu-
4 latory, market, procurement, or cost recovery
5 mechanisms that would—

6 (i) encourage development of conven-
7 tional, storage, conduit, and emerging hy-
8 dropower technologies; and

9 (ii) properly compensate conventional,
10 storage, conduit, and emerging hydropower
11 technologies for the full range of services
12 provided to the electric grid, including—

13 (I) balancing electricity supply
14 and demand;

15 (II) ensuring grid reliability;

16 (III) providing ancillary services;

17 (IV) contributing to the
18 decarbonization of the electric grid;

19 and

20 (V) integrating intermittent
21 power sources into the grid in a cost-
22 effective manner; and

23 (D) identifying ownership and development
24 models that could reduce barriers to the devel-

1 opment of conventional, storage, conduit, and
2 emerging hydropower technologies, including—

3 (i) opportunities for risk-sharing
4 mechanisms and partnerships, including
5 co-ownership models; and

6 (ii) opportunities to foster lease-sale
7 and lease-back arrangements with publicly
8 owned electric utilities.

9 (2) COMMISSION PROCEEDINGS.—The Commis-
10 sion shall base the report under paragraph (1) on
11 the findings of the Commission in—

12 (A) Docket No. AD16–20;

13 (B) Docket No. RM16–23; and

14 (C) any other relevant proceedings.

15 (3) TECHNICAL CONFERENCE AND PUBLIC
16 COMMENT.—In preparing the report under para-
17 graph (1), the Commission shall solicit public input,
18 including by convening a technical conference and
19 providing an opportunity for public submission of
20 written comments on a draft report.

21 (b) DEFINITIONS.—In this section:

22 (1) ANCILLARY SERVICES.—The term “ancil-
23 lary services” means the specialty services and func-
24 tions provided by the electric grid that facilitate and

1 support the continuous flow of electricity so that
2 supply will continually meet demand, including—

- 3 (A) autonomous dynamic voltage support;
- 4 (B) balancing;
- 5 (C) black start capabilities;
- 6 (D) frequency control;
- 7 (E) load following;
- 8 (F) operating, flexibility, contingency, and
9 other reserves;
- 10 (G) reactive power; and
- 11 (H) synchronized regulation.

12 (2) CONVENTIONAL, STORAGE, CONDUIT, AND
13 EMERGING HYDROPOWER TECHNOLOGIES.—The
14 term “conventional, storage, conduit, and emerging
15 hydropower technologies” means hydropower in all
16 its forms and modes of operation, including—

- 17 (A) the use of dams or similar infrastruc-
18 ture to store water in a reservoir or divert flows
19 from a waterway, and to release stored or di-
20 verted water through a turbine to generate elec-
21 tricity according to any mode of operation, such
22 as run-of-river, peaking, reregulating, storage,
23 or load following;
- 24 (B) a configuration of two water reservoirs
25 at different elevations that can generate power

1 as water moves down through a turbine, and
2 pump water back to the upper reservoir when
3 the turbine operations are reversed, including
4 both closed- and open-loop systems;

5 (C) marine and hydrokinetic technologies,
6 including wave, tidal, and in-river systems;

7 (D) mini- and micro-hydropower facilities
8 within irrigation, water supply, industrial, agri-
9 cultural, or other open or closed water conduit
10 systems; and

11 (E) other facilities that produce electricity
12 from generators driven by turbines that convert
13 the potential energy of falling or flowing water.

14 **SEC. 5. MODERNIZING HYDROPOWER LICENSING.**

15 Part I of the Federal Power Act (16 U.S.C. 792 et
16 seq.) is further amended by adding at the end the fol-
17 lowing:

18 **“SEC. 38. LICENSING PROCESS COORDINATION AND IM-
19 PROVEMENT.**

20 “(a) DEFINITION OF FEDERAL AUTHORIZATION.—In
21 this section, the term ‘Federal authorization’ means any
22 authorization required under Federal law (including any
23 license, condition of any license by a Secretary under sec-
24 tion 4(e), prescription submitted by a Secretary under sec-
25 tion 18, permit, special use authorization, certification,

1 opinion, consultation, determination, or other approval)
2 with respect to an application for a license under this part.

3 “(b) DESIGNATION AS LEAD AGENCY.—

4 “(1) IN GENERAL.—The Commission shall act
5 as the lead agency for purposes of all applicable
6 Federal authorizations (including for purposes of
7 complying with the National Environmental Policy
8 Act of 1969), and for purposes of complying with
9 any required State or local environmental reviews.

10 “(2) OTHER AGENCIES.—Each Federal, State,
11 and local government agency considering an aspect
12 of an application for a Federal authorization shall
13 coordinate with the Commission and comply with the
14 deadline established in the schedule developed for
15 the license under this part, in accordance with the
16 rule issued under subsection (d)(2)(C).

17 “(c) USE OF EXISTING STUDIES.—

18 “(1) IN GENERAL.—To the maximum extent
19 practicable and in accordance with the best available
20 science, the Commission and other Federal and
21 State agencies with a responsibility for a Federal au-
22 thorization shall—

23 “(A) use relevant existing studies and
24 data; and

1 “(B) avoid duplicating current, existing
2 studies that are applicable to the relevant
3 project.

4 “(2) DEMONSTRATION.—When requiring any
5 new study or collection of information, the Commis-
6 sion or other Federal or State agency with a respon-
7 sibility for a Federal authorization shall—

8 “(A) explain how the new study or other
9 information is necessary to support the agency’s
10 decisionmaking with respect to the Federal au-
11 thorization;

12 “(B) identify how existing information rea-
13 sonably available to the agency is inadequate to
14 support the agency’s decisionmaking with sub-
15 stantial evidence; and

16 “(C) include an analysis of how the value
17 of the required new study or other information
18 outweighs the cost of producing it.

19 “(d) SCHEDULE.—

20 “(1) TIMING FOR ISSUANCE.—It is the sense of
21 Congress that, except as otherwise provided in this
22 part, all Federal authorizations required for a
23 project should be issued within a reasonable time, so
24 as to facilitate a final Commission licensing decision
25 within 2 years after the date on which the license

1 application for the project under this part is consid-
2 ered to be complete by the Commission.

3 “(2) COMMISSION SCHEDULE.—

4 “(A) IN GENERAL.—The Commission, in
5 accordance with the rule issued under subpara-
6 graph (C), shall—

7 “(i) establish a schedule for—

8 “(I) all filings and issuances nec-
9 essary and appropriate for its
10 issuance of a license issued under this
11 part; and

12 “(II) the issuance of all Federal
13 authorizations for the applicable
14 project; and

15 “(ii) issue such schedule when the
16 Commission determines that the license ap-
17 plication for the project is ready for envi-
18 ronmental analysis.

19 “(B) REQUIREMENTS.—In establishing the
20 schedule under subparagraph (A), the Commis-
21 sion shall—

22 “(i) consult and cooperate with the
23 Federal and State agencies responsible for
24 a Federal authorization;

1 “(ii) ensure the expeditious comple-
2 tion of all proceedings relating to a Fed-
3 eral authorization; and

4 “(iii) comply with applicable schedules
5 established by Federal law with respect to
6 a Federal authorization.

7 “(C) RULEMAKING.—

8 “(i) COMMISSION RULEMAKING TO ES-
9 TABLISH PROCESS TO SET SCHEDULE.—
10 Not later than 180 days after the date of
11 enactment of this section, the Commission,
12 in consultation with appropriate Federal
13 and State agencies and after providing no-
14 tice and opportunity for public comment,
15 shall issue a final rule establishing a proc-
16 ess for setting a schedule under subpara-
17 graph (A).

18 “(ii) CONSIDERATIONS.—In issuing a
19 rule under this subparagraph, the Commis-
20 sion shall ensure that the schedule for each
21 Federal authorization—

22 “(I) includes deadlines for ac-
23 tions by—

1 “(aa) any Federal or State
2 agency with responsibilities for a
3 Federal authorization;
4 “(bb) the applicant;
5 “(cc) the Commission; and
6 “(dd) other agencies and
7 participants in a proceeding;
8 “(II) is developed in consultation
9 with the applicant and any Federal or
10 State agency with responsibility for
11 the applicable Federal authorization;
12 “(III) provides an opportunity
13 for any Federal or State agency with
14 responsibility for a Federal authoriza-
15 tion to identify and resolve issues of
16 concern, consistent with subsections
17 (e) and (f);
18 “(IV) complies with applicable
19 schedules established under Federal
20 law;
21 “(V) ensures expeditious comple-
22 tion of all proceedings required under
23 Federal and State law, to the max-
24 imum extent practicable; and

1 “(VI) facilitates completion of
2 Federal and State agency studies, re-
3 views, and any other procedures re-
4 quired prior to, or concurrent with,
5 the preparation of the environmental
6 document of the Commission required
7 under the National Environmental
8 Policy Act of 1969, to the maximum
9 extent practicable.

10 “(3) ADHERENCE TO SCHEDULE.—

11 “(A) IN GENERAL.—The Commission,
12 Federal, and State agencies with responsibility
13 for a Federal authorization, the license appli-
14 cant, and all other agencies and other partici-
15 pants in proceedings for Federal authorizations
16 for the project shall meet the deadlines estab-
17 lished by the schedule developed under para-
18 graph (2).

19 “(B) EXTENSION OF SCHEDULE DEAD-
20 LINES.—

21 “(i) FEDERAL AUTHORIZATIONS.—A
22 Federal or State agency that is unable to
23 complete its disposition of a Federal au-
24 thorization by the deadline set forth in the
25 schedule established by the Commission

1 under paragraph (2) shall, not later than
2 30 days prior to such deadline, file for an
3 extension with the Commission. The Com-
4 mission shall issue a one-time extension of
5 up to 90 days to any such Federal or State
6 agency upon a demonstration of good
7 cause.

8 “(ii) OTHER EXTENSIONS.—The Com-
9 mission may grant extensions requested by
10 the license applicant or other licensing par-
11 ticipants to facilitate settlement, address
12 unforeseen circumstances, or accommodate
13 other showings of good cause if the Com-
14 mission determines that any such extension
15 would reduce the overall time period for
16 decisionmaking on required Federal au-
17 thorizations for the project, increase the
18 administrative efficiency of the processes
19 for Federal authorizations, or improve the
20 quality of information available to Federal
21 and State agencies with a responsibility for
22 a Federal authorization.

23 “(iii) REISSUANCE OF SCHEDULE.—If
24 the Commission grants an extension under
25 this paragraph, the Commission shall re-

1 issue the schedule and applicable deadlines
2 to reflect the extension of time granted.

3 “(C) LIMITATION.—Notwithstanding the
4 Commission’s authority to extend the schedule
5 as provided in subparagraph (B), the Commis-
6 sion shall not grant any extension that would
7 increase by 1 year or longer the time period in
8 the original schedule issued under paragraph
9 (2) for obtaining all Federal authorizations for
10 the applicable project.

11 “(4) FAILURE TO MEET SCHEDULE DEAD-
12 LINES.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (C), if a Federal or State agency fails to
15 complete its disposition of a Federal authoriza-
16 tion in accordance with the schedule deadline
17 established under paragraph (2) (as may be ex-
18 tended under paragraph (3))—

19 “(i) in the case of a Federal agency,
20 \$5,000 of unobligated funds shall be re-
21 scinded; or

22 “(ii) in the case of a State agency,
23 \$5,000 of unobligated funds shall be re-
24 scinded from Federal fish and wildlife or

1 water resources funding programs to the
2 State.

3 “(B) SUBSEQUENT RESCISSION.—Subject
4 to subparagraph (C), for each additional week
5 after any deadline established by the Commis-
6 sion under paragraph (2) (as may be extended
7 under paragraph (3)) remains uncompleted by a
8 Federal or State agency with a responsibility
9 for a Federal authorization, an additional re-
10 scission of \$5,000 shall occur as provided in
11 subparagraph (A).

12 “(C) MAXIMUM ANNUAL RESCISSION.—For
13 each individual Federal authorization for a
14 project, the total amounts rescinded under sub-
15 paragraphs (A) and (B) shall not exceed, in any
16 fiscal year, \$100,000.

17 “(D) LIMITATION.—No head of a Federal
18 or State department or agency shall reprogram
19 funds from another Federal account or program
20 for the loss of the funds under this paragraph.
21 No head of a Federal or State agency shall re-
22 port or include any rescinded funds as an ad-
23 ministrative cost for purposes of annual charges
24 under section 10(e).

1 “(e) INCONSISTENT OR CONFLICTING LICENSE
2 TERMS.—

3 “(1) CONSULTATION TO RESOLVE INCONSIST-
4 ENCY OR CONFLICT.—

5 “(A) IN GENERAL.—If a term or condition
6 of a Federal authorization submitted for inclu-
7 sion in a license under this part conflicts or is
8 otherwise inconsistent with another such term
9 or condition, the Commission shall initiate and
10 facilitate consultation between the Federal or
11 State resource agencies submitting conflicting
12 or inconsistent terms or conditions, to attempt
13 to resolve the inconsistency or conflict, includ-
14 ing with any such conditions recommended for
15 inclusion in the license by the Commission.

16 “(B) MEETINGS.—The consultation period
17 under this subsection shall extend up to 90
18 days and shall include at least one technical
19 conference or similar meeting. The Commission
20 shall issue notice of any such conference or
21 other consultation meeting, which shall be open
22 to participation by the license applicant, other
23 agencies, and other licensing participants.

24 “(C) AMENDMENT AND REISSUANCE.—If
25 the agencies submitting the terms or conditions

1 resolve the inconsistency or conflict, the Com-
2 mission and other consulting agencies shall set
3 a reasonable schedule and deadline, that is not
4 later than 90 days after the conclusion of the
5 consultation, for the agencies to amend and re-
6 issue their Federal authorizations to reflect the
7 resolution, as appropriate.

8 “(2) RESOLUTION OF INCONSISTENCY OR CON-
9 FLICT.—

10 “(A) STATEMENTS.—If agencies are un-
11 able to resolve an inconsistency or conflict
12 under paragraph (1), not later than 30 days
13 after the conclusion of the consultation process
14 under such paragraph, the agencies shall sub-
15 mit to the public record maintained by the
16 Commission a statement that identifies the in-
17 consistency or conflict, explains the position
18 taken by each agency causing the inconsistency
19 or conflict, and provides an analysis, supported
20 by information in the public record, of the fac-
21 tual basis for the inconsistent or conflicting po-
22 sition taken by each agency.

23 “(B) REFERRAL.—Following such submis-
24 sion, the Commission shall refer the matter for
25 resolution as provided in subsection (f).

1 “(f) RESOLUTION OF INTERAGENCY DISPUTES.—

2 “(1) REFERRAL TO OMB.—For any dispute
3 under subsection (c), (d), or (e) among Federal and
4 State agencies with responsibility for a Federal au-
5 thorization, as well as any dispute between any such
6 agency and the license applicant, the Commission
7 may, upon its own motion or the request of the head
8 of any such agency or the license applicant, refer the
9 matter to the Director of the Office of Management
10 and Budget.

11 “(2) ACTION BY OMB.—With respect to any dis-
12 pute referred to the Director under paragraph (1),
13 the Director, in consultation with the Chair of the
14 Council on Environmental Quality, shall act as ap-
15 propriate—

16 “(A) to ensure a timely participation;

17 “(B) to ensure a timely decision;

18 “(C) to mediate the dispute; or

19 “(D) to refer the matter to the President.

20 “(3) PARTICIPATION.—The license applicant
21 and other interested participants shall be provided
22 the opportunity to participate in the resolution of
23 any issues under this subsection.”.

1 **SEC. 6. HYDROPOWER DEVELOPMENT AT EXISTING NON-**
2 **POWERED DAMS AND CLOSED-LOOP PUMPED**
3 **STORAGE.**

4 (a) PROMOTING HYDROPOWER DEVELOPMENT AT
5 EXISTING NONPOWERED DAMS.—Section 34 of the Fed-
6 eral Power Act (16 U.S.C. 823e) is amended—

7 (1) by amending subsection (a) to read as fol-
8 lows:

9 “(a) IN GENERAL.—The Commission may issue a li-
10 cense under section 37 for any facility the Commission de-
11 termines is a qualifying facility.”;

12 (2) by striking subsections (b) and (c); and

13 (3) by redesignating subsections (d), (e), and
14 (f) as subsections (b), (c), and (d), respectively.

15 (b) CLOSED-LOOP PUMPED STORAGE PROJECTS.—
16 Section 35 of the Federal Power Act (16 U.S.C. 823f)
17 is amended—

18 (1) by amending subsection (a) to read as fol-
19 lows:

20 “(a) IN GENERAL.—The Commission may issue a li-
21 cense under section 37 for any project the Commission
22 determines is a qualifying closed-loop pumped storage
23 project.”;

24 (2) by striking subsections (b), (c), (e), (g), and
25 (h);

1 (3) by redesignating subsections (d) and (f) as
2 subsections (b) and (c), respectively; and

3 (4) by adding at the end the following:

4 “(d) NO LICENSE REQUIRED FOR CERTAIN
5 PROJECTS.—Notwithstanding section 23(b), a closed-loop
6 pumped storage project shall not be required to be licensed
7 under this part if the closed-loop pumped storage
8 project—

9 “(1) is not located upon any part of the public
10 lands or reservations of the United States; and

11 “(2) does not use a federally owned dam or res-
12 ervoir.

13 “(e) DEFINITIONS.—For purposes of this section:

14 “(1) CLOSED-LOOP PUMPED STORAGE
15 PROJECT.—The term ‘closed-loop pumped storage
16 project’ means a project for the generation of elec-
17 tric power—

18 “(A) that—

19 “(i) is configured to use 2 or more
20 natural or artificial reservoirs or other
21 water bodies at different elevations; and

22 “(ii) can generate electric power as
23 water moves down through a turbine and
24 recharge by pumping water to the upper
25 reservoir;

1 “(B) that will be constructed, operated,
2 and maintained for the generation of electric
3 power in a manner that ensures that the upper
4 and lower reservoirs or other water bodies do
5 not impound any stream channel of any surface
6 body of water over which Congress has jurisdic-
7 tion under its authority to regulate commerce
8 with foreign nations and among the several
9 States; and

10 “(C) in which any infrastructure con-
11 necting a project reservoir and a natural sur-
12 face waterway is used for the sole purpose of
13 the initial fill and periodic recharge of res-
14 ervoirs needed for project operation.

15 “(2) QUALIFYING CLOSED-LOOP PUMPED STOR-
16 AGE PROJECT.—The term ‘qualifying closed-loop
17 pumped storage project’ means a closed-loop
18 pumped storage project that, as of the date of enact-
19 ment of the Hydropower Clean Energy Future Act,
20 is not licensed under, or exempted from the license
21 requirements contained in, this part.

22 “(f) SAVINGS CLAUSES.—Nothing in this section af-
23 fects—

24 “(1) any requirement of the Endangered Spe-
25 cies Act of 1973 (16 U.S.C. 1531 et seq.), the Fed-

1 eral Water Pollution Control Act (33 U.S.C. 1251 et
2 seq.), or the National Environmental Policy Act of
3 1969 (42 U.S.C. 4231 et seq.) that may apply to the
4 construction, operation, or maintenance of a closed-
5 loop pumped storage project; or

6 “(2) except as provided in subsection (d), any
7 authority of the Commission to license a closed-loop
8 pumped storage project under this part.”.

9 **SEC. 7. EXTENSION OF TIME TO COMMENCE CONSTRU-**
10 **CTION OF CERTAIN HYDROPOWER PROJECTS.**

11 (a) **DEFINITION OF COVERED PROJECT.**—In this sec-
12 tion, the term “covered project” means a hydropower
13 project with respect to which—

14 (1) the Federal Energy Regulatory Commission
15 issued a license under the Federal Power Act before
16 March 13, 2020; and

17 (2) construction has not commenced on the
18 date of enactment of this Act.

19 (b) **AUTHORIZATION OF EXTENSION.**—Notwith-
20 standing section 13 of the Federal Power Act (16 U.S.C.
21 806), on the request of a licensee of a covered project,
22 the Federal Energy Regulatory Commission may, after
23 reasonable notice and for good cause shown, extend in ac-
24 cordance with subsection (c) of this section the period dur-
25 ing which the licensee is required to commence construc-

1 tion of the covered project for an additional 4 years be-
2 yond the 8 years authorized by such section 13.

3 (c) PERIOD OF EXTENSION.—An extension of time
4 to commence construction of a covered project under sub-
5 section (b) shall—

6 (1) begin on the date on which the final exten-
7 sion of the period for commencement of construction
8 granted to the licensee under section 13 of the Fed-
9 eral Power Act (16 U.S.C. 806) expires; and

10 (2) end on the date that is 4 years after the lat-
11 est date to which the Federal Energy Regulatory
12 Commission is authorized to extend the period for
13 commencement of construction under such section
14 13.

