

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2880  
OFFERED BY M . \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**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

1 permits for closed-loop pumped storage projects  
2 under this section.

3 “(3) INTERAGENCY TASK FORCE.—In estab-  
4 lishing the expedited process under this section, the  
5 Commission shall convene an interagency task force,  
6 with appropriate Federal and State agencies and In-  
7 dian tribes represented, to coordinate the regulatory  
8 processes associated with the authorizations required  
9 to construct and operate closed-loop pumped storage  
10 projects.

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

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

21 “(c) EXEMPTIONS FROM OTHER REQUIREMENTS.—

22 “(1) IN GENERAL.—In issuing or amending a  
23 license or preliminary permit pursuant to the expe-  
24 dited process established under this section, the  
25 Commission may grant an exemption from any other

1 requirement of this part with respect to any part of  
2 the closed-loop pumped storage project (not includ-  
3 ing any dam or other impoundment).

4 “(2) CONSULTATION.—In granting an exemp-  
5 tion under paragraph (1), the Commission shall con-  
6 sult with the United States Fish and Wildlife Serv-  
7 ice and the State agency exercising administration  
8 over the fish and wildlife resources of the State in  
9 which the closed-loop pumped storage project is or  
10 will be located, in the manner provided by the Fish  
11 and Wildlife Coordination Act (16 U.S.C. 661 et  
12 seq.).

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

16 “(A) such terms and conditions as the  
17 Fish and Wildlife Service, National Marine  
18 Fisheries Service, and the State agency de-  
19 scribed in paragraph (2) each determine are ap-  
20 propriate to prevent loss of, or damage to, fish  
21 and wildlife resources and to otherwise carry  
22 out the purposes of the Fish and Wildlife Co-  
23 ordination Act; and

24 “(B) such terms and conditions as the  
25 Commission deems appropriate to ensure that

1           such closed-loop pumped storage project con-  
2           tinues to comply with the provisions of this sec-  
3           tion and terms and conditions included in any  
4           such exemption.

5           “(4) FEES.—The Commission, in addition to  
6           the requirements of section 10(e), shall establish  
7           fees which shall be paid by an applicant for a license  
8           for a closed-loop pumped storage project that is re-  
9           quired to meet terms and conditions set by fish and  
10          wildlife agencies under paragraph (3). Such fees  
11          shall be adequate to reimburse the fish and wildlife  
12          agencies referred to in paragraph (3) for any reason-  
13          able costs incurred in connection with any studies or  
14          other reviews carried out by such agencies for pur-  
15          poses of compliance with this section. The fees shall,  
16          subject to annual appropriations Acts, be transferred  
17          to such agencies by the Commission for use solely  
18          for purposes of carrying out such studies and shall  
19          remain available until expended.

20          “(d) TRANSFERS.—Notwithstanding section 5, and  
21          regardless of whether the holder of a preliminary permit  
22          for a closed-loop pumped storage project claimed munic-  
23          ipal preference under section 7(a) when obtaining the per-  
24          mit, the Commission may, to facilitate development of a  
25          closed-loop pumped storage project—

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

3           “(2) transfer a license in part to one or more  
4           nonmunicipal entities as co-licensees with a municipi-  
5           pality, if the municipality retains majority ownership  
6           of the project for which the license was issued.

7           “(e) INTERAGENCY COMMUNICATIONS.—Interagency  
8           cooperation in the preparation of environmental docu-  
9           ments under the National Environmental Policy Act of  
10          1969 (42 U.S.C. 4321 et seq.) with respect to an applica-  
11          tion for a license for a closed-loop pumped storage project  
12          submitted pursuant to this section, and interagency com-  
13          munications relating to licensing process coordination pur-  
14          suant to this section, shall not—

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

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

19           “(f) DEVELOPING ABANDONED MINES FOR PUMPED  
20          STORAGE.—

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

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

6           “(g) QUALIFYING CRITERIA FOR CLOSED-LOOP  
7           PUMPED STORAGE PROJECTS.—

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

13          “(2) INCLUSIONS.—In establishing the criteria  
14          under paragraph (1), the Commission shall include  
15          criteria requiring that the pumped storage project—

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

18                 “(B) is unlikely to adversely affect species  
19                 listed as a threatened species or endangered  
20                 species under the Endangered Species Act of  
21                 1973.”.

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

23                 Section 10(e) of the Federal Power Act (16 U.S.C.  
24         803(e)) is amended by adding at the end the following:

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

