

**AMENDMENT TO H.R. \_\_\_\_\_**  
**(HYDROPOWER POLICY MODERNIZATION ACT OF**  
**2017)**  
**OFFERED BY M. \_\_\_\_\_**

Strike section 2(f) of the bill.

In section 3 of the bill, in the matter proposed to be inserted as section 34(j)(2) of the Federal Power Act, strike “(as defined in section 35(a))”.

In section 3 of the bill, in the matter proposed to be inserted as section 34(j) of the Federal Power Act, add at the end the following new paragraph:

1           “(4) COVERED MEASURES.—For purposes of  
2           this subsection, the term ‘covered measure’ means—  
3                   “(A) a condition deemed necessary under  
4                   section 4(e), including an alternative condition  
5                   proposed under section 33(a);  
6                   “(B) fishways prescribed under section 18,  
7                   including an alternative prescription proposed  
8                   under section 33(b); or  
9                   “(C) any further condition pursuant to  
10                  section 4(e), 6, or 18.”.

In section 3 of the bill, strike the matter proposed to be inserted as section 35 of the Federal Power Act (relating to trial-type hearings).

Strike section 4 of the bill and insert the following:

**1 SEC. 4. TECHNICAL AMENDMENTS.**

2 (a) ALTERNATIVE CONDITIONS.—Section  
3 33(a)(2)(B) of the Federal Power Act (16 U.S.C.  
4 823d(a)(2)(B)) is amended, in the matter preceding clause  
5 (i), by inserting “deemed necessary” before “by the Sec-  
6 retary”.

7 (b) LICENSES.—Section 4(e) of the Federal Power  
8 Act (16 U.S.C. 797(e)) is amended by striking “adequate  
9 protection and utilization of such reservation” and all that  
10 follows through “That no license affecting the navigable  
11 capacity” and inserting “adequate protection and utiliza-  
12 tion of such reservation. The license applicant and any  
13 party to the proceeding shall be entitled to a determination  
14 on the record, after opportunity for an agency trial-type  
15 hearing of no more than 90 days, on any disputed issues  
16 of material fact with respect to such conditions. All dis-  
17 puted issues of material fact raised by any party shall be  
18 determined in a single trial-type hearing to be conducted  
19 by the relevant resource agency in accordance with the  
20 regulations promulgated under this subsection and within  
21 the time frame established by the Commission for each

1 license proceeding. Within 90 days of the date of enact-  
2 ment of the Energy Policy Act of 2005, the Secretaries  
3 of the Interior, Commerce, and Agriculture shall establish  
4 jointly, by rule, the procedures for such expedited trial-  
5 type hearing, including the opportunity to undertake dis-  
6 covery and cross-examine witnesses, in consultation with  
7 the Federal Energy Regulatory Commission: *Provided fur-*  
8 *ther*, That no license affecting the navigable capacity”.

