

**[Discussion Draft]**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

**TO H.R. \_\_\_\_\_**

**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 “Hydropower Policy  
3 Modernization Act of 2017”.

**4 SEC. 2. HYDROPOWER REGULATORY IMPROVEMENTS.**

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

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

11 (2) the United States should increase substan-  
12 tially the capacity and generation of clean, renewable  
13 hydropower that would improve environmental qual-  
14 ity in the United States.

15 (b) MODIFYING THE DEFINITION OF RENEWABLE  
16 ENERGY TO INCLUDE HYDROPOWER.—Section 203 of the

1 Energy Policy Act of 2005 (42 U.S.C. 15852) is amend-  
2 ed—

3 (1) in subsection (a), by striking “the following  
4 amounts” and all that follows through paragraph (3)  
5 and inserting “not less than 15 percent in fiscal year  
6 2017 and each fiscal year thereafter shall be renew-  
7 able energy.” ; and

8 (2) in subsection (b), by striking paragraph (2)  
9 and inserting the following:

10 “(2) RENEWABLE ENERGY.—The term ‘renew-  
11 able energy’ means electric energy generated from  
12 solar, wind, biomass, landfill gas, ocean (including  
13 tidal, wave, current, and thermal), geothermal, or  
14 municipal solid waste, or from a hydropower  
15 project.”.

16 (c) PRELIMINARY PERMITS.—Section 5 of the Fed-  
17 eral Power Act (16 U.S.C. 798) is amended—

18 (1) in subsection (a), by striking “three” and  
19 inserting “4”; and

20 (2) by amending subsection (b) to read as fol-  
21 lows:

22 “(b) The Commission may—

23 “(1) extend the period of a preliminary permit  
24 once for not more than 4 additional years beyond  
25 the 4 years permitted by subsection (a) if the Com-

1 mission finds that the permittee has carried out ac-  
2 tivities under such permit in good faith and with  
3 reasonable diligence; and

4 “(2) if the period of a preliminary permit is ex-  
5 tended under paragraph (1), extend the period of  
6 such preliminary permit once for not more than 4  
7 additional years beyond the extension period granted  
8 under paragraph (1), if the Commission determines  
9 that there are extraordinary circumstances that war-  
10 rant such additional extension.”.

11 (d) TIME LIMIT FOR CONSTRUCTION OF PROJECT  
12 WORKS.—Section 13 of the Federal Power Act (16 U.S.C.  
13 806) is amended in the second sentence by striking “once  
14 but not longer than two additional years” and inserting  
15 “for not more than 8 additional years,”.

16 (e) LICENSE TERM.—Section 15(e) of the Federal  
17 Power Act (16 U.S.C. 808(e)) is amended—

18 (1) by striking “(e) Except” and inserting the  
19 following:

20 “(e) LICENSE TERM ON RELICENSING.—

21 “(1) IN GENERAL.—Except”; and

22 (2) by adding at the end the following:

23 “(2) CONSIDERATION.—In determining the  
24 term of a license under paragraph (1), the Commis-  
25 sion shall consider, among other things, investments

1 made by the licensee over the term of the existing  
2 license (including any terms under annual licenses),  
3 beyond those required by the existing license when  
4 issued, that—

5 “(A) resulted in, during the term of the ex-  
6 isting license—

7 “(i) redevelopment, new construction,  
8 new capacity, efficiency, modernization, re-  
9 habilitation, or safety improvements; or

10 “(ii) environmental, recreation, or  
11 other protection, mitigation, or enhance-  
12 ment measures; and

13 “(B) did not result in the extension of the  
14 term of the existing license by the Commis-  
15 sion.”.

16 (f) ALTERNATIVE CONDITIONS AND PRESCRIP-  
17 TIONS.—Section 33(a)(2)(B) of the Federal Power Act  
18 (16 U.S.C. 823d(a)(2)(B)) is amended, in the matter pre-  
19 ceding clause (i), by inserting “determined to be nec-  
20 essary” before “by the Secretary”.

21 **SEC. 3. HYDROPOWER LICENSING AND PROCESS IMPROVE-**  
22 **MENTS.**

23 (a) HYDROPOWER LICENSING AND PROCESS IM-  
24 PROVEMENTS.—Part I of the Federal Power Act (16

1 U.S.C. 792 et seq.) is amended by adding at the end the  
2 following:

3 **“SEC. 34. HYDROPOWER LICENSING AND PROCESS IM-**  
4 **PROVEMENTS.**

5 “(a) DEFINITION.—In this section, the term ‘Federal  
6 authorization’—

7 “(1) means any authorization required under  
8 Federal law with respect to an application for a li-  
9 cense, [license amendment, or exemption] under this  
10 part; and

11 “(2) includes any permits, special use author-  
12 izations, certifications, opinions, or other approvals  
13 as may be required under Federal law to approve or  
14 implement the license, [license amendment, or ex-  
15 emption] under this part.

16 “(b) DESIGNATION AS LEAD AGENCY.—

17 “(1) IN GENERAL.—The Commission shall act  
18 as the lead agency for the purposes of coordinating  
19 all applicable Federal authorizations and for the  
20 purposes of complying with the National Environ-  
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

22 “(2) OTHER AGENCIES AND INDIAN TRIBES.—

23 “(A) IN GENERAL.—Each Federal, State,  
24 and local government agency and Indian tribe  
25 [considering an aspect of an application for

1 Federal authorization] *[that has authority to*  
2 *condition a license issued by the Commission or*  
3 *that is responsible for conducting any separate*  
4 *permitting and environmental reviews of the*  
5 *project]* shall coordinate with the Commission  
6 *[in the development of the schedule for reviewing*  
7 *a completed application requiring Federal au-*  
8 *thorizations]* and comply with the deadline es-  
9 tablished in the schedule developed for the  
10 license[, license amendment, or exemption]  
11 under this part in accordance with the rule  
12 issued by the Commission under subsection (c)  
13 *[to the extent practicable under Federal law.]*.

14 “(B) IDENTIFICATION.—The Commission  
15 shall identify, as early as practicable after it is  
16 notified by the applicant for a license[, license  
17 amendment, or exemption] under this part, any  
18 Federal or State agency, local government, or  
19 Indian tribe [that may consider an aspect of an  
20 application for a Federal authorization.] *[that*  
21 *has authority to condition a license issued by the*  
22 *Commission or that is responsible for conducting*  
23 *any separate permitting and environmental re-*  
24 *views of the project.]*

25 “(C) NOTIFICATION.—

1           “(i) IN GENERAL.—The Commission  
2           shall **ensure the applicant has complied**  
3           **with section 9(b)(2) and** notify any agency  
4           and Indian tribe identified under subpara-  
5           graph (B) **of an application for a license**  
6           **under this part and solicit their participa-**  
7           **tion** **of the opportunity to participate**  
8           in the process of reviewing **an aspect of**  
9           **an** **such** application for **a Federal au-**  
10          **thorization** **a license under this part**.

11          “(ii) DEADLINE.—Each agency and  
12          Indian tribe receiving a notice under **sec-**  
13          **tion 9(b)(2) and** clause (i) shall submit a  
14          response acknowledging receipt of the no-  
15          tice to the Commission within 30 days of  
16          receipt of such notice and request.

17          “(D) ISSUE IDENTIFICATION AND RESOLU-  
18          TION.—

19          “(i) IDENTIFICATION OF ISSUES.—  
20          Federal, State, and local government agen-  
21          cies and Indian tribes that **have authority**  
22          **to condition a license issued by the Commis-**  
23          **sion or that are responsible for conducting**  
24          **any separate permitting and environmental**  
25          **reviews of the project** **may consider an**

1 aspect of an application for Federal au-  
2 thorization] shall identify, as early as pos-  
3 sible, and share with the Commission and  
4 the applicant—

5 “(I) *the information required by*  
6 *such agency to issue the Federal au-*  
7 *thorizations required to complete the li-*  
8 *cence process;*]

9 “(II) *any issues of concern that*  
10 *such agency is aware of at the time the*  
11 *application is submitted; and*]

12 “(III) any issues of concern iden-  
13 tified during the pendency of the  
14 Commission’s action under this part  
15 relating to any Federal authorization  
16 that may delay or prevent the grant-  
17 ing of such authorization, including  
18 any issues that may prevent the agen-  
19 cy or Indian tribe from meeting the  
20 schedule established for the license[,  
21 license amendment, or exemption]  
22 under this part in accordance with the  
23 rule issued by the Commission under  
24 subsection (c).



1                   “(ii) ISSUE RESOLUTION.—The Com-  
2                   mission may forward any issue of concern  
3                   identified under clause (i) to the heads of  
4                   the relevant State and Federal agencies  
5                   (including, in the case of an issue of con-  
6                   cern identified by a State or local govern-  
7                   ment agency or Indian tribe, the Federal  
8                   agency overseeing the delegated authority,  
9                   or the Secretary of the Interior with re-  
10                  gard to an issue of concern identified by  
11                  an Indian tribe, as applicable) for resolu-  
12                  tion. If the Commission forwards an issue  
13                  of concern to the head of a relevant agen-  
14                  cy, the Commission and the relevant agen-  
15                  cy shall enter into a memorandum of un-  
16                  derstanding to facilitate interagency co-  
17                  ordination and resolution of such issues of  
18                  concern, as appropriate.

19                  “(c) SCHEDULE.—

20                         “(1) COMMISSION RULEMAKING TO ESTABLISH  
21                         PROCESS TO SET SCHEDULE.—Not later than 180  
22                         days after the date of enactment of this section the  
23                         Commission shall, in consultation with the appro-  
24                         priate Federal agencies, *[and as appropriate , with*  
25                         *State agencies and Indian tribes that are willing to*

1       *coordinate their own separate permitting and reviews*  
2       *of the project,】* issue a rule, after providing for no-  
3       tice and public comment, establishing a process for  
4       setting a schedule following the filing of an **【com-**  
5       **pleted】** application under this part for a license**【,** li-  
6       cense amendment, or exemption**】** for the review and  
7       disposition of **【each Federal authorization】** **【a li-**  
8       **cence application】**.

9               “(2) ELEMENTS OF SCHEDULING RULE.—In  
10       issuing a rule under this subsection, the Commission  
11       shall ensure that the schedule for **【the review and**  
12       **disposition of each completed license application】**  
13       **【each Federal authorization】**—

14               “(A) includes deadlines for actions by—

15                       “(i) **【【any】【each】 Federal agency re-**  
16                       **sponsible for Federal authorizations;】**

17                       “(ii) **【each】** State agency, local gov-  
18                       ernment, or Indian tribe that **【may con-**  
19                       sider an aspect of an application for  
20                       the**【Federal authorization】】** **【is respon-**  
21                       sible for conducting any separate permit-  
22                       ting and environmental reviews of the  
23                       project**】**;

24                       “(iii) the applicant;

25                       “(iv) the Commission; and

1 “(v) other participants in [any appli-  
2 cable] [a license] proceeding;

3 “(B) is developed in consultation with the  
4 applicant and any [agency and Indian tribe  
5 that submits a response under subsection  
6 (b)(2)(C)(ii)] [*Federal, State, and local govern-  
7 ment agency and Indian tribe that has authority  
8 to condition a license issued by the Commission  
9 or that is responsible for conducting any separ-  
10 ate permitting and environmental reviews of the  
11 project*];

12 “(C) provides an opportunity for any Fed-  
13 eral or State agency, local government, or In-  
14 dian tribe [that may consider an aspect of an  
15 application for the applicable Federal authoriza-  
16 tion] [*t hat has authority to condition a license  
17 issued by the Commission or that is responsible  
18 for conducting any separate permitting and en-  
19 vironmental reviews of the project*] to identify  
20 and resolve issues of concern, as provided in  
21 subsection (b)(2)(D);

22 “(D) complies with applicable schedules es-  
23 tablished under Federal and State law;

1           “(E) ensures expeditious completion of all  
2           proceedings required under Federal and State  
3           law, to the extent practicable; and

4           “(F) facilitates **【the identification and】**  
5           completion of Federal and State agency studies,  
6           reviews, and any other procedures required  
7           prior to, or concurrent with, the preparation of  
8           the Commission’s environmental document re-  
9           quired under the National Environmental Pol-  
10          icy Act of 1969 (42 U.S.C. 4321 et seq.) **【to**  
11          *the extent practicable】*.

12          “(d) TRANSMISSION OF FINAL SCHEDULE.—

13           “(1) IN GENERAL.—For each **【completed】** ap-  
14          plication for a license**【, license amendment, or ex-**  
15          emption**】** under this part, the Commission shall es-  
16          tablish a schedule in accordance with the rule issued  
17          by the Commission under subsection (c). The Com-  
18          mission shall publicly notice and transmit the final  
19          schedule to the applicant and each **【Federal, State,**  
20          *and local government】* agency and Indian tribe iden-  
21          tified under subsection (b)(2)(B).

22           “(2) RESPONSE.—**【The applicant and】** Each  
23          agency and Indian tribe receiving a schedule under  
24          this subsection shall acknowledge receipt of such

1 schedule in writing to the Commission within 30  
2 days.

3 “(e) ADHERENCE TO SCHEDULE.—All applicants,  
4 other [licensing] participants [*in the licensing process*],  
5 and [*Federal, State, and local government*] agencies and  
6 Indian tribes [*that have authority to condition a license*  
7 *issued by the Commission or that are responsible for con-*  
8 *ducting any separate permitting and environmental re-*  
9 *views of the project*] [considering an aspect of an applica-  
10 tion for a Federal authorization] shall meet the deadlines  
11 set forth in the schedule established pursuant to sub-  
12 section (d)(1) [*to the extent practicable under Federal*  
13 *law*].

14 “(f) APPLICATION PROCESSING.—The Commission,  
15 Federal, State, and local government agencies, and Indian  
16 tribes may allow an applicant seeking a Federal authoriza-  
17 tion to fund a third-party contractor selected by such an  
18 agency or tribe to assist in reviewing the application. All  
19 costs of an agency or tribe incurred pursuant to direct  
20 funding by the applicant, including all costs associated  
21 with the third party contractor, shall not be considered  
22 costs of the United States for the administration of this  
23 part under section 10(e).

24 “(g) COMMISSION RECOMMENDATION ON SCOPE OF  
25 ENVIRONMENTAL REVIEW.—For the purposes of coordi-

1 nating Federal authorizations for each license[, license  
2 amendment, or exemption] under this part, the Commis-  
3 sion shall consult with [and make a recommendation to]  
4 agencies and Indian tribes receiving a schedule under sub-  
5 section (d) on the scope of the environmental review for  
6 all Federal authorizations for such license[, license  
7 amendment, or exemption]. Each Federal and State agen-  
8 cy and Indian tribe shall [give due consideration and may  
9 give deference to] [*consider*] the Commission’s rec-  
10 ommendations, to the extent appropriate under Federal  
11 law.

12 “(h) EXTENSION OF DEADLINE.—

13 “(1) APPLICATION.—A Federal, State, or local  
14 government agency or Indian tribe that is unable to  
15 complete its disposition of a Federal authorization  
16 by the deadline set forth in the schedule established  
17 under subsection (d)(1) shall, not later than 30 days  
18 prior to such deadline, file for an extension with the  
19 Commission.

20 “(2) EXTENSION.—The Commission shall only  
21 grant an extension filed for under paragraph (1) if  
22 the agency or Indian tribe demonstrates [, based on  
23 the record maintained under subsection (i),] that  
24 complying with the schedule established under sub-  
25 section (d)(1) would prevent the agency or tribe

1 from complying with applicable Federal or State law.  
2 If the Commission grants the extension, the Com-  
3 mission shall set a reasonable schedule and deadline,  
4 that is not later than 90 days after the deadline set  
5 forth in the schedule established under subsection  
6 (d)(1), for the agency or tribe to complete its dis-  
7 position of the Federal authorization.

8 “(i) CONSOLIDATED RECORD.—The Commission  
9 shall, with the cooperation of Federal, State, and local  
10 government agencies and Indian tribes, maintain a com-  
11 plete consolidated record of all decisions made or actions  
12 taken by the Commission or by a Federal administrative  
13 agency or officer (or State or local government agency or  
14 officer or Indian tribe acting under delegated Federal au-  
15 thority) with respect to any Federal authorization. Such  
16 record shall constitute the record for judicial review under  
17 section 313(b).

18 “(j) NO EFFECT ON OTHER LAWS.—Nothing in this  
19 section shall be construed to affect any requirements of  
20 State, tribal, or other Federal law (including under the  
21 Federal Water Pollution Control Act, the Fish and Wild-  
22 life Coordination Act, the Endangered Species Act of  
23 1973, *the Rivers and Harbors Appropriation Act of*  
24 *1899*,] and those provisions in subtitle III of title 54,  
25 United States Code, commonly known as the National

1 Historic Preservation Act) with respect to an application  
2 for a license [ , license amendment, or exemption ] under  
3 this part.

4 **“SEC. 35. LICENSING STUDY IMPROVEMENTS.**

5 “(a) IN GENERAL.—To facilitate the timely and effi-  
6 cient completion of the license proceedings under this part,  
7 the Commission shall, in consultation with applicable Fed-  
8 eral and State agencies and interested members of the  
9 public—

10 “(1) compile current and accepted best prac-  
11 tices in performing studies required in such license  
12 proceedings, including methodologies and the design  
13 of studies to assess the full range of environmental  
14 impacts of a project that reflect the most recent  
15 peer-reviewed science;

16 “(2) compile a comprehensive collection of stud-  
17 ies and data accessible to the public that could be  
18 used to inform license proceedings under this part;  
19 and

20 “(3) encourage license applicants, agencies, and  
21 Indian tribes to develop and use, for the purpose of  
22 fostering timely and efficient consideration of license  
23 applications, a limited number of open-source meth-  
24 odologies and tools applicable across a wide array of



1 projects, including water balance models and  
2 streamflow analyses.

3 “(b) USE OF STUDIES.—To the extent practicable,  
4 the Commission and other Federal, State, and local gov-  
5 ernment agencies and Indian tribes considering an aspect  
6 of an application for Federal authorization (as defined in  
7 section 34) shall use studies and data based on current,  
8 accepted science in support of their actions. Any partici-  
9 pant in a proceeding with respect to such a Federal au-  
10 thorization shall demonstrate that a study requested by  
11 the participant is not duplicative of current, existing stud-  
12 ies that are applicable to the project.

13 “(c) BASIN-WIDE OR REGIONAL REVIEW.—The Com-  
14 mission shall establish a program to develop comprehen-  
15 sive plans, at the request of project applicants, on a re-  
16 gional or basin-wide scale, in consultation with the appli-  
17 cants, appropriate Federal agencies, and affected States,  
18 local governments, and Indian tribes, in basins or regions  
19 with respect to which there are more than one application  
20 for a project. Upon such a request, the Commission, in  
21 consultation with the applicants, such Federal agencies,  
22 and affected States, local governments, and Indian tribes,  
23 may conduct or commission regional or basin-wide envi-  
24 ronmental studies, with the participation of at least 2 ap-  
25 plicants. Any study conducted under this subsection shall

1 apply only to a project with respect to which the applicants  
2 participate.

3 **“SEC. 36. EVALUATION OF EXPEDITED LICENSING FOR**  
4 **QUALIFYING PROJECT UPGRADES.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) EXPEDITED LICENSE AMENDMENT PROC-  
7 ESS.—The term ‘expedited license amendment proc-  
8 ess’ means an expedited process for issuing an  
9 amendment to an existing license issued under this  
10 part for a project.

11 “(2) QUALIFYING PROJECT UPGRADE.—The  
12 term ‘qualifying project upgrade’ means a change—

13 “(A) to a project; and

14 “(B) that meets the criteria under sub-  
15 section (b).

16 “(b) IN GENERAL.—To improve the regulatory proc-  
17 ess and reduce the time and cost of making upgrades to  
18 existing projects, the Commission shall investigate the fea-  
19 sibility of implementing an expedited license amendment  
20 process for a change to a project that meets the following  
21 criteria:

22 “(1) The change to the project—

23 “(A) is limited to the power house equip-  
24 ment of the project; or

1           “(B) will result in environmental protec-  
2           tion, mitigation, or enhancement measures to  
3           benefit fish and wildlife resources or other nat-  
4           ural or cultural resources.

5           “(2) The change to the project is unlikely to  
6           adversely affect any species listed as threatened or  
7           endangered under the Endangered Species Act of  
8           1973 (16 U.S.C. 1531 et seq.), as determined by the  
9           Secretary of the Interior.

10           “(3) The Commission ensures, in accordance  
11           with section 7 of the Endangered Species Act of  
12           1973 (16 U.S.C. 1536), that the change to the  
13           project will not result in the destruction or modifica-  
14           tion of critical habitat.

15           “(4) The change to the project is consistent  
16           with any applicable comprehensive plan under sec-  
17           tion 10(a).

18           “(5) The change to the project is unlikely to  
19           adversely affect water quality and water supply, as  
20           determined in consultation with any applicable State  
21           or Indian tribe.

22           “(6) Any adverse environmental effects result-  
23           ing from the change to the project will be insignifi-  
24           cant.

1           “(c) WORKSHOPS AND PILOTS.—The Commission  
2 shall—

3                   “(1) not later than 60 days after the date of  
4 enactment of this section, hold an initial workshop  
5 to solicit public comment and recommendations on  
6 how to implement an expedited license amendment  
7 process for qualifying project upgrades;

8                   “(2) evaluate pending applications for an  
9 amendment to an existing license of a project for a  
10 qualifying project upgrade that may benefit from an  
11 expedited license amendment process;

12                   “(3) not later than 180 days after the date of  
13 enactment of this Act, identify and solicit participa-  
14 tion by project developers in, and begin implementa-  
15 tion of, a 3-year pilot program to evaluate the feasi-  
16 bility and utility of an expedited license amendment  
17 process for qualifying project upgrades; and

18                   “(4) not later than 3 months after the end of  
19 the 3-year pilot program under paragraph (3), hold  
20 a final workshop to solicit public comment on the ex-  
21 pedited license amendment process.

22           “(d) MEMORANDUM OF UNDERSTANDING.—The  
23 Commission shall, to the extent practicable, enter into a  
24 memorandum of understanding with any applicable Fed-

1 eral, State, or tribal agency to implement the pilot pro-  
2 gram described in subsection (c).

3 “(e) REPORTS.—Not later than 3 months after the  
4 date of the final workshop held pursuant to subsection  
5 (c)(4), the Commission shall submit to the Committee on  
6 Energy and Commerce of the House of Representatives  
7 and the Committee on Energy and Natural Resources of  
8 the Senate a report that includes—

9 “(1) a summary of the public comments re-  
10 ceived as part of the initial workshop held under  
11 subsection (c)(1);

12 “(2) a summary of the public comments re-  
13 ceived as part of the final workshop held under sub-  
14 section (c)(4);

15 “(3) a description of the expedited license  
16 amendment process for qualifying project upgrades  
17 evaluated under the pilot program, including—

18 “(A) a description of the procedures or re-  
19 quirements that were waived under the expe-  
20 dited license amendment process;

21 “(B) a comparison between—

22 “(i) the average amount of time re-  
23 quired to complete the licensing process for  
24 an amendment to a license under the expe-

1 dited license amendment process tested  
2 under the pilot program; and

3 “(ii) the average amount of time re-  
4 quired to complete the licensing process for  
5 a similar amendment to a license under  
6 current Commission processes;

7 “(4) the number of requests received by the  
8 Commission to participate in the expedited license  
9 amendment process for qualifying project upgrades;

10 “(5) a description of changes to Commission  
11 rules required to create and standardize an expe-  
12 dited license amendment process for qualifying  
13 project upgrades;

14 “(6) a description of factors that prevented any  
15 participant in the pilot program from completing the  
16 expedited license amendment process in the expe-  
17 dited time frame.

18 “(f) IMPLEMENTATION.—If the Commission deter-  
19 mines, based upon the workshops and results of the pilot  
20 program under subsection (c), that an expedited license  
21 amendment process will reduce the time and costs for  
22 issuing amendments to licenses for qualifying project up-  
23 grades, the Commission shall revise its policies and regula-  
24 tions, in accordance with applicable law, to establish an  
25 expedited license amendment process.

1 “(g) PUBLIC INPUT.—In carrying out subsection (f),  
2 the Commission shall solicit and consider public comments  
3 before finalizing any change to policies or regulations.”.

4 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

5 (a) LICENSES.—Section 4(e) of the Federal Power  
6 Act (16 U.S.C. 797(e)) is amended—

7 (1) by striking “adequate protection and utili-  
8 zation of such reservation” and all that follows  
9 through “That no license affecting the navigable ca-  
10 pacity” and inserting “adequate protection and utili-  
11 zation of such reservation: *Provided further*, That no  
12 license affecting the navigable capacity”; and

13 (2) by striking “deem” and inserting “deter-  
14 mine”.

15 (b) OPERATION OF NAVIGATION FACILITIES.—Sec-  
16 tion 18 of the Federal Power Act (16 U.S.C. 811) is  
17 amended by striking the second, third, and fourth sen-  
18 tences.

