

AMENDMENT TO
RULES COMMITTEE PRINT 116-63
OFFERED BY MRS. McMORRIS RODGERS OF
WASHINGTON

At the end of title II, add the following:

1 **Subtitle G—Small and Next-**
2 **Generation Hydropower Projects**

3 **SEC. 2701. PROTECTING AND PROMOTING SMALL AND**
4 **NEXT-GENERATION HYDROPOWER**
5 **PROJECTS.**

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

11 “(d) EXEMPTIONS FROM LICENSING IN CERTAIN
12 CASES.—

13 “(1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), the Commission may in its discretion (by
15 rule or order), upon application and on a case-by-
16 case basis or on the basis of classes or categories of
17 projects, grant an exemption in whole or in part
18 from the requirements (including the licensing re-

1 requirements) of part I of the Federal Power Act to
2 any small hydroelectric power project—

3 “(A) having a proposed installed capacity
4 of 10,000 kilowatts or less; or

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

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

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

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

1 species listed as a threatened species or an
2 endangered species under the Endangered
3 Species Act of 1973; and

4 “(iv) the project has an installed ca-
5 pacity of 15 megawatts or less.

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

17 “(3) EFFECTS.—

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

24 “(B) ENVIRONMENTAL REVIEW.—An ex-
25 emption granted under paragraph (1)(B) shall

1 be categorically exempt from review under the
2 National Environmental Policy Act of 1969.

3 “(4) EXEMPTION PROCESS.—The Commission
4 shall make a determination with respect to any ap-
5 plication for an exemption under paragraph (1)(B)
6 not later than 90 days after submission of such ap-
7 plication, which period shall include notice and op-
8 portunity for public comment. Any exemption grant-
9 ed under paragraph (1)(B) shall become effective
10 upon the expiration of the applicable existing li-
11 cense.”.

12 (b) EXPEDITED LICENSING OF NEXT-GENERATION
13 HYDROPOWER.—Part I of the Federal Power Act (16
14 U.S.C. 792 et seq.) is amended by adding at the end the
15 following:

16 **“SEC. 37. EXPEDITED LICENSING OF NEXT-GENERATION**
17 **HYDROPOWER PROJECTS.**

18 “(a) IN GENERAL.—The Commission shall issue li-
19 censes for all next-generation hydropower projects in ac-
20 cordance with this section.

21 “(b) DEFINITIONS.—In this section:

22 “(1) EMERGING HYDROPOWER TECHNOLOGY
23 PROJECT.—The term ‘emerging hydropower tech-
24 nology project’ means a project that the Commission
25 determines—

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

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

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

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

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

1 “(A) is required to be licensed under this
2 Act;

3 “(B) is not—

4 “(i) a qualifying conduit hydropower
5 facility under section 30; or

6 “(ii) exempted from licensing under—

7 “(I) section 30; or

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

11 “(C) is—

12 “(i) an emerging hydropower tech-
13 nology project;

14 “(ii) a qualifying facility, as defined in
15 section 34;

16 “(iii) a closed-loop pumped storage
17 project under section 35;

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

22 “(v) a hydropower facility within an
23 irrigation, water supply, industrial, agricul-
24 tural, or other open or closed water con-
25 duit system.

1 “(c) EXPEDITED LICENSING PROCESS.—

2 “(1) NOTIFICATION OF INTENT.—

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

7 “(B) DEADLINE FOR FILING.—Notwith-
8 standing section 15(b)(1), an applicant for a
9 next-generation hydropower project shall file a
10 notification of intent at least 3 years before the
11 expiration of the existing license, if applicable.

12 “(2) FILING OF APPLICATION.—

13 “(A) GENERAL DEADLINE.—An applicant
14 for a next-generation hydropower project shall
15 submit to the Commission an application not
16 later than 2 years after filing the notification of
17 intent under paragraph (1).

18 “(B) EXISTING LICENCEE DEADLINE.—
19 Notwithstanding section 15(c)(1), an applica-
20 tion for any next-generation hydropower project
21 shall be filed with the Commission at least 12
22 months before the expiration of the term of the
23 existing license, if applicable.

24 “(3) DEADLINE FOR ISSUANCE.—The Commis-
25 sion shall take final action on a license for a next-

1 generation hydropower project under this section not
2 later than 3 years after the applicant notifies the
3 Commission of its intent to file an application for a
4 license, as provided under paragraph (1).

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

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

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

21 “(3) eliminate any nonessential meetings, re-
22 ports, and paperwork, including interim study re-
23 ports and a draft license application or similar docu-
24 ment, without compromising effective consultation

1 with, and participation of, Federal and State re-
2 source agencies, Indian tribe, and the public; and

3 “(4) consider existing project works and other
4 infrastructure to be included in the environmental
5 baseline.

6 “(e) RULE.—Not later than 90 days after the date
7 of enactment of this section, and after consultation with
8 the task force described in subsection (f), which 90 days
9 shall include public notice and opportunity for comment,
10 the Commission shall issue a rule implementing this sec-
11 tion. Such rule shall include a process, not to exceed 60
12 days, for the Commission to determine on a case-by-case
13 basis whether a proposed or existing project qualifies as
14 a next-generation hydropower project prior to the initi-
15 ation of the licensing or relicensing process.

16 “(f) TASK FORCE.—The Commission shall convene a
17 task force, with appropriate Federal and State agencies,
18 Indian tribes, and licensees under this part represented,
19 to coordinate the regulatory processes associated with the
20 authorizations required to license next-generation hydro-
21 power projects pursuant to this section.

22 “(g) CHOICE OF PROCESS.—An applicant for a
23 licence for a project described in clause (ii) or (iii) of sub-

- 1 section (b)(2)(C) may elect to apply under this section or
- 2 under section 34 or 35, as applicable.”.

