

115TH CONGRESS  
1ST SESSION

# H. R. 4696

To amend the Federal Power Act to promote hydropower development at existing nonpowered dams, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2017

Mr. BUCSHON introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To amend the Federal Power Act to promote hydropower development at existing nonpowered dams, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Hydro-  
5 power Development at Existing Nonpowered Dams Act”.

6 **SEC. 2. PROMOTING HYDROPOWER DEVELOPMENT AT EX-**  
7 **ISTING NONPOWERED DAMS.**

8 Part I of the Federal Power Act (16 U.S.C. 792 et  
9 seq.) is amended by adding at the end the following:

1 **“SEC. 34. PROMOTING HYDROPOWER DEVELOPMENT AT**  
2 **EXISTING NONPOWERED DAMS.**

3 “(a) EXPEDITED LICENSING PROCESS FOR NON-  
4 FEDERAL HYDROPOWER PROJECTS AT EXISTING NON-  
5 POWERED DAMS.—

6 “(1) IN GENERAL.—As provided in this section,  
7 the Commission may issue and amend licenses and  
8 preliminary permits, as appropriate, for any facility  
9 the Commission determines is a qualifying facility.

10 “(2) RULE.—Not later than 180 days after the  
11 date of enactment of this section, the Commission  
12 shall issue a rule establishing an expedited process  
13 for issuing and amending licenses and preliminary  
14 permits for qualifying facilities under this section.

15 “(3) INTERAGENCY TASK FORCE.—In estab-  
16 lishing the expedited process under this section, the  
17 Commission shall convene an interagency task force,  
18 with appropriate Federal and State agencies and In-  
19 dian tribes represented, to coordinate the regulatory  
20 processes associated with the authorizations required  
21 to construct and operate a qualifying facility.

22 “(4) LENGTH OF PROCESS.—The Commission  
23 shall ensure that the expedited process under this  
24 section will result in a final decision on an applica-  
25 tion for a license by not later than 2 years after re-  
26 ceipt of a completed application for the license.

1 “(b) DAM SAFETY.—

2 “(1) ASSESSMENT.—Before issuing any license  
3 for a qualifying facility, the Commission shall assess  
4 the safety of existing non-Federal dams and other  
5 non-Federal structures related to the qualifying fa-  
6 cility (including possible consequences associated  
7 with failure of such structures).

8 “(2) REQUIREMENTS.—In issuing any license  
9 for a qualifying facility, the Commission shall ensure  
10 that the Commission’s dam safety requirements  
11 apply to such qualifying facility, and the associated  
12 qualifying nonpowered dam, over the term of such li-  
13 cense.

14 “(c) INTERAGENCY COMMUNICATIONS.—Interagency  
15 cooperation in the preparation of environmental docu-  
16 ments under the National Environmental Policy Act of  
17 1969 (42 U.S.C. 4321 et seq.) with respect to an applica-  
18 tion for a license for a qualifying facility under this sec-  
19 tion, and interagency communications relating to licensing  
20 process coordination pursuant to this section, shall not—

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

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

25 “(d) DEFINITIONS.—For purposes of this section:

1           “(1) QUALIFYING CRITERIA.—The term ‘quali-  
2       fying criteria’ means, with respect to a facility—

3           “(A) as of the date of enactment of this  
4       section, the facility is not licensed under, or ex-  
5       empted from the license requirements contained  
6       in, this part;

7           “(B) the facility will be associated with a  
8       qualifying nonpowered dam;

9           “(C) the facility will be constructed, oper-  
10      ated, and maintained for the generation of elec-  
11      tric power;

12          “(D) the facility will use for such genera-  
13      tion any withdrawals, diversions, releases, or  
14      flows from the associated qualifying nonpow-  
15      ered dam, including its associated impoundment  
16      or other infrastructure; and

17          “(E) the operation of the facility will not  
18      result in any material change to the storage, re-  
19      lease, or flow operations of the associated quali-  
20      fying nonpowered dam.

21          “(2) QUALIFYING FACILITY.—The term ‘quali-  
22      fying facility’ means a facility that is determined  
23      under this section to meet the qualifying criteria.

1           “(3) QUALIFYING NONPOWERED DAM.—The  
 2           term ‘qualifying nonpowered dam’ means any dam,  
 3           dike, embankment, or other barrier—

4                   “(A) the construction of which was com-  
 5           pleted on or before the date of enactment of  
 6           this section;

7                   “(B) that is or was operated for the con-  
 8           trol, release, or distribution of water for agri-  
 9           cultural, municipal, navigational, industrial,  
 10          commercial, environmental, recreational, aes-  
 11          thetic, drinking water, or flood control pur-  
 12          poses; and

13                  “(C) that, as of the date of enactment of  
 14          this section, is not generating electricity with  
 15          hydropower generating works that are licensed  
 16          under, or exempted from the license require-  
 17          ments contained in, this part.”.

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

19          Section 10(e) of the Federal Power Act (16 U.S.C.  
 20          803(e)) is amended by adding at the end the following:

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

○