

**CHAPTER 47—SMALL HYDROELECTRIC  
POWER PROJECTS**

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**§ 2701. Establishment of program**

The Secretary shall establish a program in accordance with this chapter to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

(Pub. L. 95-617, title IV, §401, Nov. 9, 1978, 92 Stat. 3154.)

REFERENCES IN TEXT

The Secretary, referred to in text, means the Secretary of Energy, see section 2602(14) of this title.

PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS

Pub. L. 96-294, title IV, §408(d), June 30, 1980, 94 Stat. 718, provided that: "The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act [June 30, 1980] (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of the Public Utility Regulatory Policies Act of 1978) [amending section 2708 of the title, and section 2703 of this title respectively], of such rules and regulations as may be necessary to fully implement his responsibilities under title IV of the Public Utility Regulatory Policies Act of 1978 [this subchapter] and the amendments thereto made by this section [amending sections 2705 and 2708 of this title]".

**§ 2702. Loans for feasibility studies**

**(a) Loan authority**

The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

**(b) Cancellation**

The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power project would not be technically or economically feasible.

(Pub. L. 95-617, title IV, §402, Nov. 9, 1978, 92 Stat. 3154.)

REFERENCES IN TEXT

The Secretary, referred to in text, and the Commission, referred to in subsec. (a), mean the Secretary of Energy and the Federal Energy Regulatory Commission, respectively, see section 2602(3), (14) of this title.

**§ 2703. Loans for project costs**

**(a) Authority**

The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for period<sup>1</sup> of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

**(b) Preference**

The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

**(c) Information**

Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the

<sup>1</sup> So in original. Probably should be "for a period".

public, other than information described as entitled to confidentiality under section 796(d) of title 15.

**(d) Joint participation**

In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

(Pub. L. 95-617, title IV, §403, Nov. 9, 1978, 92 Stat. 3155.)

REFERENCES IN TEXT

The Secretary, referred to in text, and the Commission, referred to in subsec. (a), mean the Secretary of Energy and the Federal Energy Regulatory Commission, respectively, see section 2602(3), (14) of this title.

**§ 2704. Loan rates and repayment**

**(a) Interest**

Each loan made pursuant to this chapter shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 1962d-17 of title 42. Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 2702 of this title) or

(2) 30 years (in the case of a loan under section 2703 of this title).

**(b) Repayments**

Amounts repaid on loans made pursuant to this chapter shall be deposited into the United States Treasury as miscellaneous receipts.

(Pub. L. 95-617, title IV, §404, Nov. 9, 1978, 92 Stat. 3155.)

REFERENCES IN TEXT

In subsec. (a), “section 1962d-17 of title 42” was in the original “section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962-17(a))”.

The Secretary, referred to in subsec. (a), means the Secretary of Energy, see section 2602(14) of this title.

**§ 2705. Simplified and expeditious licensing procedures**

**(a) Establishment of program**

The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act [16 U.S.C. 791a et seq.] for small hydroelectric power projects in connection with existing dams.

**(b) Prerequisites**

Before issuing any license under the Federal Power Act [16 U.S.C. 791a et seq.] for the construction or operation of any small hydroelectric power project the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency

with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], the Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], the Endangered Species Act [16 U.S.C. 1531 et seq.], or any other provision of Federal law.

**(c) Fish and wildlife facilities**

The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

**(d) Exemptions from licensing requirements in certain cases**

The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act [16 U.S.C. 791a et seq.] to small hydroelectric power projects having a proposed installed capacity of 10,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act [16 U.S.C. 823a (c) and (d)] with respect to determinations made and exemptions granted under subsection (b) of such section 30 [16 U.S.C. 823a(b)]; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.

(Pub. L. 95-617, title IV, §405, Nov. 9, 1978, 92 Stat. 3156; Pub. L. 96-294, title IV, §408(b), June 30, 1980, 94 Stat. 718; Pub. L. 113-23, §§3, 4(b), Aug. 9, 2013, 127 Stat. 493, 495.)

REFERENCES IN TEXT

The Commission, referred to in text, means the Federal Energy Regulatory Commission, see section 2602(3) of this title.

The Federal Power Act, referred to in subsecs. (a), (b), and (d), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of this title. Part I of the Federal Power Act is classified generally to subchapter I (§791a et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661