

**16 U.S.C.**

United States Code, 2018 Edition

Title 16 - CONSERVATION

CHAPTER 47 - SMALL HYDROELECTRIC POWER PROJECTS

Sec. 2708 - Definitions

From the U.S. Government Publishing Office, [www.gpo.gov](http://www.gpo.gov)**§2708. Definitions**

(a) For purposes of this chapter, the term—

(1) "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 30,000 kilowatts of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 904 of title 7;

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of title 26;

(4) "project costs" means the cost of acquisition<sup>1</sup> or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of title 26 and exempt from tax under section 501(a) of title 26 (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) of title 26 to such organization);

(6) "existing dam" means any dam, the construction of which was completed or on<sup>2</sup> before July 22, 2005, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "municipality" has the meaning provided in section 796 of this title; and

(8) "person" has the meaning provided in section 796 of this title.

(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this chapter which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

(1) from the definition contained in such subsection (a)(1), or

(2) from any other provision of this chapter,

any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this chapter and will do so without any adverse effect upon such natural water features.

(Pub. L. 95–617, title IV, §408, Nov. 9, 1978, 92 Stat. 3156; Pub. L. 96–294, title IV, §408(a), (c), June 30, 1980, 94 Stat. 718; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 109–58, title II, §246, Aug. 8, 2005, 119 Stat. 679.)

**REFERENCES IN TEXT**

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

**AMENDMENTS**

**2005**—Subsec. (a)(6). Pub. L. 109–58 substituted "July 22, 2005" for "April 20, 1977".

**1986**—Subsec. (a)(3), (5). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

**1980**—Subsec. (a). Pub. L. 96–294, §408(a), (c)(1), designated existing provisions as subsec. (a) and, as so designated, in par. (1) substituted "30,000" for "15,000".

Subsec. (b). Pub. L. 96–294, §408(c)(2), added subsec. (b).

*<sup>1</sup> So in original. Probably should be "acquisition".*

*<sup>2</sup> So in original. Probably should be "on or".*