

16 U.S.C.

United States Code, 2018 Edition

Title 16 - CONSERVATION

CHAPTER 47 - SMALL HYDROELECTRIC POWER PROJECTS

Sec. 2705 - Simplified and expeditious licensing procedures

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§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.)

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 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

The Endangered Species Act, referred to in subsec. (b), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

2013—Subsec. (d). Pub. L. 113–23 substituted "10,000 kilowatts" for "5,000 kilowatts" and "subsection (b) of such section 30" for "subsection (a) of such section 30".

1980—Subsec. (d). Pub. L. 96–294 added subsec. (d).

