

108TH CONGRESS
1ST SESSION

H. R. 1337

To encourage the development of hydroelectric projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2003

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

A BILL

To encourage the development of hydroelectric projects, 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. FINDINGS.**

4 The Congress finds that:

5 (1) The United States must increase its supply
6 of energy to ensure a continuing prosperous econ-
7 omy and high standard of life.

8 (2) We currently rely heavily on imports of en-
9 ergy supplies from foreign nations and utilize large
10 quantities of carbon fuels for electricity generation.

1 (3) Hydropower is a domestic energy source
2 which currently produces 92,000 megawatts of elec-
3 tricity per year, a figure representing 10 percent of
4 the generation capacity in the United States.

5 (4) The Energy Information Agency estimates
6 that, of the 75,000 dams in the United States, only
7 2,400 or three percent of these dams currently
8 produce electricity.

9 (5) The Energy Information Agency further es-
10 timates that there are approximately 21,300
11 megawatts of undeveloped capacity at existing dams.

12 (6) New technology allows this energy to be uti-
13 lized with little or no environmental effect by adding
14 new turbines to existing dams and improving the ef-
15 ficiency of existing turbines.

16 (7) Hydropower produces electricity without
17 producing hazardous waste or air pollutants.

18 (8) The 92,000 megawatts of electricity cur-
19 rently generated by hydropower avoid the annual
20 emission of 4.75 million tons of sulfur dioxide and
21 2 million tons of nitrous oxide by eliminating the
22 need to burn 345 million tons of coal.

23 (9) Hydropower is a renewable energy source
24 which, because of the natural hydrologic cycle, will
25 continue to be available in perpetuity.

1 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

2 The Constitutional authority on which this Act rests
3 is the power of Congress to make all laws which shall be
4 necessary and proper as enumerated in Article I, Section
5 8 of the United States Constitution.

6 **SEC. 3. HYDROELECTRIC PRODUCTION INCENTIVES.**

7 (a) INCENTIVE PAYMENTS.—For electric energy gen-
8 erated and sold by a qualified hydroelectric facility during
9 the incentive period, the Secretary of Energy (referred to
10 in this section as the “Secretary”) shall make, subject to
11 the availability of appropriations, incentive payments to
12 the owner or operator of such facility. The amount of such
13 payment made to any such owner or operator shall be as
14 determined under subsection (e) of this section. Payments
15 under this section may only be made upon receipt by the
16 Secretary of an incentive payment application which estab-
17 lishes that the applicant is eligible to receive such payment
18 and which satisfies such other requirements as the Sec-
19 retary deems necessary. Such application shall be in such
20 form, and shall be submitted at such time, as the Sec-
21 retary shall establish.

22 (b) DEFINITIONS.—For purposes of this section:

23 (1) QUALIFIED HYDROELECTRIC FACILITY.—

24 The term “qualified hydroelectric facility” means a
25 turbine or other generating device owned or solely
26 operated by a non-Federal entity which generates

1 hydroelectric energy for sale and which is added to
2 an existing dam or conduit.

3 (2) EXISTING DAM OR CONDUIT.—The term
4 “existing dam or conduit” means any dam or con-
5 duit the construction of which was completed before
6 the date of the enactment of this section and which
7 does not require any construction or enlargement of
8 impoundment or diversion structures (other than re-
9 pair or reconstruction) in connection with the instal-
10 lation of a turbine or other generating device.

11 (3) CONDUIT.—The term “conduit” has the
12 same meaning as when used in section 30(a)(2) of
13 the Federal Power Act.

14 The terms defined in this subsection shall apply without
15 regard to the hydroelectric kilowatt capacity of the facility
16 concerned, without regard to whether the facility uses a
17 dam owned by a governmental or nongovernmental entity,
18 and without regard to whether the facility begins oper-
19 ation on or after the date of the enactment of this section.

20 (c) ELIGIBILITY WINDOW.—Payments may be made
21 under this section only for electric energy generated from
22 a qualified hydroelectric facility which begins operation
23 during the period of 10 fiscal years beginning with the
24 first full fiscal year occurring after the date of enactment
25 of this Act.

1 (d) INCENTIVE PERIOD.—A qualified hydroelectric
2 facility may receive payments under this section for a pe-
3 riod of 10 fiscal years (referred to in this section as the
4 “incentive period”). Such period shall begin with the fiscal
5 year in which electric energy generated from the facility
6 is first eligible for such payments.

7 (e) AMOUNT OF PAYMENT.—

8 (1) IN GENERAL.—Payments made by the Sec-
9 retary under this section to the owner or operator of
10 a qualified hydroelectric facility shall be based on
11 the number of kilowatt hours of hydroelectric energy
12 generated by the facility during the incentive period.
13 For any such facility, the amount of such payment
14 shall be 1.5 cents per kilowatt hour (adjusted as
15 provided in paragraph (2)), subject to the avail-
16 ability of appropriations under subsection (g), except
17 that no facility may receive more than \$1,000,000 in
18 one calendar year.

19 (2) ADJUSTMENTS.—The amount of the pay-
20 ment made to any person under this section as pro-
21 vided in paragraph (1) shall be adjusted for inflation
22 for each fiscal year beginning after calendar year
23 2003 in the same manner as provided in the provi-
24 sions of section 29(d)(2)(B) of the Internal Revenue
25 Code of 1986, except that in applying such provi-

1 sions the calendar year 2003 shall be substituted for
2 calendar year 1979.

3 (f) SUNSET.—No payment may be made under this
4 section to any qualified hydroelectric facility after the ex-
5 piration of the period of 20 fiscal years beginning with
6 the first full fiscal year occurring after the date of enact-
7 ment of this Act, and no payment may be made under
8 this section to any such facility after a payment has been
9 made with respect to such facility for a period of 10 fiscal
10 years.

11 (g) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary to carry
13 out the purposes of this section \$50,000,000 for each of
14 the fiscal years 2004 through 2013.

15 **SEC. 4. HYDROELECTRIC EFFICIENCY IMPROVEMENT.**

16 (a) INCENTIVE PAYMENTS.—The Secretary of En-
17 ergy shall make incentive payments to the owners or oper-
18 ators of hydroelectric facilities at existing dams to be used
19 to make capital improvements in the facilities that are di-
20 rectly related to improving the efficiency of such facilities
21 by at least 3 percent.

22 (b) LIMITATIONS.—Incentive payments under this
23 section shall not exceed 10 percent of the costs of the cap-
24 ital improvement concerned and not more than one pay-
25 ment may be made with respect to improvements at a sin-

1 gle facility. No payment in excess of \$1,000,000 may be
2 made with respect to improvements at a single facility.

3 (c) AUTHORIZATION.—There is authorized to be ap-
4 propriated to carry out this section not more than
5 \$50,000,000 in each fiscal year after the fiscal year 2003.

6 **SEC. 5. SMALL HYDROELECTRIC POWER PROJECTS.**

7 Section 408(a)(6) of the Public Utility Regulatory
8 Policies Act of 1978 is amended by striking “April 20,
9 1977” and inserting “March 4, 2003”.

10 **SEC. 6. INCREASED HYDROELECTRIC GENERATION AT EX-**
11 **ISTING FEDERAL FACILITIES.**

12 (a) IN GENERAL.—The Secretary of Energy, in con-
13 sultation with the Secretary of the Interior and Secretary
14 of the Army, shall conduct studies of the cost-effective op-
15 portunities to increase hydropower generation at existing
16 federally-owned or operated water regulation, storage, and
17 conveyance facilities. Such studies shall be completed with-
18 in two years after the date of enactment of this Act and
19 transmitted to the Committee on Commerce of the House
20 of Representatives and the Committee on Energy and
21 Natural Resources of the Senate. An individual study shall
22 be prepared for each of the Nation’s principal river basins.
23 Each such study shall identify and describe with speci-
24 ficity the following matters:

1 (1) Opportunities to improve the efficiency of
2 hydropower generation at such facilities through, but
3 not limited to, mechanical, structural, or operational
4 changes.

5 (2) Opportunities to improve the efficiency of
6 the use of water supplied or regulated by Federal
7 projects where such improvement could, in the ab-
8 sence of legal or administrative constraints, make
9 additional water supplies available for hydropower
10 generation or reduce project energy use.

11 (3) Opportunities to create additional hydro-
12 power generating capacity at existing facilities
13 through, but not limited to, the construction of addi-
14 tional generating facilities, the uprating of genera-
15 tors and turbines, and the construction of pumped
16 storage facilities.

17 (4) Preliminary assessment of the costs and the
18 economic and environmental consequences of such
19 measures.

20 (b) PREVIOUS STUDIES.—If studies of the type re-
21 quired by subsection (a) have been prepared by any agency
22 of the United States and published within the five years
23 prior to the date of enactment of this Act, the Secretary
24 of Energy may choose not to perform new studies and in-

1 incorporate the information in such studies into the studies
2 required by subsection (a).

3 (c) AUTHORIZATION.—There is authorized to be ap-
4 propriated such sums as may be necessary to carry out
5 the purposes of this section.

6 **SEC. 7. RENEWABLE ENERGY PRODUCTION INCENTIVES**
7 **PROGRAM.**

8 Section 1212 of the Energy Policy Act of 1992 is
9 amended in subsection (b) by inserting after “and which”
10 the following “is a small hydroelectric power project (as
11 defined in section 408(a)(1) of the Public Utility Regu-
12 latory Policies Act of 1978) or which”.

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