



Legislative Bulletin.....February 12, 2013

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**H.R. 267 - Hydropower Regulatory Efficiency Act of 2013
(McMorris Rodgers, R-WA)**

Order of Business: The legislation is scheduled to be considered on February 12, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 5892 increases the threshold by which small hydroelectric power projects can receive an exemption from Federal Energy Regulatory Commission (FERC) licensing requirements from 5,000 to 10,000 kilowatts.

The legislation states that a “qualifying conduit hydropower facility” is not required to be licensed by FERC. The legislation defines the qualifying facility as one that uses a non-federally owned conduit, has an installed capacity that does not exceed five megawatts, and is not licensed (or exempted from a license) on the date of enactment. Any individual, state, or municipality that proposes to construct a qualifying conduit hydropower facility shall file a notice of intent with FERC. The notice shall include sufficient information to demonstrate that the facility meets the qualifying criteria.

Within 15 days of receiving of notice of intent, FERC will make an initial determination as to whether the facility meets the criteria to be qualified. FERC will publish the notice of intent if FERC determines the proposed project meets the criteria to be qualified. If an entity contest the facility, FERC is directed to, within 45 days of publishing the notice, issue a determination as to whether the facility meets the qualified criteria. Within 45 days, if no entity contests the qualifying criteria status of the facility, then the facility shall be deemed to meet the qualifying criteria.

The legislation allows FERC to extend the preliminary permit for up to five years if they find that the permittee has carried out activities under the permit in good faith and with reasonable diligence.

The legislation directs FERC to investigate the feasibility of the issuance of a license for hydropower development at nonpowered dams and closed loop pumped storage projects in a two-year period.

FERC is also directed to:

- within 60 days, hold an initial workshop to solicit public comment and recommendations on how to implement a 2-year process;
- develop criteria for identifying projects featuring hydropower development at nonpowered dams and closed loop pumped storage projects that may be appropriate for licensing within a two-year process;
- within 180 days, develop and implement pilot projects to test a two-year process; and
- within 3 years of the implementation of the pilot project testing a two-year process; hold a workshop to solicit public comment on its effectiveness.

H.R. 267 requires reports to Congress on the implementation or non-implementation of the pilot project.

The legislation also directs the Secretary of Energy to conduct a study of the technical flexibility that existing pumped storage facilities can provide to support intermittent renewable electric energy generation, and FERC will identify the range of opportunities for hydropower that may be obtained from conduits in the United States. This report is due to Congress within one year of enactment.

Additional Information: The following information is found in Committee Report 113-006:

The legislation facilitates the development of new hydropower resources in the United States by streamlining the federal licensing requirements for small hydropower projects and qualifying conduit hydropower facilities. The legislation also requires the Federal Energy Regulatory Commission to study ways to improve federal hydropower licensing for non-powered dams and closed-loop pumped storage facilities.

Hydropower is the nation's largest renewable energy generation resource, providing nearly 8 percent of the electricity generated in the United States. Including pumped storage facilities, there are approximately 100,000 megawatts (MW) of current installed hydropower capacity in the United States. The hydropower sector employs approximately 200,000-300,000 workers across the United States, and nearly 2,500 U.S. companies participate in the development, licensing, construction, and operation of hydropower projects.

Despite abundant resources, the production of electricity from water resources is not fully utilized. With the right Federal policies in place, it may be possible to double hydropower capacity and create thousands of new domestic jobs. For instance, a study completed on behalf of the National Hydropower Association (NHA) concluded that by utilizing currently untapped resources, the United States could add approximately 60,000 MW of new hydropower capacity by 2025, potentially creating as many as 700,000 jobs in the process.

Similar legislation, H.R. 5892, passed the House of Representatives on July 9, 2012, by a [roll call vote of 372-0](#). The RSC Legislative Bulletin for H.R. 5892 can be [viewed here](#).

Committee Action: H.R. 267 was introduced on January 15, 2013, and was referred to the House Energy and Commerce Committee. A full committee meeting was held on January 22, 2013, and the legislation was reported favorably, without amendment, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing H.R. 267 would have no significant net impact on the federal budget. CBO's report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. McMorris Rodgers states "Congress has the power to enact this legislation pursuant to the following: The Constitutional authority in which this bill rests is the power of the Congress to regulate Commerce as enumerated by Article I, Section 8, Clause 3 as applied to waterways for the development of hydroelectric power and flood control." The statement can be [viewed here](#).

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H.R. 316 - Collinsville Renewable Energy Promotion Act (*Esty, D-CT*)

Order of Business: The bill is scheduled to be considered on February 12, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: The legislation allows the Federal Energy Regulatory Commission (FERC) to reinstate two currently expired licenses for two years for the Upper and Lower Collinsville Dams hydroelectric projects, located in Canton, Connecticut.

H.R. 316 directs these licenses be transferred to the town of Canton, Connecticut.

The legislation directs the FERC to complete an environmental assessment, within 180 days, for both licenses. After completion of the assessment, the Commission shall initiate a 30-day comment period before transferring the licenses to the town.

Within 270 days of enactment, the Commission shall make a decision to reinstate the licenses. If the Commission decides to reinstate the licenses then the Commission shall transfer the licenses to the town.

Additional Information: Similar legislation, H.R. 5625, passed the House of Representatives on June 26, 2012, by voice vote. The RSC Legislative Bulletin for H.R. 5625 is [linked here](#). Additionally, similar legislation, H.R. 4451, passed the House of Representatives on June 16, 2010 by voice vote. The RSC Legislative Bulletin for H.R. 4451 is [linked here](#).

According to [House Report 113-007](#):

The Upper and Lower Collinsville Dams on the Farmington River were built to provide hydroelectric power to an ax factory, which was shut down in 1966. The dams have not produced power since that time, but continue to block upstream fish passage.

On February 23, 2001, FERC issued original licenses to Summit Hydropower to redevelop hydroelectric power capacity at these dams. The Upper Collinsville Dam project was to have a generation capacity of 373 kilowatts, while the Lower Dam was to have a capacity of 920 kilowatts. As part of this licensing process, an environmental assessment was completed. The licenses required Summit to commence project construction within two years from the issuance of the licenses.

Section 13 of the Federal Power Act requires licensees to commence construction of hydroelectric projects within the time fixed in the license, which shall be no more than two years from the issuance of the license, and authorizes the Commission to issue one extension of the deadline, for no more than two years.

On November 26, 2002, FERC granted Summit a two-year extension to commence project construction at both sites, moving the deadline to February 23, 2005. Because construction did not commence by that date, the Commission sent Summit a notice of probable termination of the licenses on November 2, 2007. Summit did not respond to the notice. FERC terminated the licenses on December 4, 2007. Summit did not seek rehearing of the termination order.

Committee Action: H.R. 316 was introduced on January 18, 2013, and was referred to the House Energy and Commerce Committee. The committee held a markup on January 22, 2013, and favorably reported the legislation, without amendment, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO states “the legislation’s provisions would have no net budgetary impact.” CBO’s full report can be [found here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Esty states “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8.” The statement can be [found here](#).

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H.R. 235 — Veteran Emergency Medical Technician Support Act of 2013 (Kinzinger, R-IL)

Order of Business: The bill is scheduled to be considered on Tuesday, February 12, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 235 requires the Secretary of Health and Human Services (HHS) to create a new federal grant program to assist states in streamlining certification requirements of U.S. Armed forces veteran emergency medical technicians. Eligible grantee states must demonstrate that they are experiencing a shortage of emergency medical technicians. The HHS Secretary is required to submit an annual report to Congress on the program.

The grants can be used by states to prepare and implement “a plan to streamline State requirements and procedures...including:

- determining the extent to which the requirements for the education, training, and skill level of emergency medical technicians in the State are equivalent to requirements for the education, training, and skill level of military emergency medical technicians; and
- identifying methods, such as waivers, for military emergency medical technicians to forego or meet any such equivalent State requirements.”

The bill authorizes a total of \$1 million dollars for FY2014 through FY2018. This \$1 million authorization for these new state grants is taken from the \$125 million previously authorized FY2014 amount in *Obamacare* for [Area Health Education Centers](#) enhancement grants.

The House passed the same bill (H.R. 4124) with different authorization years last Congress by voice vote on September 19, 2012.

Additional Background: According to this 2010 Institute for Homeland Security Solutions [report](#), “Anecdotal information suggests that there may be substantial shortages among these [EMTs] professionals.” Other [articles](#) express similar views that EMT [shortages](#) exist and are threatening the health of states’ citizens. Some states have already begun to take EMT military training into account in determining state EMT eligibility standards.

Potential Conservative Concerns: Some conservatives may have the following concerns with the bill:

- The appropriateness and constitutionality of the federal government dealing at all with a local matter as state EMT certification and licensing;
- The lack of an explicit statutory definition of what a state “shortage of emergency medical technician” means could lead states to liberally test the boundaries of such a definition in order to procure federal grant funding (as opposed to funding such efforts with its own revenue sources); and
- The creation of a new federal grant program during a time of record federal debt and deficits.

Committee Action: Representative Adam Kinzinger (R-IL) introduced H.R. 235 on January 14, 2013. On January 22, 2013, the full committee marked up and approved the bill without amendment by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost [estimate](#) for the bill on January 31, 2012, stating that implementing the bill would cost \$1 million through the FY2014-2018 subject to appropriation of the authorized amount. This authorized amount is offset from funds authorized in FY2014 for Obamacare Area Health Education Center grants.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: The bill does not *require* any state to establish a streamline process for veteran EMT compliance with state EMT licensure. It voluntarily permits states with demonstrated EMT shortages to apply to receive federal grants to implement a process to assist veteran EMTs obtain state EMT certification.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill requires the HHS Secretary to create a new federal grant program to assist states in establishing a process for U.S. Armed forces EMTs to meet certification, licensure, and other applicable state EMT requirements to address EMT shortages in their respective state.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The CBO report states that H.R. 235 “contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act. Funds authorized in the bill would benefit states that restructure state procedures to certify or license eligible veterans as emergency medical technicians.”

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: According to clause 7 of Section 9 of Article I of the Constitution, Congress has the authority to control the expenditures of the federal government.”

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