(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after November 9, 1978, specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) Enforcement

For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.] enforceable under section 12 of such Act [15 U.S.C. 797] (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission.

(Pub. L. 95–617, title I, § 133, Nov. 9, 1978, 92 Stat. 3132.)

REFERENCES IN TEXT

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (d), is Pub. L. 93–319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

§ 2644. Relationship to other authority

Nothing in this chapter shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

(Pub. L. 95–617, title I, § 134, Nov. 9, 1978, 92 Stat. 3133.)

§ 2645. Utility regulatory institute

(a) Matching grants

The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to—

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) Federal share

Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a) of this section:

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) Restrictions

Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) Authorization of appropriations

There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

(Pub. L. 95–617, title VI, § 603, Nov. 9, 1978, 92 Stat. 3165.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

CHAPTER 47—SMALL HYDROELECTRIC POWER PROJECTS

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2702. Loans for feasibility studies.
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(a) Authority.
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§ 2701. Establishment of program

The Secretary shall establish a program in accordance with this chapter to encourage munici-

palities, 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 [appending 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title; title 42 section 7375.

§ 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[1] 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 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.)

[1] So in original. Probably should be ''for a period''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title; title 42 section 7375.

§ 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 5,000 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 (a) of such section 30 [16 U.S.C. 823a(a)]; 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.)

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 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

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

§ 2706. New impoundments

Nothing in this chapter authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

(Pub. L. 95–617, title IV, § 406, Nov. 9, 1978, 92 Stat. 3156.)

§ 2707. Authorizations

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 2702 of this title, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 2703 of this title, such funds to remain available until expended.

(Pub. L. 95–617, title IV, § 407, Nov. 9, 1978, 92 Stat. 3156.)

§ 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 acquisiiton[1] 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 before April 20, 1977, 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) of this section 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.)

AMENDMENTS

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).

CHAPTER 48—NATIONAL AQUACULTURE POLICY, PLANNING, AND DEVELOPMENT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 sections 3321, 3322.

[1] So in original. Probably should be ''acquisition''.