

119TH CONGRESS
1ST SESSION

S. 3518

To amend the Federal Power Act to address certain alterations in, and the maintenance and repair of, project works, to provide for the licensing of micro hydrokinetic energy projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2025

Ms. MURKOWSKI (for herself and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Power Act to address certain alterations in, and the maintenance and repair of, project works, to provide for the licensing of micro hydrokinetic energy 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. SHORT TITLE.**

4 This Act may be cited as the “Fair Licensing for Op-
5 erations of Water Structures Act” or the “FLOWS Act”.

1 **SEC. 2. HYDROPOWER MAINTENANCE AND TEMPORARY AD-**
2 **JUSTMENTS.**

3 (a) ALTERATIONS IN PROJECT WORKS.—Section
4 10(b) of the Federal Power Act (16 U.S.C. 803(b)) is
5 amended by adding at the end the following: “Notwith-
6 standing any other requirement of this part, the licensee
7 shall not be required to obtain approval from the Commis-
8 sion for any nonsubstantial alteration or addition to
9 project works under the plans approved by the Commis-
10 sion under section 9(a)(1).”.

11 (b) MAINTENANCE AND REPAIR OF PROJECT
12 WORKS.—Section 10(c) of the Federal Power Act (16
13 U.S.C. 803(c)) is amended by adding at the end the fol-
14 lowing: “Notwithstanding any other requirement of this
15 part, the licensee shall not be required to obtain approval
16 from the Commission for any routine maintenance, repair,
17 or replacement of any portion of a project works necessary
18 to maintain the project works in accordance with this sub-
19 section or for any seasonal or temporary adjustments to
20 project operations in response to circumstances beyond the
21 reasonable control of the licensee.”.

22 (c) SAVINGS CLAUSE.—Nothing in this section or an
23 amendment made by this section—

24 (1) affects any authority of the Federal Energy
25 Regulatory Commission—

1 (A) to require notice from a licensee under
2 subsection (a) or (b) of section 10 of the Fed-
3 eral Power Act (16 U.S.C. 803); or

4 (B) to enforce requirements of that section
5 or the terms of a license issued under part I of
6 the Federal Power Act (16 U.S.C. 792 et seq.)
7 with respect to the safety of any dam and ap-
8 purtenant works and structures; or

9 (2)(A) precludes any prompt, informal consulta-
10 tion between the licensee and the Federal Energy
11 Regulatory Commission, at the request of the li-
12 censee or the Federal Energy Regulatory Commis-
13 sion, with respect to the safety of any dam and ap-
14 purtenant works and structures in advance of work
15 to be undertaken under section 10 of the Federal
16 Power Act (16 U.S.C. 803); or

17 (B) affects any authority of the Federal Energy
18 Regulatory Commission to require changes in ad-
19 vance of the work described in subparagraph (A) to
20 protect the safety of any dam and appurtenant
21 works and structures.

22 **SEC. 3. MICRO HYDROKINETIC ENERGY PROJECTS.**

23 Part I of the Federal Power Act (16 U.S.C. 792 et
24 seq.) is amended by adding at the end the following:

1 **“SEC. 37. LICENSING OF MICRO HYDROKINETIC ENERGY**
 2 **PROJECTS.**

3 “(a) **DEFINITION OF MICRO HYDROKINETIC ENERGY**
 4 **PROJECT.**—In this section, the term ‘micro hydrokinetic
 5 energy project’—

6 “(1) means a project that—

7 “(A) has or will have an installed capacity
 8 of not more than 5 megawatts; and

9 “(B) converts to electric energy the
 10 hydrokinetic energy from a generator driven by
 11 a turbine from—

12 “(i) waves, tides, or currents in
 13 oceans, estuaries, or tidal areas; or

14 “(ii) free flowing water in rivers,
 15 lakes, streams, or man-made channels; and

16 “(2) does not include a project that impounds
 17 water to generate electricity.

18 “(b) **AUTHORIZATION.**—The Commission may issue
 19 a license in accordance with this section for a term of not
 20 less than 10, and not more than 20, years for the con-
 21 struction, operation, and maintenance of project works for
 22 a micro hydrokinetic energy project.

23 “(c) **EXPEDITED LICENSING PROCESS.**—

24 “(1) **NOTIFICATION OF INTENT.**—

25 “(A) **FILING OF NOTIFICATION.**—An appli-
 26 cant for a license under this section shall com-

1 mence the licensing process by filing a notifica-
2 tion of intent with the Commission.

3 “(B) EXISTING LICENSE DEADLINE.—Not-
4 withstanding section 15(b)(1), an applicant for
5 a license under this section shall file a notifica-
6 tion of intent under subparagraph (A) not later
7 than 2 years before the expiration of an existing
8 license, if applicable.

9 “(2) FILING OF APPLICATION.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), an applicant for a license
12 under this section shall submit to the Commis-
13 sion an application not later than 1 year after
14 the date on which the applicant files a notifica-
15 tion of intent under paragraph (1).

16 “(B) EXISTING LICENSE DEADLINE.—Not-
17 withstanding section 15(c)(1), an applicant for
18 a license under this section shall file an applica-
19 tion with the Commission not later than 1 year
20 before the date of expiration of the term of an
21 existing license, if applicable.

22 “(3) DEADLINE FOR ISSUANCE.—The Commis-
23 sion shall take final action on an application for a
24 license under this section not later than 1 year after

1 the date on which the application is filed under
2 paragraph (2).

3 “(4) SCHEDULE FOR FINAL ACTION.—To the
4 extent reasonably practicable, the Commission and
5 any applicable conditioning or permitting agencies
6 shall establish, with respect to each micro
7 hydrokinetic energy project that is the subject of a
8 notification of intent to apply for a license under
9 this section, a joint schedule that permits the timely
10 completion of decisions required to be made with re-
11 spect to, and the timely issuance of, authorizations
12 required under Federal law by the Commission and
13 the conditioning or permitting agencies, subject to
14 the requirement that any joint schedule established
15 under this paragraph shall comply with the deadline
16 for final action established under paragraph (3).

17 “(d) REGULATIONS.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this section, the Com-
20 mission shall promulgate regulations to implement
21 this section in a manner that expedites the deploy-
22 ment of micro hydrokinetic energy projects while en-
23 suring the safe operation of the micro hydrokinetic
24 energy project in compliance with applicable Federal
25 and State laws.

1 “(2) INCLUSION.—The regulations promulgated
 2 under paragraph (1) shall provide for the use of 1
 3 or more categorical exclusions, including allowing for
 4 extraordinary circumstances under which the cat-
 5 egorical exclusion shall not be available, under the
 6 National Environmental Policy Act of 1969 (42
 7 U.S.C. 4321 et seq.) for low disturbance activities
 8 necessary for micro hydrokinetic energy projects.

9 “(e) REPORT TO CONGRESS.—The Commission shall
 10 submit to Congress a report describing the impacts of the
 11 micro hydrokinetic energy projects licensed under this sec-
 12 tion on the environment, the economy, and the reliability
 13 and affordability of electricity not later than the earlier
 14 of—

15 “(1) the date that is 5 years after the date of
 16 enactment of this section; and

17 “(2) the date on which the first 50 micro
 18 hydrokinetic energy projects licensed under this sec-
 19 tion have been operational for not less than 1 year.

20 “(f) SAVINGS CLAUSE.—Nothing in this section af-
 21 fects any authority of the Commission, at the election of
 22 an applicant, to license the construction, operation, and
 23 maintenance of project works for a micro hydrokinetic en-
 24 ergy project under any other provision of this part.”.

