<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 837a.</td>
<td>Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts</td>
</tr>
<tr>
<td>§ 837b.</td>
<td>Contract terms and conditions for use of electric energy outside Pacific Northwest</td>
</tr>
<tr>
<td>§ 837c.</td>
<td>Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest</td>
</tr>
<tr>
<td>§ 837d.</td>
<td>Exchange contracts</td>
</tr>
<tr>
<td>§ 837e.</td>
<td>Transmission lines for other electric energy; rates</td>
</tr>
<tr>
<td>§ 837f.</td>
<td>Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions</td>
</tr>
<tr>
<td>§ 837g.</td>
<td>Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected</td>
</tr>
<tr>
<td>§ 837g–1.</td>
<td>Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities</td>
</tr>
<tr>
<td>§ 837h.</td>
<td>Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified</td>
</tr>
</tbody>
</table>
TITLE 16—CONSERVATION

Chap. ...Sec.
1. National Parks, Military Parks, Monuments, and Seashores ...1
   1A. Historic Sites, Buildings, Objects, and Antiquities ...461
   1B. Archaeological Resources Protection ...470aa
   1C. Paleontological Resources Preservation ...470aaa
2. National Forests ...471
3. Forests; Forest Service; Reforestation; Management ...551
   3A. Unemployment Relief Through Performance of Useful Public Work [Omitted or Repealed] ...584
   3B. Soil Conservation ...590a
   3C. Water Conservation ...590r
4. Protection of Timber, and Depredations ...591
5. Protection of Fur Seals and Other Fur-Bearing Animals ...631
   5A. Protection and Conservation of Wildlife ...661
   5B. Wildlife Restoration ...669
   5C. Conservation Programs on Government Lands ...670a
6. Game and Bird Preserves; Protection ...671
7. Protection of Migratory Game and Insectivorous Birds ...701
8. Upper Mississippi River National Wildlife and Fish Refuge ...721
9. Fish and Wildlife Service ...741
   9A. Preservation of Fishery Resources ...755
   9B. National Fish Hatchery System Enhancement ...760aa
10. Northern Pacific Halibut Fishing ...761
   10A. Sockeye or Pink Salmon Fishing [Repealed] ...776
   10B. Fish Restoration and Management Projects ...777
   10C. Fish Research and Experimentation Program ...778
   10D. State Commercial Fisheries Research and Development Projects [Repealed] ...779
11. Regulation of Landing, Curing, and Sale of Sponges Taken From Gulf of Mexico and Straits of Florida ...781
12. Federal Regulation and Development of Power ...791
   12A. Tennessee Valley Authority ...831
   12B. Bonneville Project ...832
   12C. Fort Peck Project ...833
   12D. Columbia Basin Project ...835
   12E. Niagara Power Project ...836
   12F. Pacific Northwest Consumer Power Preference; Reciprocal Priority in Other Regions ...837
   12G. Pacific Northwest Federal Transmission System ...838
   12H. Pacific Northwest Electric Power Planning and Conservation ...839
13. Regulation of Transportation in Interstate or Foreign Commerce of Black Bass and Other Fish [Repealed] ...851
14. Regulation of Whaling ...901
   14A. Whale Conservation and Protection ...917
15. Predatory Sea Lampreys in the Great Lakes [Omitted] ...921
   15A. Great Lakes Fisheries ...931
   15B. Great Lakes Fish and Wildlife Restoration ...941
   15C. Great Lakes Fish and Wildlife Tissue Bank ...943
16. Tuna Conventions ...951
   16A. Atlantic Tuna Convention ...971
   16B. Eastern Pacific Tuna Fishing ...972
   16C. South Pacific Tuna Fishing ...973
17. Northwest Atlantic Fisheries [Repealed] ...981
18. Watershed Protection and Flood Prevention ...1001
   18A. Cooperative Watershed Management Program ...1015
19. North Pacific Fisheries [Repealed or Transferred] ...1021
20. National Fisheries Center and Aquarium ...1051
21. Prohibition of Foreign Fishing Vessels in the Territorial Waters of the United States [Repealed] ...1081
   21A. Fisheries Zone Contiguous to Territorial Sea of the United States [Repealed] ...1091
   21B. Prohibition of Certain Foreign Fishing Vessels in United States Fisheries [Omitted] ...1100
21C. Offshore Shrimp Fisheries [Omitted] ...1100b
22. International Parks ...1101
23. National Wilderness Preservation System ...1131
24. Conservation and Protection of North Pacific Fur Seals ...1151
25. Jellyfish or Sea Nettles, Other Such Pests, and Seaweed in Coastal Waters: Control or Elimination ...1201
25A. Crown of Thorns Starfish ...1211
25B. Reefs for Marine Life Conservation ...1220
26. Estuarine Areas ...1221
27. National Trails System ...1241
27A. National Recreational Trails Fund ...1261
28. Wild and Scenic Rivers ...1271
29. Water Bank Program for Wetlands Preservation ...1301
30. Wild Horses and Burros: Protection, Management, and Control ...1331
31. Marine Mammal Protection ...1361
32. Marine Sanctuaries ...1431
32A. Regional Marine Research Programs ...1447
33. Coastal Zone Management ...1451
34. Rural Environmental Conservation Program [Repealed] ...1501
35. Endangered Species ...1531
36. Forest and Rangeland Renewable Resources Planning ...1600
37. Youth Conservation Corps and Public Lands Corps ...1701
38. Fishery Conservation and Management ...1801
39. Mining Activity Within National Park System Areas ...1901
40. Soil and Water Resources Conservation ...2001
41. Cooperative Forestry Assistance ...2101
42. Emergency Conservation Program ...2201
43. Public Transportation Programs for National Park System Areas ...2301
44. Antarctic Conservation ...2401
44A. Antarctic Marine Living Resources Convention ...2431
44B. Antarctic Mineral Resources Protection ...2461
45. Urban Park and Recreation Recovery Program ...2501
46. Public Utility Regulatory Policies ...2601
47. Small Hydroelectric Power Projects ...2701
48. National Aquaculture Policy, Planning, and Development ...2801
49. Fish and Wildlife Conservation ...2901
50. Chesapeake Bay Research Coordination [Omitted] ...3001
51. Alaska National Interest Lands Conservation ...3101
52. Salmon and Steelhead Conservation and Enhancement ...3301
53. Control of Illegally Taken Fish and Wildlife ...3371
54. Resource Conservation ...3401
55. Coastal Barrier Resources ...3501
56. North Atlantic Salmon Fishing ...3601
56A. Pacific Salmon Fishing ...3631
57. National Fish and Wildlife Foundation ...3701
57A. Partnerships for Wildlife ...3741
57B. Partners for Fish and Wildlife ...3771
58. Erodible Land and Wetland Conservation and Reserve Program ...3801
59. Wetlands Resources ...3901
59A. Wetlands ...3951
60. Fish and Seafood Promotion ...4001
61. Interjurisdictional Fisheries ...4101
62. African Elephant Conservation ...4201
62A. Asian Elephant Conservation ...4261
63. Federal Cave Resources Protection ...4301
64. North American Wetlands Conservation ...4401
65. International Forestry Cooperation ...4501
66. Take Pride in America Program ...4601
67. Aquatic Nuisance Prevention and Control ...4701
68. Pacific Yew Conservation and Management [Omitted or Repealed] ...4801
69. Wild Exotic Bird Conservation ...4901
70. North Pacific Anadromous Stocks Convention ...5001
71. Atlantic Coastal Fisheries Cooperative Management ...5101
71A. Atlantic Striped Bass Conservation ...5151
72. Recreational Hunting Safety ...5201
73. Rhinoceros and Tiger Conservation ...5301
74. National Maritime Heritage ...5401
75. High Seas Fishing Compliance ...5501
76. Northwest Atlantic Fisheries Convention ...5601
77. Yukon River Salmon ...5701
78. National Natural Resources Conservation Foundation ...5801
79. National Park Service Management ...5901
80. Neotropical Migratory Bird Conservation ...6101
81. User Fees Under Forest System Recreation Residence Program ...6201
81A. National Forest Organizational Camp Fee Improvement ...6231
82. Great Ape Conservation ...6301
83. Coral Reef Conservation ...6401
84. Healthy Forest Restoration ...6501
85. Marine Turtle Conservation ...6601
86. Southwest Forest Health and Wildfire Prevention ...6701
87. Federal Lands Recreation Enhancement ...6801
88. Western and Central Pacific Fisheries Convention ...6901
89. Pacific Whiting ...7001
90. Secure Rural Schools and Community Self-Determination ...7101
91. National Landscape Conservation System ...7201
92. Forest Landscape Restoration ...7301
CHAPTER 12F—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

Sec.
837. Definitions.
837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts.
837b. Contract terms and conditions for use of electric energy outside Pacific Northwest.
837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest.
837d. Exchange contracts.
837e. Transmission lines for other electric energy; rates.
837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions.
837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected.
837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities.
837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified.

§ 837. Definitions

As used in this chapter—
(a) “Secretary” means the Secretary of Energy.
(b) “Pacific Northwest” means
   (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and
   (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without said region.
(c) “Surplus energy” means electric energy generated at Federal hydroelectric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rate.
(d) “Surplus peaking capacity” means electric peaking capacity at Federal hydroelectric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.
(e) “Non-Federal utility” means any utility not owned or controlled by the United States, including any entity
   (1) which such a utility owns or controls, in whole or in part, or is controlled by,
   (2) which is controlled by those controlling such utility, or
   (3) of which such utility is a member.
(f) “Energy requirements of any Pacific Northwest customer” means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the hydroelectric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.
(g) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission.


Amendments

1980—Subsec. (b)(2). Pub. L. 96–501 substituted “(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without said region” for “(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region”.

Effective Date of 1980 Amendment


Transfer of Functions

“Secretary of Energy” substituted for “Secretary of the Interior” in subsec. (a) pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152 (a) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and the functions, personnel, property, funds, etc., thereof transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151 (b), 7171 (a), 7172 (a), 7291, and 7293 of Title 42.

§ 837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts

Subject to the provisions of this chapter, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, Federal hydroelectric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least 30 days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Bonneville Power Administration written notice that negotiations for such a contract are pending, and thereafter, at any customer’s request, make available for its inspection current drafts of the proposed contract.


Transfer of Functions

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152 (a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 837b. Contract terms and conditions for use of electric energy outside Pacific Northwest

(a) Surplus energy; discontinuance of deliveries to maintain ability to meet requirements of Pacific Northwest customers; purchaser’s responsibility for hardships; deliveries by non-Federal
utility for use on contiguous distribution system not deemed deliveries for use outside Pacific Northwest

Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or indirectly, within the Pacific Northwest for hydroelectric energy delivered for use outside that region by a non-Federal utility, shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, will not deliver electric energy under such contract whenever it can reasonably be foreseen that such delivery would impair his ability to meet, either at or after the time of such delivery, the energy requirements of any Pacific Northwest customer. The purchaser shall obligate himself not to take delivery of or use any such energy to supply any load under such conditions that discontinuance of deliveries from the Pacific Northwest in sixty days would cause undue hardship to the purchaser or in his territory, and, further, the purchaser shall acknowledge full responsibility if any such hardship occurs. Deliveries by a non-Federal utility from its generating plants in the Pacific Northwest for use on its own distribution system in an area outside but contiguous to the Pacific Northwest (not including any extension of its outside service area by merger or acquisition after August 31, 1964) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Conservable electric energy; provisional basis for delivery; return of energy to meet requirements of Pacific Northwest customers; time and extent of return of energy

Electric energy generated at Federal hydroelectric plants in the Pacific Northwest which can be conserved, for which there is no immediate demand in the Pacific Northwest at any established rate, but for which the Secretary determines there may be a demand in meeting the future requirements of the Pacific Northwest, may be delivered for use outside that region only on a provisional basis under contracts providing that if the Secretary determines at a subsequent time that, by virtue of prior deliveries under such contract, the Secretary is or will be unable to meet the energy requirements of any Pacific Northwest customer, the purchaser will return the full amount of energy delivered to him, or such portion or portions thereof as may be required, at such time or times as may be specified by the Secretary, except that the Secretary shall not require return during the purchaser’s daily peak periods. The Secretary shall require the return of the energy provisionally delivered hereunder, to such extent and at such times, as may be necessary to meet demands at any established rate for use within the Pacific Northwest.

(c) Surplus peaking capacity; termination clause; advance or return of energy; time of return of energy; sale under subsection (a) conditions

Any contract for the disposition of surplus peaking capacity shall provide that

(1) the Secretary may terminate the contract upon notice not in excess of sixty months, and
(2) the purchaser shall advance or return the energy necessary to supply the peaking capacity, except that the Secretary shall not require such advance or return during the purchaser’s daily peak periods. The Secretary may contract for the sale of such energy to the purchaser, in lieu of its return, under the conditions prescribed in subsection (a) of this section.

(d) Determination of energy requirements of Pacific Northwest non-Federal utility customer; exclusion of conservable energy; sale of surplus energy to the utility

The Secretary, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having hydroelectric generating facilities, shall exclude any amounts of hydroelectric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility’s own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement therefor only what would otherwise be surplus energy.

§ 837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest

Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, Federal hydroelectric plants in marketing areas outside the Pacific Northwest for use within the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 837a and 837b of this title for any contract for the sale or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest.


§ 837d. Exchange contracts

Without regard to the limitations specified in sections 837a and 837b of this title, the Secretary may enter into contracts for the exchange with areas other than the Pacific Northwest of

1. surplus energy during the Pacific Northwest storage refill period,
2. any hydroelectric energy during the Pacific Northwest storage refill period which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest refill period or the succeeding storage drawdown period,
3. any hydroelectric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period,
4. hydroelectric peaking capacity, or
5. surplus peaking capacity for energy. All benefits from such exchanges, including resulting increases of firm power, shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each.


§ 837e. Transmission lines for other electric energy; rates

Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Pacific Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 837h of this title, shall be made available as a carrier for transmission of other electric energy between such areas. The transmission of other electric energy shall be at equitable rates determined by the Secretary, but such rates shall be subject to equitable adjustment at appropriate intervals not less frequently than once in every five years as agreed to by the parties. No contract for the transmission of non-Federal energy on a firm basis shall be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy, the energy described in section 837h of this title, or other electric energy.

§ 837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions

The Secretary shall offer to amend, without imposing any other requirements as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at Federal hydroelectric plants in the Pacific Northwest to include, and shall include in all new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this chapter.


§ 837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected

No electric transmission lines or related facilities shall be constructed by any Federal agency outside the Pacific Northwest for the purpose of transmitting electric energy between the Pacific Northwest and Pacific Southwest, nor shall any arrangement for transmission capacity be executed by any Federal agency for the purpose of financing such lines and related facilities to be constructed by non-Federal entities, except those lines and facilities recommended for Federal construction in the Report of the Secretary of the Interior submitted to Congress on June 24, 1964, as supplemented on July 27, 1964, or as hereafter specifically authorized by Congress: Provided, That, except with respect to electric transmission lines and related facilities for the purpose of transmitting electric energy between the two regions above mentioned, nothing herein shall be construed as expanding or diminishing in any way the present authority of the Secretary of Energy to construct transmission lines to market power and energy.


Transfer of Functions

“Secretary of Energy” substituted for “Secretary of the Interior” in the proviso in text pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152 (a) of Title 42, The Public Health and Welfare.

§ 837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities

Notwithstanding the provisions of section 837g of this title, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose.


Codification

Section was not enacted as part of Pub. L. 88–552 which comprises this chapter.
§ 837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified

The provisions of this chapter shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 837e of this title, downstream power benefits to which Canada is entitled under the treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, nor to energy or capacity disposed of to Canada in any exchange pursuant to paragraph 1 or 2 of article VIII thereof. Nothing in this chapter shall be construed to modify the geographical preference of power users in the State of Montana which is established by the Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended.


References in Text

The Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended, referred to in text, probably means act June 5, 1944, ch. 234, 58 Stat. 270, as amended, which is classified to sections 593a and 593b of Title 43, Public Lands.