

## Section 13

### AMENDMENT PROCESS

Congress gave the Council one year to develop an initial program that would address the complex and long-term technical, legal, economic and political problems associated with the effects of hydroelectric power development on fish and wildlife in the Columbia River Basin. Since the initial program was adopted in 1982, the Council has conducted four comprehensive amendment processes (1984, 1987, 1991-1993, and 1994) and more than 15 issue-specific amendment processes. While these amendment processes require time and energy, they are essential if the program is to adapt to new information and changing conditions.

By law, the Council must open the program for review at least once every five years, and in connection with major revisions to the power plan. The Council also may amend the program at any time on its own motion. Such a motion either may be initiated by the Council itself or may be in response to the petitions of interested entities or individuals. The Council encourages critics of the program to resolve their concerns by consulting with the Council and undertaking to amend the program rather than engaging in divisive, time-consuming and expensive court proceedings.

Whether an amendment is proposed by the Council or another entity, amendments to the program must satisfy the requirements of the Northwest Power Act.

#### 13.1 FUTURE AMENDMENTS

##### 13.1A Amendment Proposals on the Council's Own Motion

###### Council

13.1A.1 The Council on its own motion may consider a program amendment at any time. In doing so, it will provide for public comment, consultation and

adherence to the requirements of the Act, as described in Section 13.1D.

###### Relevant Parties

13.1A.2 Any party may request that the Council consider a program amendment on its own motion, by submitting an amendment application as provided for in Section 13.1C. The Council may, at its discretion, choose whether or not to consider such a program amendment. If the Council chooses not to consider a program amendment, the amendment application will be returned by the Council and may be resubmitted during the next review period under Section 13.1B.

##### 13.1B Mandatory Review

The Northwest Power Act requires the Council to review the Northwest Conservation and Electric Power Plan at least every five years and to request recommendations to amend the Columbia River Basin Fish and Wildlife Program "prior to the development or review of the plan, or any major revision thereto." The Council may, at its discretion, request recommendations to amend the fish and wildlife program, or any portion of it, more frequently than every five years and independently of revisions to the power plan.

##### 13.1C Form of Recommendations

###### Council

13.1C.1 The Council will prepare application forms specifying requirements for information for recommendations to amend the program. Interested parties may use these forms, or may submit

recommendations in letter form. In either case, amendment recommendations should contain the following information:

- A proposed amendment to the program, showing new language proposed to be added and existing language proposed to be stricken;
- A detailed description of how the proposed amendment would satisfy the standards of Sections 4(h)(5)-(6) of the Act, including:
  - a. how and to what extent the recommended measure would protect, mitigate or enhance fish or wildlife, including: 1) a description of the techniques proposed; 2) an estimate of the expected biological benefits (in measurable terms, if possible); and 3) a plan for determining whether the expected benefits are achieved;
  - b. how the fish and wildlife involved have been affected by the development, operation and management of hydropower facilities in the Columbia River Basin;
  - c. a description and analysis of all available scientific knowledge related to the proposed amendment;
  - d. an estimate of the costs, losses of power and impact on rates, if any, that would result if the amendment were adopted; and
  - e. a plan and schedule for funding and implementing the proposed amendment.
- A verification of the facts stated in the application, signed by the person

who prepared the application and the person authorizing the application; and

- If the application is submitted by a state, state subdivision or tribe under Section 4(g)(3) of the Act, a certification that the state, subdivision or tribe has adopted the recommended objective and Bonneville has reviewed it.

## 13.1D Council Review

### Council

- 13.1D.1 The Council will review and propose action on each application for amendment accepted for consideration. In considering the applications, the Council will consult with appropriate power managers, operators and regulators, fish and wildlife agencies, tribes and Bonneville customers; will provide public notice and an opportunity for comment (in writing and at public hearings) on the proposed Council actions; and will otherwise adhere to the requirements of the Act.
- 13.1D.2 Following public comment and consultation, the Council will act on each recommended amendment by:
- adopting it; or
  - adopting it with modifications based on the comments and consultations; or
  - rejecting it for failure to conform to the statutory standards for program elements.
- 13.1D.3 The Council will act on each recommended amendment within one year of receipt.

## 13.1E Protected Areas Amendments

### Council

- 13.1E.1 Upon submission of a state or tribal comprehensive plan or state or tribal river basin or watershed plan, the Council will promptly initiate amendment proceedings and carefully consider amending this measure to reflect appropriate portions of the state or tribal plan. With regard to resident fish and wildlife, The Council will recognize that individual state and tribal interests are particularly strong.
- 13.1E.2 The Council will consider other amendments to this measure in accordance with Section 13.1.

### Relevant Parties

- 13.1E.3 Any party may file a petition with the Council to change the designation of a river reach as protected or unprotected or to change the reason for a protected designation.
- 13.1E.4 Before filing a petition with the Council, the petitioner must notify the appropriate state agency and consult with that agency regarding the change in designation.
- 13.1E.5 Petitions must contain the following:
- The location of the affected river reach, including the reach number as listed in the Council's protected areas data base.
  - A statement of the facts showing the anticipated benefits and the anticipated detriments of the project.
  - An explanation of how the project will affect the Council's plan and program, or, if outside the Columbia Basin, how the project will affect the

plan or relevant state and tribal comprehensive plans.

- An explanation of how the petitioner has determined that the project will achieve exceptional fish and wildlife benefits.

- A summary of consultations the petitioner has had with relevant fish and wildlife agencies and Indian tribes regarding the petition, and the responses of the agencies and tribes.

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### **13.1F Promising New Ideas for Improving Salmon Survival**

The Council has called for additional flows, augmented transportation, drawdown studies, evaluations of several possible changes in power system operations and other ways to improve passage survival. Success of any of these measures is uncertain. Other ideas may be as promising. The Council has also called for new fish marking techniques, methods for selective harvest and investigation of the use of sound to divert salmon away from turbines. The Council is concerned that these new ideas might be lost in the debate over existing measures or allowed to languish. This measure is intended to provide an expedited process to encourage innovative approaches to improving salmon survival, especially in the mainstem.

#### **Bonneville, Corps of Engineers and Bureau of Reclamation**

- 13.1F.1 Accept and, if necessary, solicit proposals from all sources to improve passage and other aspects of salmon survival.
- 13.1F.2 Screen and evaluate such proposals on an expedited basis and promptly present promising ideas to the Council.

#### **Council**

- 13.1F.3 The Council will review promising ideas on an expedited basis, with input from fishery managers, and determine whether or not development of these ideas should be pursued. Upon Council approval, development should be promptly funded.