

113TH CONGRESS
2^D SESSION

H. R. 5412

To facilitate and streamline the Bureau of Reclamation process for creating or expanding surface water storage under Reclamation law.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2014

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To facilitate and streamline the Bureau of Reclamation process for creating or expanding surface water storage under Reclamation law.

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 “Bureau of Reclamation
5 Surface Water Storage Streamlining Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ENVIRONMENTAL IMPACT STATEMENT.—

9 The term “environmental impact statement” means
10 the detailed statement of environmental impacts of

1 a project required to be prepared pursuant to the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.).

4 (2) ENVIRONMENTAL REVIEW PROCESS.—

5 (A) IN GENERAL.—The term “environ-
6 mental review process” means the process of
7 preparing an environmental impact statement,
8 environmental assessment, categorical exclusion,
9 or other document under the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et
11 seq.) for a project study.

12 (B) INCLUSIONS.—The term “environ-
13 mental review process” includes the process for
14 and completion of any environmental permit,
15 approval, review, or study required for a project
16 study under any Federal law other than the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.).

19 (3) FEDERAL JURISDICTIONAL AGENCY.—The
20 term “Federal jurisdictional agency” means a Fed-
21 eral agency with jurisdiction delegated by law, regu-
22 lation, order, or otherwise over a review, analysis,
23 opinion, statement, permit, license, or other approval
24 or decision required for a project study under appli-
25 cable Federal laws (including regulations).

1 (4) FEDERAL LEAD AGENCY.—The term “Fed-
2 eral lead agency” means the Bureau of Reclamation.

3 (5) PROJECT.—The term “project” means a
4 surface water project to be carried out or funded by
5 the Secretary pursuant to the Act of June 17, 1902
6 (32 Stat. 388, chapter 1093), and Acts supple-
7 mental to and amendatory of that Act (43 U.S.C.
8 371 et seq.).

9 (6) PROJECT SPONSOR.—The term “project
10 sponsor” means a State, regional, or local authority
11 or other qualifying entity, such as a water conserva-
12 tion district, irrigation district, water conservancy
13 district, or rural water district or association.

14 (7) PROJECT STUDY.—The term “project
15 study” means a feasibility study for a project carried
16 out pursuant to the Act of June 17, 1902 (32 Stat.
17 388, chapter 1093), and Acts supplemental to and
18 amendatory of that Act (43 U.S.C. 371 et seq.).

19 (8) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (9) SURFACE WATER STORAGE.—The term
22 “surface water storage” means any surface water
23 reservoir or impoundment that would be owned,
24 funded, or operated by the Bureau of Reclamation.

1 **SEC. 3. ACCELERATION OF STUDIES.**

2 (a) IN GENERAL.—To the extent practicable, a
3 project study initiated by the Secretary, after the date of
4 enactment of this Act, under the Reclamation Act of 1902
5 (32 Stat. 388), and all Acts amendatory thereof or supple-
6 mentary thereto, shall—

7 (1) result in the completion of a final feasibility
8 report not later than 3 years after the date of initi-
9 ation;

10 (2) have a maximum Federal cost of
11 \$3,000,000; and

12 (3) ensure that personnel from the local project
13 area, region, and headquarters levels of the Bureau
14 of Reclamation concurrently conduct the review re-
15 quired under that section.

16 (b) EXTENSION.—If the Secretary determines that a
17 project study described in subsection (a) will not be con-
18 ducted in accordance with subsection (a), the Secretary,
19 not later than 30 days after the date of making the deter-
20 mination, shall—

21 (1) prepare an updated project study schedule
22 and cost estimate;

23 (2) notify the non-Federal project cost-sharing
24 partner that the project study has been delayed; and

25 (3) provide written notice to the Committee on
26 Natural Resources of the House of Representatives

1 and the Committee on Energy and Natural Re-
2 sources of the Senate as to the reasons the require-
3 ments of subsection (a) are not attainable.

4 (c) EXCEPTION.—

5 (1) IN GENERAL.—Notwithstanding the re-
6 quirements of subsection (a), the Secretary may ex-
7 tend the timeline of a project study by a period not
8 to exceed 3 years, if the Secretary determines that
9 the project study is too complex to comply with the
10 requirements of subsection (a).

11 (2) FACTORS.—In making a determination that
12 a study is too complex to comply with the require-
13 ments of subsection (a), the Secretary shall con-
14 sider—

15 (A) the type, size, location, scope, and
16 overall cost of the project;

17 (B) whether the project will use any inno-
18 vative design or construction techniques;

19 (C) whether the project will require signifi-
20 cant action by other Federal, State, or local
21 agencies;

22 (D) whether there is significant public dis-
23 pute as to the nature or effects of the project;
24 and

1 (E) whether there is significant public dis-
2 pute as to the economic or environmental costs
3 or benefits of the project.

4 (3) NOTIFICATION.—Each time the Secretary
5 makes a determination under this subsection, the
6 Secretary shall provide written notice to the Com-
7 mittee on Natural Resources of the House of Rep-
8 resentatives and the Committee on Energy and Nat-
9 ural Resources of the Senate as to the results of
10 that determination, including an identification of the
11 specific 1 or more factors used in making the deter-
12 mination that the project is complex.

13 (4) LIMITATION.—The Secretary shall not ex-
14 tend the timeline for a project study for a period of
15 more than 7 years, and any project study that is not
16 completed before that date shall no longer be au-
17 thorized.

18 (d) REVIEWS.—Not later than 90 days after the date
19 of the initiation of a project study described in subsection
20 (a), the Secretary shall—

21 (1) take all steps necessary to initiate the proc-
22 ess for completing federally mandated reviews that
23 the Secretary is required to complete as part of the
24 study, including the environmental review process
25 under section 5;

1 (2) convene a meeting of all Federal, tribal, and
2 State agencies identified under section 5(d) that
3 may—

4 (A) have jurisdiction over the project;

5 (B) be required by law to conduct or issue
6 a review, analysis, opinion, or statement for the
7 project study; or

8 (C) be required to make a determination
9 on issuing a permit, license, or other approval
10 or decision for the project study; and

11 (3) take all steps necessary to provide informa-
12 tion that will enable required reviews and analyses
13 related to the project to be conducted by other agen-
14 cies in a thorough and timely manner.

15 (e) INTERIM REPORT.—Not later than 18 months
16 after the date of enactment of this Act, the Secretary shall
17 submit to the Committee on Natural Resources of the
18 House of Representatives and the Committee on Energy
19 and Natural Resources of the Senate and make publicly
20 available a report that describes—

21 (1) the status of the implementation of the
22 planning process under this section, including the
23 number of participating projects;

24 (2) a review of project delivery schedules, in-
25 cluding a description of any delays on those studies

1 initiated prior to the date of the enactment of this
2 Act; and

3 (3) any recommendations for additional author-
4 ity necessary to support efforts to expedite the
5 project.

6 (f) FINAL REPORT.—Not later than 4 years after the
7 date of enactment of this Act, the Secretary shall submit
8 to the Committee on Natural Resources of the House of
9 Representatives and the Committee on Energy and Nat-
10 ural Resources of the Senate and make publicly available
11 a report that describes—

12 (1) the status of the implementation of this sec-
13 tion, including a description of each project study
14 subject to the requirements of this section;

15 (2) the amount of time taken to complete each
16 project study; and

17 (3) any recommendations for additional author-
18 ity necessary to support efforts to expedite the
19 project study process, including an analysis of
20 whether the limitation established by subsection
21 (a)(2) needs to be adjusted to address the impacts
22 of inflation.

23 **SEC. 4. EXPEDITED COMPLETION OF REPORTS.**

24 The Secretary shall—

1 (1) expedite the completion of any ongoing
2 project study initiated before the date of enactment
3 of this Act; and

4 (2) if the Secretary determines that the project
5 is justified in a completed report, proceed directly to
6 preconstruction planning, engineering, and design of
7 the project in accordance with the Reclamation Act
8 of 1902 (32 Stat. 388), and all Acts amendatory
9 thereof or supplementary thereto.

10 **SEC. 5. PROJECT ACCELERATION.**

11 (a) APPLICABILITY.—

12 (1) IN GENERAL.—This section shall apply to
13 each project study that is initiated after the date of
14 enactment of this Act and for which an environ-
15 mental impact statement is prepared under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.).

18 (2) FLEXIBILITY.—Any authority granted
19 under this section may be exercised, and any re-
20 quirement established under this section may be sat-
21 isfied, for the conduct of an environmental review
22 process for a project study, a class of project stud-
23 ies, or a program of project studies.

24 (3) LIST OF PROJECT STUDIES.—

1 (A) IN GENERAL.—The Secretary shall an-
2 nually prepare, and make publicly available, a
3 list of all project studies that the Secretary has
4 determined—

5 (i) meets the standards described in
6 paragraph (1); and

7 (ii) does not have adequate funding to
8 make substantial progress toward the com-
9 pletion of the project study.

10 (B) INCLUSIONS.—The Secretary shall in-
11 clude for each project study on the list under
12 subparagraph (A) a description of the estimated
13 amounts necessary to make substantial progress
14 on the project study.

15 (b) PROJECT REVIEW PROCESS.—

16 (1) IN GENERAL.—The Secretary shall develop
17 and implement a coordinated environmental review
18 process for the development of project studies.

19 (2) COORDINATED REVIEW.—The coordinated
20 environmental review process described in paragraph
21 (1) shall require that any review, analysis, opinion,
22 statement, permit, license, or other approval or deci-
23 sion issued or made by a Federal, State, or local
24 governmental agency or an Indian tribe for a project
25 study described in subsection (b) be conducted, to

1 the maximum extent practicable, concurrently with
2 any other applicable governmental agency or Indian
3 tribe.

4 (3) TIMING.—The coordinated environmental
5 review process under this subsection shall be com-
6 pleted not later than the date on which the Sec-
7 retary, in consultation and concurrence with the
8 agencies identified under section 5(d), establishes
9 with respect to the project study.

10 (c) LEAD AGENCIES.—

11 (1) JOINT LEAD AGENCIES.—

12 (A) IN GENERAL.—Subject to the require-
13 ments of the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.) and the
15 requirements of section 1506.8 of title 40, Code
16 of Federal Regulations (or successor regula-
17 tions), including the concurrence of the pro-
18 posed joint lead agency, a project sponsor may
19 serve as the joint lead agency.

20 (B) PROJECT SPONSOR AS JOINT LEAD
21 AGENCY.—A project sponsor that is a State or
22 local governmental entity may—

23 (i) with the concurrence of the Sec-
24 retary, serve as a joint lead agency with
25 the Federal lead agency for purposes of

1 preparing any environmental document
2 under the National Environmental Policy
3 Act of 1969 (42 U.S.C. 4321 et seq.); and

4 (ii) prepare any environmental review
5 process document under the National En-
6 vironmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.) required in support of any
8 action or approval by the Secretary if—

9 (I) the Secretary provides guid-
10 ance in the preparation process and
11 independently evaluates that docu-
12 ment;

13 (II) the project sponsor complies
14 with all requirements applicable to the
15 Secretary under—

16 (aa) the National Environ-
17 mental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.);

19 (bb) any regulation imple-
20 menting that Act; and

21 (cc) any other applicable
22 Federal law; and

23 (III) the Secretary approves and
24 adopts the document before the Sec-
25 retary takes any subsequent action or

1 makes any approval based on that
2 document, regardless of whether the
3 action or approval of the Secretary re-
4 sults in Federal funding.

5 (2) DUTIES.—The Secretary shall ensure
6 that—

7 (A) the project sponsor complies with all
8 design and mitigation commitments made joint-
9 ly by the Secretary and the project sponsor in
10 any environmental document prepared by the
11 project sponsor in accordance with this sub-
12 section; and

13 (B) any environmental document prepared
14 by the project sponsor is appropriately supple-
15 mented to address any changes to the project
16 the Secretary determines are necessary.

17 (3) ADOPTION AND USE OF DOCUMENTS.—Any
18 environmental document prepared in accordance
19 with this subsection shall be adopted and used by
20 any Federal agency making any determination re-
21 lated to the project study to the same extent that
22 the Federal agency could adopt or use a document
23 prepared by another Federal agency under—

24 (A) the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4321 et seq.); and

1 (B) parts 1500 through 1508 of title 40,
2 Code of Federal Regulations (or successor regu-
3 lations).

4 (4) ROLES AND RESPONSIBILITY OF LEAD
5 AGENCY.—With respect to the environmental review
6 process for any project study, the Federal lead agen-
7 cy shall have authority and responsibility—

8 (A) to take such actions as are necessary
9 and proper and within the authority of the Fed-
10 eral lead agency to facilitate the expeditious
11 resolution of the environmental review process
12 for the project study; and

13 (B) to prepare or ensure that any required
14 environmental impact statement or other envi-
15 ronmental review document for a project study
16 required to be completed under the National
17 Environmental Policy Act of 1969 (42 U.S.C.
18 4321 et seq.) is completed in accordance with
19 this section and applicable Federal law.

20 (d) PARTICIPATING AND COOPERATING AGENCIES.—

21 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
22 CIES.—With respect to carrying out the environ-
23 mental review process for a project study, the Sec-
24 retary shall identify, as early as practicable in the
25 environmental review process, all Federal, State, and

1 local government agencies and Indian tribes that
2 may—

3 (A) have jurisdiction over the project;

4 (B) be required by law to conduct or issue
5 a review, analysis, opinion, or statement for the
6 project study; or

7 (C) be required to make a determination
8 on issuing a permit, license, or other approval
9 or decision for the project study.

10 (2) STATE AUTHORITY.—If the environmental
11 review process is being implemented by the Sec-
12 retary for a project study within the boundaries of
13 a State, the State, consistent with State law, may
14 choose to participate in the process and to make
15 subject to the process all State agencies that—

16 (A) have jurisdiction over the project;

17 (B) are required to conduct or issue a re-
18 view, analysis, opinion, or statement for the
19 project study; or

20 (C) are required to make a determination
21 on issuing a permit, license, or other approval
22 or decision for the project study.

23 (3) INVITATION.—

24 (A) IN GENERAL.—The Federal lead agen-
25 cy shall invite, as early as practicable in the en-

1 vironmental review process, any agency identi-
2 fied under paragraph (1) to become a partici-
3 pating or cooperating agency, as applicable, in
4 the environmental review process for the project
5 study.

6 (B) DEADLINE.—An invitation to partici-
7 pate issued under subparagraph (A) shall set a
8 deadline by which a response to the invitation
9 shall be submitted, which may be extended by
10 the Federal lead agency for good cause.

11 (4) PROCEDURES.—Section 1501.6 of title 40,
12 Code of Federal Regulations (as in effect on the
13 date of enactment of the Bureau of Reclamation
14 Surface Water Storage Streamlining Act) shall gov-
15 ern the identification and the participation of a co-
16 operating agency.

17 (5) FEDERAL COOPERATING AGENCIES.—Any
18 Federal agency that is invited by the Federal lead
19 agency to participate in the environmental review
20 process for a project study shall be designated as a
21 cooperating agency by the Federal lead agency un-
22 less the invited agency informs the Federal lead
23 agency, in writing, by the deadline specified in the
24 invitation that the invited agency—

1 (A)(i) has no jurisdiction or authority with
2 respect to the project;

3 (ii) has no expertise or information rel-
4 evant to the project; or

5 (iii) does not have adequate funds to par-
6 ticipate in the project; and

7 (B) does not intend to submit comments
8 on the project.

9 (6) ADMINISTRATION.—A participating or co-
10 operating agency shall comply with this section and
11 any schedule established under this section.

12 (7) EFFECT OF DESIGNATION.—Designation as
13 a participating or cooperating agency under this
14 subsection shall not imply that the participating or
15 cooperating agency—

16 (A) supports a proposed project; or

17 (B) has any jurisdiction over, or special ex-
18 pertise with respect to evaluation of, the
19 project.

20 (8) CONCURRENT REVIEWS.—Each partici-
21 pating or cooperating agency shall—

22 (A) carry out the obligations of that agen-
23 cy under other applicable law concurrently and
24 in conjunction with the required environmental
25 review process, unless doing so would prevent

1 the participating or cooperating agency from
2 conducting needed analysis or otherwise car-
3 rying out those obligations; and

4 (B) formulate and implement administra-
5 tive, policy, and procedural mechanisms to en-
6 able the agency to ensure completion of the en-
7 vironmental review process in a timely, coordi-
8 nated, and environmentally responsible manner.

9 (e) PROGRAMMATIC COMPLIANCE.—

10 (1) IN GENERAL.—The Secretary shall issue
11 guidance regarding the use of programmatic ap-
12 proaches to carry out the environmental review proc-
13 ess that—

14 (A) eliminates repetitive discussions of the
15 same issues;

16 (B) focuses on the actual issues ripe for
17 analyses at each level of review;

18 (C) establishes a formal process for coordi-
19 nating with participating and cooperating agen-
20 cies, including the creation of a list of all data
21 that are needed to carry out an environmental
22 review process; and

23 (D) complies with—

24 (i) the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.); and

1 (ii) all other applicable laws.

2 (2) REQUIREMENTS.—In carrying out para-
3 graph (1), the Secretary shall—

4 (A) as the first step in drafting guidance
5 under that paragraph, consult with relevant
6 Federal, State, and local governmental agen-
7 cies, Indian tribes, and the public on the appro-
8 priate use and scope of the programmatic ap-
9 proaches;

10 (B) emphasize the importance of collabora-
11 tion among relevant Federal, State, and local
12 governmental agencies, and Indian tribes in un-
13 dertaking programmatic reviews, especially with
14 respect to including reviews with a broad geo-
15 graphical scope;

16 (C) ensure that the programmatic re-
17 views—

18 (i) promote transparency, including of
19 the analyses and data used in the environ-
20 mental review process, the treatment of
21 any deferred issues raised by Federal,
22 State, and local governmental agencies, In-
23 dian tribes, or the public, and the temporal
24 and special scales to be used to analyze
25 those issues;

1 (ii) use accurate and timely informa-
2 tion in the environmental review process,
3 including—

4 (I) criteria for determining the
5 general duration of the usefulness of
6 the review; and

7 (II) the timeline for updating any
8 out-of-date review;

9 (iii) describe—

10 (I) the relationship between pro-
11 grammatic analysis and future tiered
12 analysis; and

13 (II) the role of the public in the
14 creation of future tiered analysis; and

15 (iv) are available to other relevant
16 Federal, State, and local governmental
17 agencies, Indian tribes, and the public;

18 (D) allow not fewer than 60 days of public
19 notice and comment on any proposed guidance;
20 and

21 (E) address any comments received under
22 subparagraph (D).

23 (f) COORDINATED REVIEWS.—

24 (1) COORDINATION PLAN.—

1 (A) ESTABLISHMENT.—The Federal lead
2 agency shall, after consultation with and with
3 the concurrence of each participating and co-
4 operating agency and the project sponsor or
5 joint lead agency, as applicable, establish a plan
6 for coordinating public and agency participation
7 in, and comment on, the environmental review
8 process for a project study or a category of
9 project studies.

10 (B) SCHEDULE.—

11 (i) IN GENERAL.—As soon as prac-
12 ticable but not later than 45 days after the
13 close of the public comment period on a
14 draft environmental impact statement, the
15 Federal lead agency, after consultation
16 with and the concurrence of each partici-
17 pating and cooperating agency and the
18 project sponsor or joint lead agency, as ap-
19 plicable, shall establish, as part of the co-
20 ordination plan established in subpara-
21 graph (A), a schedule for completion of the
22 environmental review process for the
23 project study.

1 (ii) FACTORS FOR CONSIDERATION.—

2 In establishing a schedule, the Secretary
3 shall consider factors such as—

4 (I) the responsibilities of partici-
5 pating and cooperating agencies under
6 applicable laws;

7 (II) the resources available to the
8 project sponsor, joint lead agency, and
9 other relevant Federal and State
10 agencies, as applicable;

11 (III) the overall size and com-
12 plexity of the project;

13 (IV) the overall schedule for and
14 cost of the project; and

15 (V) the sensitivity of the natural
16 and historical resources that could be
17 affected by the project.

18 (iii) MODIFICATIONS.—The Secretary
19 may—

20 (I) lengthen a schedule estab-
21 lished under clause (i) for good cause;
22 and

23 (II) shorten a schedule only with
24 concurrence of the affected partici-
25 pating and cooperating agencies and

1 the project sponsor or joint lead agen-
2 cy, as applicable.

3 (iv) DISSEMINATION.—A copy of a
4 schedule established under clause (i) shall
5 be—

6 (I) provided to each participating
7 and cooperating agency and the
8 project sponsor or joint lead agency,
9 as applicable; and

10 (II) made available to the public.

11 (2) COMMENT DEADLINES.—The Federal lead
12 agency shall establish the following deadlines for
13 comment during the environmental review process
14 for a project study:

15 (A) DRAFT ENVIRONMENTAL IMPACT
16 STATEMENTS.—For comments by Federal and
17 States agencies and the public on a draft envi-
18 ronmental impact statement, a period of not
19 more than 60 days after publication in the Fed-
20 eral Register of notice of the date of public
21 availability of the draft environmental impact
22 statement, unless—

23 (i) a different deadline is established
24 by agreement of the Federal lead agency,
25 the project sponsor or joint lead agency, as

1 applicable, and all participating and co-
2 operating agencies; or

3 (ii) the deadline is extended by the
4 Federal lead agency for good cause.

5 (B) OTHER ENVIRONMENTAL REVIEW
6 PROCESSES.—For all other comment periods es-
7 tablished by the Federal lead agency for agency
8 or public comments in the environmental review
9 process, a period of not more than 30 days
10 after the date on which the materials on which
11 comment is requested are made available, un-
12 less—

13 (i) a different deadline is established
14 by agreement of the Federal lead agency,
15 the project sponsor, or joint lead agency,
16 as applicable, and all participating and co-
17 operating agencies; or

18 (ii) the deadline is extended by the
19 Federal lead agency for good cause.

20 (3) DEADLINES FOR DECISIONS UNDER OTHER
21 LAWS.—In any case in which a decision under any
22 Federal law relating to a project study, including the
23 issuance or denial of a permit or license, is required
24 to be made by the date described in subsection
25 (h)(5)(B), the Secretary shall submit to the Com-

1 committee on Natural Resources of the House of Rep-
2 representatives and the Committee on Energy and Nat-
3 ural Resources of the Senate—

4 (A) as soon as practicable after the 180-
5 day period described in subsection (h)(5)(B), an
6 initial notice of the failure of the Federal agen-
7 cy to make the decision; and

8 (B) every 60 days thereafter until such
9 date as all decisions of the Federal agency re-
10 lating to the project study have been made by
11 the Federal agency, an additional notice that
12 describes the number of decisions of the Fed-
13 eral agency that remain outstanding as of the
14 date of the additional notice.

15 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
16 in this subsection reduces any time period provided
17 for public comment in the environmental review
18 process under applicable Federal law (including reg-
19 ulations).

20 (5) TRANSPARENCY REPORTING.—

21 (A) REPORTING REQUIREMENTS.—Not
22 later than 1 year after the date of enactment of
23 this Act, the Secretary shall establish and main-
24 tain an electronic database and, in coordination
25 with other Federal and State agencies, issue re-

1 porting requirements to make publicly available
2 the status and progress with respect to compli-
3 ance with applicable requirements of the Na-
4 tional Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) and any other Federal,
6 State, or local approval or action required for a
7 project study for which this section is applica-
8 ble.

9 (B) PROJECT STUDY TRANSPARENCY.—

10 Consistent with the requirements established
11 under subparagraph (A), the Secretary shall
12 make publicly available the status and progress
13 of any Federal, State, or local decision, action,
14 or approval required under applicable laws for
15 each project study for which this section is ap-
16 plicable.

17 (g) ISSUE IDENTIFICATION AND RESOLUTION.—

18 (1) COOPERATION.—The Federal lead agency,
19 the cooperating agencies, and any participating
20 agencies shall work cooperatively in accordance with
21 this section to identify and resolve issues that could
22 delay completion of the environmental review process
23 or result in the denial of any approval required for
24 the project study under applicable laws.

1 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
2 ITIES.—

3 (A) IN GENERAL.—The Federal lead agen-
4 cy shall make information available to the co-
5 operating agencies and participating agencies as
6 early as practicable in the environmental review
7 process regarding the environmental and socio-
8 economic resources located within the project
9 area and the general locations of the alter-
10 natives under consideration.

11 (B) DATA SOURCES.—The information
12 under subparagraph (A) may be based on exist-
13 ing data sources, including geographic informa-
14 tion systems mapping.

15 (3) COOPERATING AND PARTICIPATING AGENCY
16 RESPONSIBILITIES.—Based on information received
17 from the Federal lead agency, cooperating and par-
18 ticipating agencies shall identify, as early as prac-
19 ticable, any issues of concern regarding the potential
20 environmental or socioeconomic impacts of the
21 project, including any issues that could substantially
22 delay or prevent an agency from granting a permit
23 or other approval that is needed for the project
24 study.

1 (4) ACCELERATED ISSUE RESOLUTION AND
2 ELEVATION.—

3 (A) IN GENERAL.—On the request of a
4 participating or cooperating agency or project
5 sponsor, the Secretary shall convene an issue
6 resolution meeting with the relevant partici-
7 pating and cooperating agencies and the project
8 sponsor or joint lead agency, as applicable, to
9 resolve issues that may—

10 (i) delay completion of the environ-
11 mental review process; or

12 (ii) result in denial of any approval re-
13 quired for the project study under applica-
14 ble laws.

15 (B) MEETING DATE.—A meeting requested
16 under this paragraph shall be held not later
17 than 21 days after the date on which the Sec-
18 retary receives the request for the meeting, un-
19 less the Secretary determines that there is good
20 cause to extend that deadline.

21 (C) NOTIFICATION.—On receipt of a re-
22 quest for a meeting under this paragraph, the
23 Secretary shall notify all relevant participating
24 and cooperating agencies of the request, includ-

1 ing the issue to be resolved and the date for the
2 meeting.

3 (D) ELEVATION OF ISSUE RESOLUTION.—

4 If a resolution cannot be achieved within the
5 30-day period beginning on the date of a meet-
6 ing under this paragraph and a determination
7 is made by the Secretary that all information
8 necessary to resolve the issue has been ob-
9 tained, the Secretary shall forward the dispute
10 to the heads of the relevant agencies for resolu-
11 tion.

12 (E) CONVENTION BY SECRETARY.—The
13 Secretary may convene an issue resolution
14 meeting under this paragraph at any time, at
15 the discretion of the Secretary, regardless of
16 whether a meeting is requested under subpara-
17 graph (A).

18 (5) FINANCIAL PENALTY PROVISIONS.—

19 (A) IN GENERAL.—A Federal jurisdictional
20 agency shall complete any required approval or
21 decision for the environmental review process
22 on an expeditious basis using the shortest exist-
23 ing applicable process.

24 (B) FAILURE TO DECIDE.—

25 (i) IN GENERAL.—

1 (I) TRANSFER OF FUNDS.—If a
2 Federal jurisdictional agency fails to
3 render a decision required under any
4 Federal law relating to a project study
5 that requires the preparation of an
6 environmental impact statement or
7 environmental assessment, including
8 the issuance or denial of a permit, li-
9 cense, statement, opinion, or other ap-
10 proval by the date described in clause
11 (ii), the amount of funds made avail-
12 able to support the office of the head
13 of the Federal jurisdictional agency
14 shall be reduced by an amount of
15 funding equal to the amount specified
16 in item (aa) or (bb) of subclause (II),
17 and those funds shall be made avail-
18 able to the division of the Federal ju-
19 risdictional agency charged with ren-
20 dering the decision by not later than
21 1 day after the applicable date under
22 clause (ii), and once each week there-
23 after until a final decision is rendered,
24 subject to subparagraph (C).

1 (II) AMOUNT TO BE TRANS-
2 FERRED.—The amount referred to in
3 subclause (I) is—

4 (aa) \$20,000 for any project
5 study requiring the preparation
6 of an environmental assessment
7 or environmental impact state-
8 ment; or

9 (bb) \$10,000 for any project
10 study requiring any type of re-
11 view under the National Environ-
12 mental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) other than
14 an environmental assessment or
15 environmental impact statement.

16 (ii) DESCRIPTION OF DATE.—The
17 date referred to in clause (i) is the later
18 of—

19 (I) the date that is 180 days
20 after the date on which an application
21 for the permit, license, or approval is
22 complete; and

23 (II) the date that is 180 days
24 after the date on which the Federal
25 lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).

4 (C) LIMITATIONS.—

5 (i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project study shall exceed, in
8 any fiscal year, an amount equal to 1 per-
9 cent of the funds made available for the
10 applicable agency office.

11 (ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.

18 (iii) AGGREGATE.—Notwithstanding
19 any other provision of law, for each fiscal
20 year, the aggregate amount of financial
21 penalties assessed against each applicable
22 agency office under this Act and any other
23 Federal law as a result of a failure of the
24 agency to make a decision by an applicable
25 deadline for environmental review, includ-

1 ing the total amount transferred under this
2 paragraph, shall not exceed an amount
3 equal to 9.5 percent of the funds made
4 available for the agency office for that fis-
5 cal year.

6 (D) NO FAULT OF AGENCY.—

7 (i) IN GENERAL.—A transfer of funds
8 under this paragraph shall not be made if
9 the applicable agency described in subpara-
10 graph (A) notifies, with a supporting ex-
11 planation, the Federal lead agency, cooper-
12 ating agencies, and project sponsor, as ap-
13 plicable, that—

14 (I) the agency has not received
15 necessary information or approvals
16 from another entity in a manner that
17 affects the ability of the agency to
18 meet any requirements under Federal,
19 State, or local law;

20 (II) significant new information,
21 including from public comments, or
22 circumstances, including a major
23 modification to an aspect of the
24 project, requires additional analysis

1 for the agency to make a decision on
2 the project application; or

3 (III) the agency lacks the finan-
4 cial resources to complete the review
5 under the scheduled timeframe, in-
6 cluding a description of the number of
7 full-time employees required to com-
8 plete the review, the amount of fund-
9 ing required to complete the review,
10 and a justification as to why not
11 enough funding is available to com-
12 plete the review by the deadline.

13 (ii) LACK OF FINANCIAL RE-
14 SOURCES.—If the agency provides notice
15 under clause (i)(III), the Inspector General
16 of the agency shall—

17 (I) conduct a financial audit to
18 review the notice; and

19 (II) not later than 90 days after
20 the date on which the review described
21 in subclause (I) is completed, submit
22 to the Committee on Natural Re-
23 sources of the House of Representa-
24 tives and the Committee on Energy

1 and Natural Resources of the Senate
2 a report on the notice.

3 (E) LIMITATION.—The Federal agency
4 from which funds are transferred pursuant to
5 this paragraph shall not reprogram funds to the
6 office of the head of the agency, or equivalent
7 office, to reimburse that office for the loss of
8 the funds.

9 (F) EFFECT OF PARAGRAPH.—Nothing in
10 this paragraph affects or limits the application
11 of, or obligation to comply with, any Federal,
12 State, local, or tribal law.

13 (h) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
14 ORDINATION.—

15 (1) SENSE OF CONGRESS.—It is the sense of
16 Congress that—

17 (A) the Secretary and other Federal agen-
18 cies with relevant jurisdiction in the environ-
19 mental review process should cooperate with
20 each other, State and local agencies, and Indian
21 tribes on environmental review and Bureau of
22 Reclamation project delivery activities at the
23 earliest practicable time to avoid delays and du-
24 plication of effort later in the process, prevent
25 potential conflicts, and ensure that planning

1 and project development decisions reflect envi-
2 ronmental values; and

3 (B) the cooperation referred to in subpara-
4 graph (A) should include the development of
5 policies and the designation of staff that advise
6 planning agencies and project sponsors of stud-
7 ies or other information foreseeably required for
8 later Federal action and early consultation with
9 appropriate State and local agencies and Indian
10 tribes.

11 (2) TECHNICAL ASSISTANCE.—If requested at
12 any time by a State or project sponsor, the Sec-
13 retary and other Federal agencies with relevant ju-
14 risdiction in the environmental review process, shall,
15 to the maximum extent practicable and appropriate,
16 as determined by the agencies, provide technical as-
17 sistance to the State or project sponsor in carrying
18 out early coordination activities.

19 (3) MEMORANDUM OF AGENCY AGREEMENT.—
20 If requested at any time by a State or project spon-
21 sor, the Federal lead agency, in consultation with
22 other Federal agencies with relevant jurisdiction in
23 the environmental review process, may establish
24 memoranda of agreement with the project sponsor,
25 Indian tribes, State and local governments, and

1 other appropriate entities to carry out the early co-
2 ordination activities, including providing technical
3 assistance in identifying potential impacts and miti-
4 gation issues in an integrated fashion.

5 (i) LIMITATIONS.—Nothing in this section preempts
6 or interferes with—

7 (1) any obligation to comply with the provisions
8 of any Federal law, including—

9 (A) the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4321 et seq.); and

11 (B) any other Federal environmental law;

12 (2) the reviewability of any final Federal agency
13 action in a court of the United States or in the court
14 of any State;

15 (3) any requirement for seeking, considering, or
16 responding to public comment; or

17 (4) any power, jurisdiction, responsibility, duty,
18 or authority that a Federal, State, or local govern-
19 mental agency, Indian tribe, or project sponsor has
20 with respect to carrying out a project or any other
21 provision of law applicable to projects.

22 (j) TIMING OF CLAIMS.—

23 (1) TIMING.—

24 (A) IN GENERAL.—Notwithstanding any
25 other provision of law, a claim arising under

1 Federal law seeking judicial review of a permit,
2 license, or other approval issued by a Federal
3 agency for a project study shall be barred un-
4 less the claim is filed not later than 3 years
5 after publication of a notice in the Federal Reg-
6 ister announcing that the permit, license, or
7 other approval is final pursuant to the law
8 under which the agency action is taken, unless
9 a shorter time is specified in the Federal law
10 that allows judicial review.

11 (B) APPLICABILITY.—Nothing in this sub-
12 section creates a right to judicial review or
13 places any limit on filing a claim that a person
14 has violated the terms of a permit, license, or
15 other approval.

16 (2) NEW INFORMATION.—

17 (A) IN GENERAL.—The Secretary shall
18 consider new information received after the
19 close of a comment period if the information
20 satisfies the requirements for a supplemental
21 environmental impact statement under title 40,
22 Code of Federal Regulations (including suc-
23 cessor regulations).

24 (B) SEPARATE ACTION.—The preparation
25 of a supplemental environmental impact state-

1 ment or other environmental document, if re-
2 quired under this section, shall be considered a
3 separate final agency action and the deadline
4 for filing a claim for judicial review of the ac-
5 tion shall be 3 years after the date of publica-
6 tion of a notice in the Federal Register an-
7 nouncing the action relating to such supple-
8 mental environmental impact statement or
9 other environmental document.

10 (k) CATEGORICAL EXCLUSIONS.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of enactment of this Act, the Sec-
13 retary shall—

14 (A) survey the use by the Bureau of Rec-
15 lamation of categorical exclusions in projects
16 since 2005;

17 (B) publish a review of the survey that in-
18 cludes a description of—

19 (i) the types of actions that were cat-
20 egorically excluded or could be the basis
21 for developing a new categorical exclusion;
22 and

23 (ii) any requests previously received
24 by the Secretary for new categorical exclu-
25 sions; and

1 (C) solicit requests from other Federal
2 agencies and project sponsors for new categor-
3 ical exclusions.

4 (2) NEW CATEGORICAL EXCLUSIONS.—Not
5 later than 1 year after the date of enactment of this
6 Act, if the Secretary has identified a category of ac-
7 tivities that merit establishing a categorical exclusion
8 that did not exist on the day before the date of en-
9 actment this Act based on the review under para-
10 graph (1), the Secretary shall publish a notice of
11 proposed rulemaking to propose that new categorical
12 exclusion, to the extent that the categorical exclusion
13 meets the criteria for a categorical exclusion under
14 section 1508.4 of title 40, Code of Federal Regula-
15 tions (or successor regulation).

16 (l) REVIEW OF PROJECT ACCELERATION RE-
17 FORMS.—

18 (1) IN GENERAL.—The Comptroller General of
19 the United States shall—

20 (A) assess the reforms carried out under
21 this section; and

22 (B) not later than 5 years and not later
23 than 10 years after the date of enactment of
24 this Act, submit to the Committee on Natural
25 Resources of the House of Representatives and

1 the Committee on Energy and Natural Re-
2 sources of the Senate a report that describes
3 the results of the assessment.

4 (2) CONTENTS.—The reports under paragraph
5 (1) shall include an evaluation of impacts of the re-
6 forms carried out under this section on—

7 (A) project delivery;

8 (B) compliance with environmental laws;

9 and

10 (C) the environmental impact of projects.

11 (m) PERFORMANCE MEASUREMENT.—The Secretary
12 shall establish a program to measure and report on
13 progress made toward improving and expediting the plan-
14 ning and environmental review process.

15 (n) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—
16 For the repair, reconstruction, or rehabilitation of a Bu-
17 reau of Reclamation surface water storage project that is
18 in operation or under construction when damaged by an
19 event or incident that results in a declaration by the Presi-
20 dent of a major disaster or emergency pursuant to the
21 Robert T. Stafford Disaster Relief and Emergency Assist-
22 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall
23 treat such repair, reconstruction, or rehabilitation activity
24 as a class of action categorically excluded from the re-
25 quirements relating to environmental assessments or envi-

1 ronmental impact statements under section 1508.4 of title
2 40, Code of Federal Regulations (or successor regula-
3 tions), if the repair or reconstruction activity is—

4 (1) in the same location with the same capacity,
5 dimensions, and design as the original Bureau of
6 Reclamation surface water storage project as before
7 the declaration described in this section; and

8 (2) commenced within a 2-year period begin-
9 ning on the date of a declaration described in this
10 subsection.

11 **SEC. 6. ANNUAL REPORT TO CONGRESS.**

12 (a) IN GENERAL.—Not later than February 1 of each
13 year, the Secretary shall develop and submit to the Com-
14 mittee on Natural Resources of the House of Representa-
15 tives and the Committee on Energy and Natural Re-
16 sources of the Senate an annual report, to be entitled “Re-
17 port to Congress on Future Surface Water Storage Devel-
18 opment”, that identifies the following:

19 (1) PROJECT REPORTS.—Each project report
20 that meets the criteria established in subsection
21 (c)(1)(A).

22 (2) PROPOSED PROJECT STUDIES.—Any pro-
23 posed project study submitted to the Secretary by a
24 non-Federal interest pursuant to subsection (b) that

1 meets the criteria established in subsection
2 (c)(1)(A).

3 (3) PROPOSED MODIFICATIONS.—Any proposed
4 modification to an authorized surface water storage
5 project or project study that meets the criteria es-
6 tablished in subsection (c)(1)(A) that—

7 (A) is submitted to the Secretary by a non-
8 Federal interest pursuant to subsection (b); or

9 (B) is identified by the Secretary for au-
10 thorization.

11 (b) REQUESTS FOR PROPOSALS.—

12 (1) PUBLICATION.—Not later than May 1 of
13 each year, the Secretary shall publish in the Federal
14 Register a notice requesting proposals from non-
15 Federal interests for proposed project studies and
16 proposed modifications to authorized surface water
17 storage projects and project studies to be included in
18 the annual report.

19 (2) DEADLINE FOR REQUESTS.—The Secretary
20 shall include in each notice required by this sub-
21 section a requirement that non-Federal interests
22 submit to the Secretary any proposals described in
23 paragraph (1) by not later than 120 days after the
24 date of publication of the notice in the Federal Reg-

1 ister in order for the proposals to be considered for
2 inclusion in the annual report.

3 (3) NOTIFICATION.—On the date of publication
4 of each notice required by this subsection, the Sec-
5 retary shall—

6 (A) make the notice publicly available, in-
7 cluding on the Internet; and

8 (B) provide written notification of the pub-
9 lication to the Committee on Natural Resources
10 of the House of Representatives and the Com-
11 mittee on Energy and Natural Resources of the
12 Senate.

13 (c) CONTENTS.—

14 (1) PROJECT REPORTS, PROPOSED PROJECT
15 STUDIES, AND PROPOSED MODIFICATIONS.—

16 (A) CRITERIA FOR INCLUSION IN RE-
17 PORT.—The Secretary shall include in the an-
18 nual report only those project reports, proposed
19 project studies, and proposed modifications to
20 authorized surface water storage projects and
21 project studies that—

22 (i) are related to the missions and au-
23 thorities of the Bureau of Reclamation;

1 (ii) require specific congressional au-
2 thorization, including by an Act of Con-
3 gress;

4 (iii) have not been congressionally au-
5 thorized;

6 (iv) have not been included in any
7 previous annual report; and

8 (v) if authorized, could be carried out
9 by the Bureau of Reclamation.

10 (B) DESCRIPTION OF BENEFITS.—

11 (i) DESCRIPTION.—The Secretary
12 shall describe in the annual report, to the
13 extent applicable and practicable, for each
14 proposed project study and proposed modi-
15 fication to an authorized water resources
16 development project or project study in-
17 cluded in the annual report, the benefits,
18 as described in clause (ii), of each such
19 study or proposed modification.

20 (ii) BENEFITS.—The benefits (or ex-
21 pected benefits, in the case of a proposed
22 project study) described in this clause are
23 benefits to—

24 (I) the protection of human life
25 and property;

- 1 (II) improvement to domestic ir-
2 rrigated water and power supplies;
3 (III) the national economy;
4 (IV) the environment; or
5 (V) the national security inter-
6 ests of the United States.

7 (C) IDENTIFICATION OF OTHER FAC-
8 TORS.—The Secretary shall identify in the an-
9 nual report, to the extent practicable—

10 (i) for each proposed project study in-
11 cluded in the annual report, the non-Fed-
12 eral interest that submitted the proposed
13 project study pursuant to subsection (b);
14 and

15 (ii) for each proposed project study
16 and proposed modification to a surface
17 water storage project or project study in-
18 cluded in the annual report, whether the
19 non-Federal interest has demonstrated—

20 (I) that local support exists for
21 the proposed project study or pro-
22 posed modification to an authorized
23 surface water storage project or
24 project study (including the surface
25 water storage development project

1 that is the subject of the proposed
2 feasibility study or the proposed modi-
3 fication to an authorized project
4 study); and

5 (II) the financial ability to pro-
6 vide the required non-Federal cost
7 share.

8 (2) TRANSPARENCY.—The Secretary shall in-
9 clude in the annual report, for each project report,
10 proposed project study, and proposed modification to
11 a surface water storage project or project study in-
12 cluded under paragraph (1)(A)—

13 (A) the name of the associated non-Fed-
14 eral interest, including the name of any non-
15 Federal interest that has contributed, or is ex-
16 pected to contribute, a non-Federal share of the
17 cost of—

18 (i) the project report;

19 (ii) the proposed project study;

20 (iii) the authorized project study for
21 which the modification is proposed; or

22 (iv) construction of—

23 (I) the surface water storage
24 project that is the subject of—

25 (aa) the water report;

1 (bb) the proposed project
2 study; or

3 (cc) the authorized project
4 study for which a modification is
5 proposed; or

6 (II) the proposed modification to
7 a surface water storage development
8 project;

9 (B) a letter or statement of support for the
10 water report, proposed project study, or pro-
11 posed modification to an authorized surface
12 water storage development project or project
13 study from each associated non-Federal inter-
14 est;

15 (C) the purpose of the feasibility report,
16 proposed feasibility study, or proposed modi-
17 fication to an authorized surface water storage
18 project or project study;

19 (D) an estimate, to the extent practicable,
20 of the Federal, non-Federal, and total costs
21 of—

22 (i) the proposed modification to an
23 authorized project study; and

24 (ii) construction of—

- 1 (I) the surface water storage de-
2 velopment project that is the subject
3 of—
- 4 (aa) the project report; or
5 (bb) the authorized project
6 study for which a modification is
7 proposed, with respect to the
8 change in costs resulting from
9 such modification; or
- 10 (II) the proposed modification to
11 an authorized surface water storage
12 development project; and
- 13 (E) an estimate, to the extent practicable,
14 of the monetary and nonmonetary benefits of—
- 15 (i) the surface water storage develop-
16 ment project that is the subject of—
- 17 (I) the project report; or
18 (II) the authorized project study
19 for which a modification is proposed,
20 with respect to the benefits of such
21 modification; or
- 22 (ii) the proposed modification to an
23 authorized surface water storage develop-
24 ment project.

1 (3) CERTIFICATION.—The Secretary shall in-
2 clude in the annual report a certification stating
3 that each feasibility report, proposed feasibility
4 study, and proposed modification to a surface water
5 storage project or project study included in the an-
6 nual report meets the criteria established in para-
7 graph (1)(A).

8 (4) APPENDIX.—The Secretary shall include in
9 the annual report an appendix listing the proposals
10 submitted under subsection (b) that were not in-
11 cluded in the annual report under paragraph (1)(A)
12 and a description of why the Secretary determined
13 that those proposals did not meet the criteria for in-
14 clusion under such paragraph.

15 (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—
16 Notwithstanding any other deadlines required by this sec-
17 tion, the Secretary shall—

18 (1) not later than 60 days after the date of en-
19 actment of this Act, publish in the Federal Register
20 a notice required by subsection (b)(1); and

21 (2) include in such notice a requirement that
22 non-Federal interests submit to the Secretary any
23 proposals described in subsection (b)(1) by not later
24 than 120 days after the date of publication of such
25 notice in the Federal Register in order for such pro-

1 proposals to be considered for inclusion in the first an-
2 nual report developed by the Secretary under this
3 section.

4 (e) PUBLICATION.—Upon submission of an annual
5 report to Congress, the Secretary shall make the annual
6 report publicly available, including through publication on
7 the Internet.

8 (f) DEFINITION.—In this section the term “project
9 report” means a final feasibility report developed under
10 the Reclamation Act of 1902 (32 Stat. 388), and all Acts
11 amendatory thereof or supplementary thereto.

○