

114TH CONGRESS
1ST SESSION

S. 1236

To amend the Federal Power Act to modify certain requirements relating to trial-type hearings with respect to certain license applications before the Federal Energy Regulatory Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2015

Ms. MURKOWSKI 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 modify certain requirements relating to trial-type hearings with respect to certain license applications before the Federal Energy Regulatory Commission, 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 “Hydropower Improve-
5 ment Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) according to the Energy Information Ad-
2 ministration, hydropower is the largest renewable
3 energy source for electricity generation in the United
4 States;

5 (2) as of the date of enactment of this Act—

6 (A) hydropower accounted for—

7 (i) 52 percent of electricity generation
8 from renewable resources in the United
9 States; and

10 (ii) approximately 6 percent of total
11 electricity generation in the United States;
12 and

13 (B) the use of hydropower results in a re-
14 duction of 200,000,000 metric tons of carbon
15 emissions each year;

16 (3) with approximately 100,000 megawatts of
17 electric capacity, hydropower provides low-cost power
18 to 30,000,000 homes in the United States;

19 (4) hydropower provides—

20 (A) baseload power;

21 (B) ancillary benefits that include grid reli-
22 ability and energy storage; and

23 (C) integration and balancing services for
24 variable renewable electricity resources, such as
25 wind and solar;

1 (5) the Department of Energy estimates that
2 an additional 300 gigawatts of hydropower could be
3 realized in the United States through—

4 (A) efficiency and capacity upgrades at ex-
5 isting facilities;

6 (B) powering nonpowered dams;

7 (C) the development of new small hydro-
8 power projects; and

9 (D) pumped storage hydropower; and

10 (6) the electric power systems in the United
11 States and Canada form a highly integrated North
12 American grid as—

13 (A) the systems are connected at over 35
14 points;

15 (B) on average, Canada exports 5 to 10
16 percent of its total electric generation to United
17 States markets, with hydropower resources
18 comprising over 80 percent of the exports; and

19 (C) hydropower imports into the United
20 States from Canada help stabilize the electric
21 system during—

22 (i) sudden disturbances, such as the
23 2003 Northeast blackout; and

24 (ii) severe weather events, such as the
25 2014 polar vortex.

1 **SEC. 3. SENSE OF CONGRESS ON THE USE OF HYDRO-**
 2 **POWER RENEWABLE RESOURCES.**

3 It is the sense of Congress that—

4 (1) hydropower is a renewable resource for pur-
 5 poses of all Federal programs and is an essential
 6 source of energy in the United States; and

7 (2) the United States should increase substan-
 8 tially the capacity and generation of clean, renewable
 9 hydropower resources that would improve environ-
 10 mental quality in the United States and support
 11 over 1,000,000 clean energy jobs.

12 **SEC. 4. MODIFYING THE DEFINITION OF RENEWABLE EN-**
 13 **ERGY TO INCLUDE HYDROPOWER.**

14 Section 203(b)(2) of the Energy Policy Act of 2005
 15 (42 U.S.C. 15852(b)(2)) is amended by striking “new hy-
 16 droelectric generation capacity achieved from increased ef-
 17 ficiency or additions of new capacity at an existing hydro-
 18 electric project” and inserting “hydropower”.

19 **SEC. 5. LICENSES FOR CONSTRUCTION.**

20 The first proviso of section 4(e) of the Federal Power
 21 Act (16 U.S.C. 797(e)) is amended—

22 (1) in the first sentence—

23 (A) by striking “deem” and inserting “de-
 24 termine to be”; and

25 (B) by striking “utilization of such res-
 26 ervation.” and inserting the following: “utiliza-

1 tion of such reservation, but only if the condi-
 2 tions pertain to reservation land on which
 3 project works are located, have a clear and di-
 4 rect nexus to the presence or operations of the
 5 project being licensed, as determined by the
 6 Commission, and are submitted in accordance
 7 with the schedule established under section 35”;
 8 and

9 (2) by striking the second, third, and fourth
 10 sentences.

11 **SEC. 6. PRELIMINARY PERMITS.**

12 Section 5 of the Federal Power Act (16 U.S.C. 798)
 13 is amended—

14 (1) in subsection (a), by striking “three” and
 15 inserting “4”; and

16 (2) in subsection (b)—

17 (A) by striking “Commission may extend
 18 the period of a preliminary permit once for not
 19 more than 2 additional years beyond the 3
 20 years” and inserting the following: “Commis-
 21 sion may—

22 “(1) extend the period of a preliminary permit
 23 once for not more than 4 additional years beyond
 24 the 4 years”;

1 (B) by striking the period at the end and
 2 inserting “; and”; and

3 (C) by adding at the end the following:

4 “(2) after the end of an extension period grant-
 5 ed under paragraph (1), issue an additional permit
 6 to the permittee if the Commission determines that
 7 there are extraordinary circumstances that warrant
 8 the issuance of the additional permit.”.

9 **SEC. 7. TIME LIMIT FOR CONSTRUCTION OF PROJECT**
 10 **WORKS.**

11 Section 13 of the Federal Power Act (16 U.S.C. 806)
 12 is amended in the second sentence by striking “once but
 13 not longer than two additional years” and inserting “for
 14 not more than 8 additional years,”.

15 **SEC. 8. LICENSE TERM.**

16 Section 15(e) of the Federal Power Act (16 U.S.C.
 17 808(e)) is amended—

18 (a) by striking “(e) Except” and inserting the fol-
 19 lowing:

20 “(e) LICENSE TERM ON RELICENSING.—

21 “(1) IN GENERAL.—Except”; and

22 (b) by adding at the end the following:

23 “(2) CONSIDERATION.—In determining the
 24 term of a license under paragraph (1), the Commis-
 25 sion shall consider project-related investments by the

1 licensee over the term of the existing license (includ-
2 ing any terms under annual licenses) that resulted
3 in new development, construction, capacity, effi-
4 ciency improvements, or environmental measures,
5 but which did not result in the extension of the term
6 of the license by the Commission.”.

7 **SEC. 9. OPERATION OF NAVIGATION FACILITIES.**

8 Section 18 of the Federal Power Act (16 U.S.C. 811)
9 is amended—

10 (1) in the first sentence, by inserting after the
11 “Secretary of Commerce” the following: “or the Sec-
12 retary of the Interior, as appropriate, but only if the
13 fishways are necessary to mitigate effects of the
14 project on fish populations, have a clear and direct
15 nexus to the presence or operations of the project
16 being licensed, as determined by the Commission,
17 and are submitted in accordance with the schedule
18 established under section 35”; and

19 (2) by striking the second, third, and fourth
20 sentences.

21 **SEC. 10. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

22 Section 33 of the Federal Power Act (16 U.S.C.
23 823d) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “deems”
 2 and inserting “determines”;

3 (B) in paragraph (2)—

4 (i) in the matter preceding subpara-
 5 graph (A)—

6 (I) by striking “in paragraph (1),
 7 and” and inserting “in paragraph (1),
 8 as submitted and without modifica-
 9 tion, and”;

10 (II) by striking “if the Secretary
 11 determines,” and inserting “if the
 12 Commission determines,”; and

13 (III) by striking “otherwise avail-
 14 able to the Secretary” and inserting
 15 “otherwise available to the Commis-
 16 sion”;

17 (ii) in subparagraph (A), by striking
 18 “provides for the adequate protection and
 19 utilization of the reservation” and insert-
 20 ing “adequately protects the reservation
 21 from adverse effects of the project”; and

22 (iii) in subparagraph (B), in the mat-
 23 ter preceding clause (i), by inserting “de-
 24 termined to be necessary” before “by the
 25 Secretary”;

1 (C) in paragraph (3)—

2 (i) by striking “Secretary” each place
3 it appears and inserting “Commission”;
4 and

5 (ii) by striking “evidence provided by
6 the Commission” and inserting “evidence
7 provided by the Secretary”;

8 (D) by striking paragraph (4); and

9 (E) by striking paragraph (5);

10 (2) in subsection (b)—

11 (A) in paragraph (2), in the matter pre-
12 ceding subparagraph (A)—

13 (i) by striking “referred to in para-
14 graph (1), if the Secretary of the appro-
15 priate department” and inserting “referred
16 to in paragraph (1), as submitted and
17 without modification, if the Commission”;
18 and

19 (ii) by striking “otherwise available to
20 the Secretary” and inserting “otherwise
21 available to the Commission”;

22 (B) in paragraph (3)—

23 (i) by striking “the Secretary shall
24 consider” and inserting “the Commission
25 shall consider”;

1 (ii) by striking “otherwise available to
 2 the Secretary” and inserting “otherwise
 3 available to the Commission”; and

4 (iii) by striking “evidence provided by
 5 the Commission” and inserting “evidence
 6 provided by the Secretary concerned”;

7 (C) by striking paragraph (4); and

8 (D) by striking paragraph (5); and

9 (3) by adding at the end the following:

10 “(c) APPLICABILITY.—This section applies to—

11 “(1) any proceeding under this part in which a
 12 Secretary proposes a condition to a license under the
 13 first proviso of section 4(e);

14 “(2) any proceeding under this part in which a
 15 Secretary proposes a prescription for a fishway
 16 under section 18; and

17 “(3) any instance in which a Secretary seeks to
 18 exercise reserved authority under a license to pre-
 19 scribe, submit, or revise any condition to a license,
 20 under the first provision of section 4(e) or a fishway
 21 prescribed under section 18, as appropriate.”.

22 **SEC. 11. LICENSING PROCESS IMPROVEMENTS AND CO-**
 23 **ORDINATION.**

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

1 **“SEC. 34. LICENSING PROCESS IMPROVEMENTS.**

2 “(a) LICENSE STUDIES.—

3 “(1) IN GENERAL.—To facilitate the timely and
4 efficient completion of the license proceedings under
5 this part, the Commission shall—

6 “(A) conduct an investigation of best prac-
7 tices in performing licensing studies, including
8 methodologies and the design of studies to as-
9 sess the full range of environmental impacts of
10 a project; and

11 “(B) compile a comprehensive collection of
12 studies and data accessible to the public that
13 could be used to inform license proceedings
14 under this paragraph.

15 “(2) USE OF EXISTING STUDIES.—To the max-
16 imum extent practicable, the Commission shall use
17 existing studies and data in individual licensing pro-
18 ceedings under this part in accordance with para-
19 graph (1).

20 “(3) NONDUPLICATION REQUIREMENT.—To the
21 maximum extent practicable, the Commission shall
22 ensure that studies and data required for any Fed-
23 eral authorization (as defined in section 35(a)) ap-
24 plicable to a particular project or facility are not du-
25 plicated in other licensing proceedings under this
26 part.

1 “(b) INFORMAL MEETINGS WITH COMMISSION
2 STAFF.—

3 “(1) IN GENERAL.—On the request of a li-
4 censee, applicant, or party to any license proceeding
5 under this part, the Commission may designate staff
6 to hold informal meetings to discuss technical or
7 procedural matters relating to any ongoing license
8 proceeding.

9 “(2) PUBLIC NOTICE.—The Commission—

10 “(A) shall not be required to provide public
11 notice in advance of a meeting held under para-
12 graph (1); and

13 “(B) after a meeting is held under para-
14 graph (1), shall provide, on the record, to the
15 public—

16 “(i) notice regarding the subject mat-
17 ter of the meeting; and

18 “(ii) a summary of the meeting.

19 **“SEC. 35. LICENSING PROCESS COORDINATION.**

20 “(a) DEFINITION OF FEDERAL AUTHORIZATION.—In
21 this section, the term ‘Federal authorization’ means any
22 authorization required under Federal law (including any
23 license, permit, special use authorization, certification,
24 opinion, consultation, determination, or other approval)
25 with respect to—

1 “(1) a project licensed under section 4 or 15;

2 or

3 “(2) a facility exempted under—

4 “(A) section 30; or

5 “(B) section 405(d) of the Public Utility

6 Regulatory Policies Act of 1978 (16 U.S.C.

7 2705(d)).

8 “(b) DESIGNATION AS LEAD AGENCY.—

9 “(1) IN GENERAL.—The Commission shall act

10 as the lead agency for the purposes of coordinating

11 all applicable Federal authorizations.

12 “(2) OTHER AGENCIES.—Each Federal and

13 State agency considering an aspect of an application

14 for Federal authorization shall cooperate with the

15 Commission.

16 “(c) SCHEDULE.—

17 “(1) TIMING FOR ISSUANCE.—It is the sense of

18 Congress that all Federal authorizations required for

19 a project or facility, including a license or exemption

20 order of the Commission, should be issued by the

21 date that is 3 years after the date on which an ap-

22 plication is considered to be complete by the Com-

23 mission.

24 “(2) COMMISSION SCHEDULE.—

1 “(A) IN GENERAL.—The Commission shall
2 establish a schedule for the issuance of all Fed-
3 eral authorizations.

4 “(B) REQUIREMENTS.—In establishing the
5 schedule under subparagraph (A), the Commis-
6 sion shall—

7 “(i) consult and cooperate with the
8 Federal and State agencies responsible for
9 a Federal authorization;

10 “(ii) ensure the expeditious comple-
11 tion of all proceedings relating to a Fed-
12 eral authorization; and

13 “(iii) comply with applicable schedules
14 established by Federal law with respect to
15 a Federal authorization.

16 “(3) RECOMMENDATIONS.—If a Federal au-
17 thorization is not issued by the applicable deadline
18 established under paragraph (2)—

19 “(A) the license or exemption order of the
20 Commission shall be considered to satisfy the
21 required Federal authorization; and

22 “(B) any subsequent submission by the
23 agency responsible for the Federal authoriza-
24 tion shall be treated as a recommendation for

1 potential inclusion in the license under section
2 10(a).

3 “(d) CONSOLIDATED RECORD.—

4 “(1) IN GENERAL.—The Commission shall
5 maintain official consolidated records of all license
6 proceedings under this part.

7 “(2) SUBMISSION OF RECOMMENDATIONS.—

8 Any Federal or State agency that is providing rec-
9 ommendations with respect to a license proceeding
10 under this part shall submit to the Commission for
11 inclusion in the consolidated record relating to the li-
12 cense proceeding maintained under paragraph (1)—

13 “(A) the recommendations;

14 “(B) the rationale for the recommenda-
15 tions; and

16 “(C) any supporting materials relating to
17 the recommendations.

18 “(3) WRITTEN STATEMENT.—In a case in
19 which a Federal agency is making a determination
20 with respect to a covered measure (as defined in sec-
21 tion 36(a)), the head of the Federal agency shall in-
22 clude in the consolidated record a written statement
23 demonstrating that the Federal agency gave equal
24 consideration to the effects of the covered measure
25 on—

1 “(A) energy supply, distribution, cost, and
 2 use;
 3 “(B) flood control;
 4 “(C) navigation;
 5 “(D) water supply; and
 6 “(E) air quality and the preservation of
 7 other aspects of environmental quality.

8 **“SEC. 36. TRIAL-TYPE HEARINGS.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) ALTERNATIVE CONDITION.—The term ‘al-
 11 ternative condition’ means an alternative condition
 12 proposed under section 33(a)(1).

13 “(2) ALTERNATIVE PRESCRIPTION.—The term
 14 ‘alternative prescription’ means an alternative pre-
 15 scription proposed under section 33(b)(1).

16 “(3) COVERED MEASURE.—The term ‘covered
 17 measure’ means—

18 “(A) an original condition;

19 “(B) an original prescription;

20 “(C) an alternative condition; and

21 “(D) an alternative prescription.

22 “(4) ORIGINAL CONDITION.—The term ‘original
 23 condition’ means a condition to a license proposed
 24 under the first proviso of section 4(e).

1 “(5) ORIGINAL PRESCRIPTION.—The term
2 ‘original prescription’ means a prescription for a
3 fishway proposed under section 18.

4 “(b) AUTHORIZATION OF TRIAL-TYPE HEARING.—
5 The license applicant (including an applicant for a license
6 under section 15) and any party to the proceeding shall
7 be entitled to a determination on the record, after oppor-
8 tunity for a trial-type hearing of not more than 120 days,
9 on any disputed issues of material fact with respect to an
10 applicable covered measure.

11 “(c) EFFECT OF REVISION OR SUPPLEMEN-
12 TATION.—The fact that an existing license is revised or
13 supplemented under the reserved authority of a resource
14 agency shall not affect the eligibility of the license appli-
15 cant for a trial-type hearing under this section.

16 “(d) DEADLINE FOR REQUEST.—A request for a
17 trial-type hearing under this section shall be submitted not
18 later than 60 days after the date on which the Secretary—

19 “(1) submits an original condition or original
20 prescription; or

21 “(2) exercises reserved authority under the li-
22 cense to prescribe, submit, or revise any condition to
23 a license under the first proviso of section 4(e) or
24 fishway prescribed under section 18, as appropriate.

1 “(e) NO REQUIREMENT TO EXHAUST.—By electing
2 not to request a trial-type hearing under subsection (d),
3 a license applicant and any other party to a license pro-
4 ceeding shall not be considered to have waived the right
5 of the applicant or other party to raise any issue of fact
6 or law on rehearing or judicial review of the license deci-
7 sion of the Commission.

8 “(f) ADMINISTRATIVE LAW JUDGE.—All disputed
9 issues of material fact raised by a party in a request for
10 a trial-type hearing submitted under subsection (d) shall
11 be determined in a single trial-type hearing to be con-
12 ducted by an Administrative Law Judge within the Office
13 of Administrative Law Judges and Dispute Resolution of
14 the Commission, in accordance with the Commission rules
15 of practice and procedure under part 385 of title 18, Code
16 of Federal Regulations (or successor regulations), and
17 within the timeframe established by the Commission for
18 each license proceeding (including a proceeding for a li-
19 cense under section 15).

20 “(g) STAY.—The Administrative Law Judge may im-
21 pose a stay of a trial-type hearing under this section for
22 a period of not more than 120 days to facilitate settlement
23 negotiations relating to resolving the disputed issues of
24 material fact with respect to the covered measure.

1 “(h) BURDEN OF PROOF.—In any trial-type hearing
2 under this section, the party advocating for the adoption
3 of the covered measure shall have the burden of proof to
4 support the facts at issue in the covered measure, by a
5 preponderance of evidence.

6 “(i) ISSUANCE OF DECISION RELATING TO COVERED
7 MEASURES.—On conclusion of a trial-type hearing under
8 this section, the Administrative Law Judge shall issue
9 findings of fact, which shall be binding on all participants
10 in the trial-type hearing.

11 “(j) SECRETARIAL DETERMINATION.—The Secretary
12 that issued the original condition or original prescription
13 shall not later than 60 days after the date on which the
14 Administrative Law Judge issues the decision and, in ac-
15 cordance with the schedule established by the Commission,
16 propose a modified condition or modified prescription ap-
17 plicable to the license, based on the decision issued by the
18 Administrative Law Judge.

19 “(k) ALTERNATIVE.—A party to the trial-type hear-
20 ing may propose to the Commission an alternative to a
21 modified condition or modified prescription proposed by
22 the Secretary under subsection (j), in accordance with the
23 schedule established by the Commission.

24 “(l) DETERMINATION BY COMMISSION.—After con-
25 sidering the modified condition or modified prescription

1 proposed under subsection (j) and any alternative to the
 2 modified condition or modified prescription proposed
 3 under subsection (k), the Commission shall include in the
 4 license the modified condition or modified prescription, un-
 5 less the Commission determines that the alternative to the
 6 modified condition or modified prescription—

7 “(1)(A) in the case of an alternative to the
 8 modified condition, provides for the adequate protec-
 9 tion and utilization of the reservation; or

10 “(B) in the case of an alternative to the modi-
 11 fied prescription, would be no less protective than
 12 the modified prescription; and

13 “(2) as compared to the modified condition or
 14 modified prescription, would—

15 “(A) cost significantly less to implement;

16 or

17 “(B) result in improved operation of the
 18 project works for electricity production.

19 “(m) APPEAL TO COMMISSION.—A decision of an Ad-
 20 ministrative Law Judge issued under this section may be
 21 appealed to the Commission only as part of a request for
 22 rehearing filed within 30 days of a Commission order act-
 23 ing on the application at issue.

24 “(n) RESOLUTION OF INCONSISTENCIES.—The Com-
 25 mission shall have the final authority to resolve any incon-

1 sistencies between requirements imposed pursuant to Fed-
 2 eral authorizations (as defined in section 35(a)).

3 **“SEC. 37. PUMPED STORAGE PROJECTS.**

4 “In carrying out section 6(a) of the Hydropower Reg-
 5 ulatory Efficiency Act of 2013 (16 U.S.C. 797 note; Pub-
 6 lic Law 113–23), the Commission shall consider a closed
 7 loop pumped storage project to include a project—

8 “(1) in which the upper and lower reservoirs do
 9 not impound or directly withdraw water from a navi-
 10 gable stream; and

11 “(2) that is not continuously connected to a
 12 naturally flowing water feature.

13 **“SEC. 38. ANNUAL REPORTS.**

14 “(a) COMMISSION ANNUAL REPORT.—

15 “(1) IN GENERAL.—The Commission shall sub-
 16 mit to the Committee on Energy and Natural Re-
 17 sources of the Senate and the Committee on Energy
 18 and Commerce of the House of Representatives an
 19 annual report that—

20 “(A) describes and quantifies, for each li-
 21 censed, exempted, or proposed project under
 22 this part or section 405(d) of the Public Utility
 23 Regulatory Policies Act of 1978 (16 U.S.C.
 24 2705(d)) (referred to in this subsection as the
 25 ‘covered project’), the quantity of energy and

1 capacity authorized for new development and
2 reauthorized for continued operation during the
3 reporting year, including an assessment of the
4 economic, climactic, air quality, and other envi-
5 ronmental benefits achieved by the new and re-
6 authorized energy and capacity;

7 “(B) describes and quantifies the loss of
8 energy, capacity, or ancillary services as a re-
9 sult of any licensing action under this part or
10 other requirement under Federal law during the
11 reporting year;

12 “(C) identifies any application to license,
13 relicense, or expand a covered project pending
14 as of the date of the annual report, including
15 a quantification of the new energy and capacity
16 with the potential to be gained or lost by action
17 relating to the covered project; and

18 “(D) lists all proposed covered projects
19 that, as of the date of the annual report, are
20 subject to a preliminary permit issued under
21 section 4(f), including a description of the
22 quantity of new energy and capacity that would
23 be achieved through the development of each
24 proposed covered project.

1 “(2) AVAILABILITY.—The Commission shall es-
 2 tablish and maintain a publicly available website or
 3 comparable resource that tracks all information re-
 4 quired for the annual report under paragraph (1).

5 “(b) RESOURCE AGENCY ANNUAL REPORT.—

6 “(1) IN GENERAL.—Any Federal or State re-
 7 source agency that is participating in any Commis-
 8 sion proceeding under this part or that has respon-
 9 sibilities for any Federal authorization shall submit
 10 to the Committee on Energy and Natural Resources
 11 of the Senate and the Committee on Energy and
 12 Commerce of the House of Representatives a report
 13 that—

14 “(A) describes each term, condition, or
 15 other requirement prepared by the resource
 16 agency during the reporting year with respect
 17 to a Commission proceeding under this part, in-
 18 cluding—

19 “(i) an assessment of whether imple-
 20 mentation of the term, condition, or other
 21 requirement would result in the loss of en-
 22 ergy, capacity, or ancillary services at the
 23 project, including a quantification of the
 24 losses;

1 “(ii) an analysis of economic, air qual-
2 ity, climactic and other environmental ef-
3 fects associated with implementation of the
4 term, condition, or other requirement;

5 “(iii) a demonstration, based on evi-
6 dence in the record of the Commission,
7 that the resource agency prepared the
8 term, condition, or other requirement in a
9 manner that meets the policy established
10 by this part while discharging the respon-
11 sibilities of the resource agency under this
12 part or any other applicable requirement
13 under Federal law; and

14 “(iv) a statement of whether the head
15 of the applicable Federal agency has ren-
16 dered final approval of the term, condition,
17 or other requirement, or whether the term,
18 condition, or other requirement remains a
19 preliminary recommendation of staff of the
20 resource agency; and

21 “(B) identifies all pending, scheduled, and
22 anticipated proceedings under this part that, as
23 of the date of the annual report, the resource
24 agency expects to participate in, or has any ap-

1 proval or participatory responsibilities for under
2 Federal law, including—

3 “(i) an accounting of whether the re-
4 source agency met all deadlines or other
5 milestones established by the resource
6 agency or the Commission during the re-
7 porting year; and

8 “(ii) the specific plans of the resource
9 agency for allocating sufficient resources
10 for each project during the upcoming year.

11 “(2) AVAILABILITY.—Any resource agency pre-
12 paring an annual report to Congress under para-
13 graph (1) shall establish and maintain a publicly
14 available website or comparable resource that tracks
15 all information required for the annual report.”.

○