

Union Calendar No. 782

115TH CONGRESS
2^D SESSION

H. R. 4419

[Report No. 115–1001]

To facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2017

Mr. NEWHOUSE (for himself and Mr. REICHERT) introduced the following bill;
which was referred to the Committee on Natural Resources

NOVEMBER 2, 2018

Additional sponsors: Mr. MCCLINTOCK and Mr. ESTES of Kansas

NOVEMBER 2, 2018

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on November 16, 2017]

A BILL

To facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 *This Act may be cited as the “Bureau of Reclamation*
5 *and Bureau of Indian Affairs Water Project Streamlining*
6 *Act”.*

7 **SEC. 2. DEFINITIONS.**

8 *In this Act:*

9 (1) *ENVIRONMENTAL IMPACT STATEMENT.*—*The*
10 *term “environmental impact statement” means the*
11 *detailed statement of environmental impacts of a*
12 *project required to be prepared pursuant to the Na-*
13 *tional Environmental Policy Act of 1969 (42 U.S.C.*
14 *4321 et seq.).*

15 (2) *ENVIRONMENTAL REVIEW PROCESS.*—

16 (A) *IN GENERAL.*—*The term “environ-*
17 *mental review process” means the process of pre-*
18 *paring an environmental impact statement, en-*
19 *vironmental assessment, categorical exclusion, or*
20 *other document under the National Environ-*
21 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
22 *seq.) for a project study.*

23 (B) *INCLUSIONS.*—*The term “environmental*
24 *review process” includes the process for and com-*
25 *pletion of any environmental permit, approval,*

1 *review, or study required for a project study*
2 *under any Federal law other than the National*
3 *Environmental Policy Act of 1969 (42 U.S.C.*
4 *4321 et seq.).*

5 (3) *FEDERAL JURISDICTIONAL AGENCY.*—*The*
6 *term “Federal jurisdictional agency” means a Federal*
7 *agency with jurisdiction delegated by law, regulation,*
8 *order, or otherwise over a review, analysis, opinion,*
9 *statement, permit, license, or other approval or deci-*
10 *sion required for a project study under applicable*
11 *Federal laws (including regulations).*

12 (4) *FEDERAL LEAD AGENCY.*—*The term “Federal*
13 *lead agency” means the Bureau of Reclamation or*
14 *Bureau of Indian Affairs.*

15 (5) *PROJECT.*—*The term “project” means—*
16 (A) *a surface water project, a project under*
17 *the purview of title XVI of Public Law 102–575,*
18 *a rural water supply project investigated under*
19 *Public Law 109–451, or a Federal portion of an*
20 *integrated water resource management plan that*
21 *has been subject to a review under the National*
22 *Environmental Policy Act of 1969 (42 U.S.C.*
23 *4321 et seq.) and is to be carried out, funded or*
24 *operated in whole or in party by the Secretary*
25 *pursuant to the Act of June 17, 1902 (32 Stat.*

1 388, chapter 1093), and Acts supplemental to
2 and amendatory of that Act (43 U.S.C. 371 et
3 seq.); or

4 (B) Indian irrigation projects in the west-
5 ern United States that, on the date of enactment
6 of this Act, are owned by the Federal Govern-
7 ment, as listed in the Federal inventory required
8 by Executive Order 13327 (40 U.S.C. 121 note;
9 relating to Federal real property asset manage-
10 ment).

11 (6) *PROJECT SPONSOR*.—The term “project spon-
12 sor” means a State, regional, tribal, or local author-
13 ity or instrumentality or other qualifying entity, such
14 as a water conservation district, irrigation district,
15 water conservancy district, joint powers authority,
16 mutual water company, canal company, rural water
17 district or association, or any other entity that has
18 the capacity to contract with the United States under
19 Federal reclamation law.

20 (7) *PROJECT STUDY*.—The term “project study”
21 means a feasibility study for a project carried out
22 pursuant to the Act of June 17, 1902 (32 Stat. 388,
23 chapter 1093), and Acts supplemental to and amend-
24 atory of that Act (43 U.S.C. 371 et seq.).

1 (8) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of the Interior.*

3 (9) *SURFACE WATER STORAGE.*—*The term “sur-*
4 *face water storage” means any surface water reservoir*
5 *or impoundment that would be owned, funded or op-*
6 *erated in whole or in part by the Bureau of Reclama-*
7 *tion or the Bureau of Indian Affairs or that would*
8 *be integrated into a larger system owned, operated or*
9 *administered in whole or in part by the Bureau of*
10 *Reclamation or the Bureau of Indian Affairs.*

11 **SEC. 3. ACCELERATION OF STUDIES.**

12 (a) *IN GENERAL.*—*To the extent practicable, a project*
13 *study initiated by the Secretary, after the date of enactment*
14 *of this Act, shall—*

15 (1) *result in the completion of a final feasibility*
16 *report not later than 3 years after the date of initi-*
17 *ation;*

18 (2) *have a maximum Federal cost of \$3,000,000;*
19 *and*

20 (3) *ensure that personnel from the local project*
21 *area, region, and headquarters levels of the Bureau of*
22 *Reclamation or the Bureau of Indian Affairs concur-*
23 *rently conduct the review required under that section.*

24 (b) *EXTENSION.*—*If the Secretary determines that a*
25 *project study described in subsection (a) will not be con-*

1 *ducted in accordance with subsection (a), the Secretary, not*
2 *later than 30 days after the date of making the determina-*
3 *tion, shall—*

4 *(1) prepare an updated project study schedule*
5 *and cost estimate;*

6 *(2) notify the non-Federal project cost-sharing*
7 *partner that the project study has been delayed; and*

8 *(3) provide written notice to the Committee on*
9 *Natural Resources of the House of Representatives*
10 *and the Committee on Energy and Natural Resources*
11 *of the Senate as to the reasons the requirements of*
12 *subsection (a) are not attainable.*

13 *(c) EXCEPTION.—*

14 *(1) IN GENERAL.—Notwithstanding the require-*
15 *ments of subsection (a), the Secretary may extend the*
16 *timeline of a project study by a period not to exceed*
17 *3 years, if the Secretary determines that the project*
18 *study is too complex to comply with the requirements*
19 *of subsection (a).*

20 *(2) FACTORS.—In making a determination that*
21 *a study is too complex to comply with the require-*
22 *ments of subsection (a), the Secretary shall consider—*

23 *(A) the type, size, location, scope, and over-*
24 *all cost of the project;*

1 (B) whether the project will use any innova-
2 tive design or construction techniques;

3 (C) whether the project will require signifi-
4 cant action by other Federal, State, or local
5 agencies;

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

8 (E) whether there is significant public dis-
9 pute as to the economic or environmental costs or
10 benefits of the project.

11 (3) NOTIFICATION.—Each time the Secretary
12 makes a determination under this subsection, the Sec-
13 retary shall provide written notice to the Committee
14 on Natural Resources of the House of Representatives
15 and the Committees on Energy and Natural Re-
16 sources and Indian Affairs of the Senate as to the re-
17 sults of that determination, including an identifica-
18 tion of the specific one or more factors used in mak-
19 ing the determination that the project is complex.

20 (4) LIMITATION.—The Secretary shall not extend
21 the timeline for a project study for a period of more
22 than 7 years, and any project study that is not com-
23 pleted before that date shall no longer be authorized.

1 (d) *REVIEWS.*—Not later than 90 days after the date
2 of the initiation of a project study described in subsection
3 (a), the Secretary shall—

4 (1) take all steps necessary to initiate the process
5 for completing federally mandated reviews that the
6 Secretary is required to complete as part of the study,
7 including the environmental review process under sec-
8 tion 5;

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

12 (A) have jurisdiction over the project;

13 (B) be required by law to conduct or issue
14 a review, analysis, opinion, or statement for the
15 project study; or

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

19 (3) take all steps necessary to provide informa-
20 tion that will enable required reviews and analyses
21 related to the project to be conducted by other agencies
22 in a thorough and timely manner.

23 (e) *INTERIM REPORT.*—Not later than 18 months after
24 the date of enactment of this Act, the Secretary shall submit
25 to the Committee on Natural Resources of the House of Rep-

1 *representatives and the Committees on Energy and Natural*
2 *Resources and Indian Affairs of the Senate and make pub-*
3 *licly available a report that describes—*

4 *(1) the status of the implementation of the plan-*
5 *ning process under this section, including the number*
6 *of participating projects;*

7 *(2) a review of project delivery schedules, includ-*
8 *ing a description of any delays on those studies initi-*
9 *ated prior to the date of the enactment of this Act;*
10 *and*

11 *(3) any recommendations for additional author-*
12 *ity necessary to support efforts to expedite the project.*

13 *(f) FINAL REPORT.—Not later than 4 years after the*
14 *date of enactment of this Act, the Secretary shall submit*
15 *to the Committee on Natural Resources of the House of Rep-*
16 *resentatives and the Committees on Energy and Natural*
17 *Resources and Indian Affairs of the Senate and make pub-*
18 *licly available a report that describes—*

19 *(1) the status of the implementation of this sec-*
20 *tion, including a description of each project study*
21 *subject to the requirements of this section;*

22 *(2) the amount of time taken to complete each*
23 *project study; and*

24 *(3) any recommendations for additional author-*
25 *ity necessary to support efforts to expedite the project*

1 *study process, including an analysis of whether the*
2 *limitation established by subsection (a)(2) needs to be*
3 *adjusted to address the impacts of inflation.*

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

5 *The Secretary shall—*

6 *(1) expedite the completion of any ongoing*
7 *project study initiated before the date of enactment of*
8 *this Act; and*

9 *(2) if the Secretary determines that the project is*
10 *justified in a completed report, proceed directly to*
11 *preconstruction planning, engineering, and design of*
12 *the project in accordance with the Reclamation Act of*
13 *1902 (32 Stat. 388), and all Acts amendatory thereof*
14 *or supplementary thereto.*

15 **SEC. 5. PROJECT ACCELERATION.**

16 *(a) APPLICABILITY.—*

17 *(1) IN GENERAL.—This section shall apply to—*

18 *(A) each project study that is initiated after*
19 *the date of enactment of this Act and for which*
20 *an environmental impact statement is prepared*
21 *under the National Environmental Policy Act of*
22 *1969 (42 U.S.C. 4321 et seq.);*

23 *(B) the extent determined appropriate by*
24 *the Secretary, to other project studies initiated*
25 *before the date of enactment of this Act and for*

1 *which an environmental review process document*
2 *is prepared under the National Environmental*
3 *Policy Act of 1969 (42 U.S.C. 4321 et seq.); and*

4 (C) *any project study for the development of*
5 *a non-federally owned and operated surface*
6 *water storage project for which the Secretary de-*
7 *termines there is a demonstrable Federal interest*
8 *and the project—*

9 (i) *is located in a river basin where*
10 *other Bureau of Reclamation or the Bureau*
11 *of Indian Affairs water projects are located;*

12 (ii) *will create additional water sup-*
13 *plies that support Bureau of Reclamation*
14 *or the Bureau of Indian Affairs water*
15 *projects; or*

16 (iii) *will become integrated into the*
17 *operation of Bureau of Reclamation or the*
18 *Bureau of Indian Affairs water projects.*

19 (2) *FLEXIBILITY.—Any authority granted under*
20 *this section may be exercised, and any requirement*
21 *established under this section may be satisfied, for the*
22 *conduct of an environmental review process for a*
23 *project study, a class of project studies, or a program*
24 *of project studies.*

25 (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 en-*
20 *vironmental 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 gov-*
24 *ernmental agency or an Indian tribe for a project*
25 *study described in subsection (b) be conducted, to the*

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

3 (3) *TIMING.*—*The coordinated environmental re-*
4 *view process under this subsection shall be completed*
5 *not later than the date on which the Secretary, in*
6 *consultation and concurrence with the agencies iden-*
7 *tified under section 5(d), establishes with respect to*
8 *the project study.*

9 (c) *LEAD AGENCIES.*—

10 (1) *JOINT LEAD AGENCIES.*—

11 (A) *IN GENERAL.*—*Subject to the require-*
12 *ments of the National Environmental Policy Act*
13 *of 1969 (42 U.S.C. 4321 et seq.) and the require-*
14 *ments of section 1506.8 of title 40, Code of Fed-*
15 *eral Regulations (or successor regulations), in-*
16 *cluding the concurrence of the proposed joint*
17 *lead agency, a project sponsor may serve as the*
18 *joint lead agency.*

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

22 (i) *with the concurrence of the Sec-*
23 *retary, serve as a joint lead agency with the*
24 *Federal lead agency for purposes of pre-*
25 *paring any environmental document under*

1 *the National Environmental Policy Act of*
2 *1969 (42 U.S.C. 4321 et seq.); and*

3 *(ii) prepare any environmental review*
4 *process document under the National Envi-*
5 *ronmental Policy Act of 1969 (42 U.S.C.*
6 *4321 et seq.) required in support of any ac-*
7 *tion or approval by the Secretary if—*

8 *(I) the Secretary provides guid-*
9 *ance in the preparation process and*
10 *independently evaluates that document;*

11 *(II) the project sponsor complies*
12 *with all requirements applicable to the*
13 *Secretary under—*

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

17 *(bb) any regulation imple-*
18 *menting that Act; and*

19 *(cc) any other applicable*
20 *Federal law; and*

21 *(III) the Secretary approves and*
22 *adopts the document before the Sec-*
23 *retary takes any subsequent action or*
24 *makes any approval based on that doc-*
25 *ument, regardless of whether the action*

1 *or approval of the Secretary results in*
2 *Federal funding.*

3 (2) *DUTIES.—The Secretary shall ensure that—*

4 (A) *the project sponsor complies with all de-*
5 *sign and mitigation commitments made jointly*
6 *by the Secretary and the project sponsor in any*
7 *environmental document prepared by the project*
8 *sponsor in accordance with this subsection; and*

9 (B) *any environmental document prepared*
10 *by the project sponsor is appropriately supple-*
11 *mented to address any changes to the project the*
12 *Secretary determines are necessary.*

13 (3) *ADOPTION AND USE OF DOCUMENTS.—Any*
14 *environmental document prepared in accordance with*
15 *this subsection shall be adopted and used by any Fed-*
16 *eral agency making any determination related to the*
17 *project study to the same extent that the Federal*
18 *agency could adopt or use a document prepared by*
19 *another Federal agency under—*

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

22 (B) *parts 1500 through 1508 of title 40,*
23 *Code of Federal Regulations (or successor regula-*
24 *tions).*

1 (4) *ROLES AND RESPONSIBILITY OF LEAD AGEN-*
2 *CY.—With respect to the environmental review process*
3 *for any project study, the Federal lead agency shall*
4 *have authority and responsibility—*

5 (A) *to take such actions as are necessary*
6 *and proper and within the authority of the Fed-*
7 *eral lead agency to facilitate the expeditious reso-*
8 *lution of the environmental review process for the*
9 *project study; and*

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

17 (d) *PARTICIPATING AND COOPERATING AGENCIES.—*

18 (1) *IDENTIFICATION OF JURISDICTIONAL AGEN-*
19 *CIES.—With respect to carrying out the environ-*
20 *mental review process for a project study, the Sec-*
21 *retary shall identify, as early as practicable in the*
22 *environmental review process, all Federal, State, and*
23 *local government agencies and Indian tribes that*
24 *may—*

25 (A) *have jurisdiction over the project;*

1 (B) be required by law to conduct or issue
2 a review, analysis, opinion, or statement for the
3 project study; or

4 (C) be required to make a determination on
5 issuing a permit, license, or other approval or
6 decision for the project study.

7 (2) *STATE AUTHORITY.*—If the environmental re-
8 view process is being implemented by the Secretary
9 for a project study within the boundaries of a State,
10 the State, consistent with State law, may choose to
11 participate in the process and to make subject to the
12 process all State agencies that—

13 (A) have jurisdiction over the project;

14 (B) are required to conduct or issue a re-
15 view, analysis, opinion, or statement for the
16 project study; or

17 (C) are required to make a determination
18 on issuing a permit, license, or other approval or
19 decision for the project study.

20 (3) *INVITATION.*—

21 (A) *IN GENERAL.*—The Federal lead agency
22 shall invite, as early as practicable in the envi-
23 ronmental review process, any agency identified
24 under paragraph (1) to become a participating

1 or cooperating agency, as applicable, in the envi-
2 ronmental review process for the project study.

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

8 (4) *PROCEDURES.*—Section 1501.6 of title 40,
9 Code of Federal Regulations (as in effect on the date
10 of enactment of this Act), shall govern the identifica-
11 tion and the participation of a cooperating agency.

12 (5) *FEDERAL COOPERATING AGENCIES.*—Any
13 Federal agency that is invited by the Federal lead
14 agency to participate in the environmental review
15 process for a project study shall be designated as a co-
16 operating agency by the Federal lead agency unless
17 the invited agency informs the Federal lead agency,
18 in writing, by the deadline specified in the invitation
19 that the invited agency—

20 (A)(i) has no jurisdiction or authority with
21 respect to the project;

22 (ii) has no expertise or information relevant
23 to the project; or

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

1 (B) does not intend to submit comments on
2 the project.

3 (6) *ADMINISTRATION.*—A participating or co-
4 operating agency shall comply with this section and
5 any schedule established under this section.

6 (7) *EFFECT OF DESIGNATION.*—Designation as a
7 participating or cooperating agency under this sub-
8 section shall not imply that the participating or co-
9 operating agency—

10 (A) supports a proposed project; or

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

13 (8) *CONCURRENT REVIEWS.*—Each participating
14 or cooperating agency shall—

15 (A) carry out the obligations of that agency
16 under other applicable law concurrently and in
17 conjunction with the required environmental re-
18 view process, unless doing so would prevent the
19 participating or cooperating agency from con-
20 ducting needed analysis or otherwise carrying
21 out those obligations; and

22 (B) formulate and implement administra-
23 tive, policy, and procedural mechanisms to en-
24 able the agency to ensure completion of the envi-

1 *ronmental review process in a timely, coordi-*
2 *nated, and environmentally responsible manner.*

3 *(e) NON-FEDERAL PROJECTS INTEGRATED INTO REC-*
4 *LAMATION SYSTEMS.—The Federal lead agency shall serve*
5 *in that capacity for the entirety of all non-Federal projects*
6 *that will be integrated into a larger system owned, operated*
7 *or administered in whole or in part by the Bureau of Rec-*
8 *lamation or the Bureau of Indian Affairs.*

9 *(f) NON-FEDERAL PROJECT.—If the Secretary deter-*
10 *mines that a project can be expedited by a non-Federal*
11 *sponsor and that there is a demonstrable Federal interest*
12 *in expediting that project, the Secretary shall take such ac-*
13 *tions as are necessary to advance such a project as a non-*
14 *Federal project, including, but not limited to, entering into*
15 *agreements with the non-Federal sponsor of such project to*
16 *support the planning, design and permitting of such project*
17 *as a non-Federal project.*

18 *(g) PROGRAMMATIC COMPLIANCE.—*

19 *(1) IN GENERAL.—The Secretary shall issue*
20 *guidance regarding the use of programmatic ap-*
21 *proaches to carry out the environmental review proc-*
22 *ess that—*

23 *(A) eliminates repetitive discussions of the*
24 *same issues;*

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

3 (C) establishes a formal process for coordi-
4 nating with participating and cooperating agen-
5 cies, including the creation of a list of all data
6 that are needed to carry out an environmental
7 review process; and

8 (D) complies with—

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

11 (ii) all other applicable laws.

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

14 (A) as the first step in drafting guidance
15 under that paragraph, consult with relevant Fed-
16 eral, State, and local governmental agencies, In-
17 dian tribes, and the public on the appropriate
18 use and scope of the programmatic approaches;

19 (B) emphasize the importance of collabora-
20 tion among relevant Federal, State, and local
21 governmental agencies, and Indian tribes in un-
22 dertaking programmatic reviews, especially with
23 respect to including reviews with a broad geo-
24 graphical scope;

25 (C) ensure that the programmatic reviews—

1 (i) promote transparency, including of
2 the analyses and data used in the environ-
3 mental review process, the treatment of any
4 deferred issues raised by Federal, State, and
5 local governmental agencies, Indian tribes,
6 or the public, and the temporal and special
7 scales to be used to analyze those issues;

8 (ii) use accurate and timely informa-
9 tion in the environmental review process,
10 including—

11 (I) criteria for determining the
12 general duration of the usefulness of
13 the review; and

14 (II) the timeline for updating any
15 out-of-date review;

16 (iii) describe—

17 (I) the relationship between pro-
18 grammatic analysis and future tiered
19 analysis; and

20 (II) the role of the public in the
21 creation of future tiered analysis; and

22 (iv) are available to other relevant
23 Federal, State, and local governmental
24 agencies, Indian tribes, and the public;

1 (D) allow not fewer than 60 days of public
2 notice and comment on any proposed guidance;
3 and

4 (E) address any comments received under
5 subparagraph (D).

6 (h) COORDINATED REVIEWS.—

7 (1) COORDINATION PLAN.—

8 (A) ESTABLISHMENT.—The Federal lead
9 agency shall, after consultation with and with
10 the concurrence of each participating and co-
11 operating agency and the project sponsor or joint
12 lead agency, as applicable, establish a plan for
13 coordinating public and agency participation in,
14 and comment on, the environmental review proc-
15 ess for a project study or a category of project
16 studies.

17 (B) SCHEDULE.—

18 (i) IN GENERAL.—As soon as prac-
19 ticable but not later than 45 days after the
20 close of the public comment period on a
21 draft environmental impact statement, the
22 Federal lead agency, after consultation with
23 and the concurrence of each participating
24 and cooperating agency and the project
25 sponsor or joint lead agency, as applicable,

1 *shall establish, as part of the coordination*
2 *plan established in subparagraph (A), a*
3 *schedule for completion of the environmental*
4 *review process for the project study.*

5 *(ii) FACTORS FOR CONSIDERATION.—*

6 *In establishing a schedule, the Secretary*
7 *shall consider factors such as—*

8 *(I) the responsibilities of partici-*
9 *pating and cooperating agencies under*
10 *applicable laws;*

11 *(II) the resources available to the*
12 *project sponsor, joint lead agency, and*
13 *other relevant Federal and State agen-*
14 *cies, as applicable;*

15 *(III) the overall size and com-*
16 *plexity of the project;*

17 *(IV) the overall schedule for and*
18 *cost of the project; and*

19 *(V) the sensitivity of the natural*
20 *and historical resources that could be*
21 *affected by the project.*

22 *(iii) MODIFICATIONS.—The Secretary*
23 *may—*

24 *(I) lengthen a schedule established*
25 *under clause (i) for good cause; and*

1 (ii) shorten a schedule only with
2 concurrence of the affected partici-
3 pating and cooperating agencies and
4 the project sponsor or joint lead agen-
5 cy, as applicable.

6 (iv) *DISSEMINATION.*—A copy of a
7 schedule established under clause (i) shall
8 be—

9 (I) provided to each participating
10 and cooperating agency and the project
11 sponsor or joint lead agency, as appli-
12 cable; and

13 (II) made available to the public.

14 (2) *COMMENT DEADLINES.*—The Federal lead
15 agency shall establish the following deadlines for com-
16 ment during the environmental review process for a
17 project study:

18 (A) *DRAFT ENVIRONMENTAL IMPACT STATE-*
19 *MENTS.*—For comments by Federal and State
20 agencies and the public on a draft environmental
21 impact statement, a period of not more than 60
22 days after publication in the Federal Register of
23 notice of the date of public availability of the
24 draft environmental impact statement, unless—

1 (i) a different deadline is established
2 by agreement of the Federal lead agency, the
3 project sponsor or joint lead agency, as ap-
4 plicable, and all participating and cooper-
5 ating agencies; or

6 (ii) the deadline is extended by the
7 Federal lead agency for good cause.

8 (B) OTHER ENVIRONMENTAL REVIEW PROC-
9 ESSES.—For all other comment periods estab-
10 lished by the Federal lead agency for agency or
11 public comments in the environmental review
12 process, a period of not more than 30 days after
13 the date on which the materials on which com-
14 ment is requested are made available, unless—

15 (i) a different deadline is established
16 by agreement of the Federal lead agency, the
17 project sponsor, or joint lead agency, as ap-
18 plicable, and all participating and cooper-
19 ating agencies; or

20 (ii) the deadline is extended by the
21 Federal lead agency for good cause.

22 (3) DEADLINES FOR DECISIONS UNDER OTHER
23 LAWS.—In any case in which a decision under any
24 Federal law relating to a project study, including the
25 issuance or denial of a permit or license, is required

1 to be made by the date described in subsection
2 (i)(5)(B), the Secretary shall submit to the Committee
3 on Natural Resources of the House of Representatives
4 and the Committees on Energy and Natural Re-
5 sources and Indian Affairs of the Senate—

6 (A) as soon as practicable after the 180-day
7 period described in subsection (i)(5)(B), an ini-
8 tial notice of the failure of the Federal agency to
9 make the decision; and

10 (B) every 60 days thereafter until such date
11 as all decisions of the Federal agency relating to
12 the project study have been made by the Federal
13 agency, an additional notice that describes the
14 number of decisions of the Federal agency that
15 remain outstanding as of the date of the addi-
16 tional notice.

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

21 (5) TRANSPARENCY REPORTING.—

22 (A) REPORTING REQUIREMENTS.—Not later
23 than 1 year after the date of enactment of this
24 Act, the Secretary shall establish and maintain
25 an electronic database and, in coordination with

1 *other Federal and State agencies, issue reporting*
2 *requirements to make publicly available the sta-*
3 *tus and progress with respect to compliance with*
4 *applicable requirements of the National Environ-*
5 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
6 *seq.) and any other Federal, State, or local ap-*
7 *proval or action required for a project study for*
8 *which this section is applicable.*

9 *(B) PROJECT STUDY TRANSPARENCY.—Con-*
10 *sistent with the requirements established under*
11 *subparagraph (A), the Secretary shall make pub-*
12 *licly available the status and progress of any*
13 *Federal, State, Tribal, or local decision, action,*
14 *or approval required under applicable laws for*
15 *each project study for which this section is appli-*
16 *cable.*

17 *(i) ISSUE IDENTIFICATION AND RESOLUTION.—*

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

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

3 (A) *IN GENERAL.—The Federal lead agency*
4 *shall make information available to the cooper-*
5 *ating 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 alternatives*
10 *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 study.*

24 (4) *ACCELERATED ISSUE RESOLUTION AND ELE-*
25 *VATION.—*

1 (A) *IN GENERAL.*—On the request of a par-
2 ticipating or cooperating agency or project spon-
3 sor, the Secretary shall convene an issue resolu-
4 tion meeting with the relevant participating and
5 cooperating agencies and the project sponsor or
6 joint lead agency, as applicable, to resolve issues
7 that may—

8 (i) delay completion of the environ-
9 mental review process; or

10 (ii) result in denial of any approval
11 required for the project study under appli-
12 cable laws.

13 (B) *MEETING DATE.*—A meeting requested
14 under this paragraph shall be held not later than
15 21 days after the date on which the Secretary re-
16 ceives the request for the meeting, unless the Sec-
17 retary determines that there is good cause to ex-
18 tend that deadline.

19 (C) *NOTIFICATION.*—On receipt of a request
20 for a meeting under this paragraph, the Sec-
21 retary shall notify all relevant participating and
22 cooperating agencies of the request, including the
23 issue to be resolved and the date for the meeting.

24 (D) *ELEVATION OF ISSUE RESOLUTION.*—If
25 a resolution cannot be achieved within the 30-

1 *day period beginning on the date of a meeting*
2 *under this paragraph and a determination is*
3 *made by the Secretary that all information nec-*
4 *essary to resolve the issue has been obtained, the*
5 *Secretary shall forward the dispute to the heads*
6 *of the relevant agencies for resolution.*

7 *(E) CONVENTION BY SECRETARY.—The Sec-*
8 *retary may convene an issue resolution meeting*
9 *under this paragraph at any time, at the discre-*
10 *tion of the Secretary, regardless of whether a*
11 *meeting is requested under subparagraph (A).*

12 *(5) FINANCIAL PENALTY PROVISIONS.—*

13 *(A) IN GENERAL.—A Federal jurisdictional*
14 *agency shall complete any required approval or*
15 *decision for the environmental review process on*
16 *an expeditious basis using the shortest existing*
17 *applicable process.*

18 *(B) FAILURE TO DECIDE.—*

19 *(i) IN GENERAL.—*

20 *(I) TRANSFER OF FUNDS.—If a*
21 *Federal jurisdictional agency fails to*
22 *render a decision required under any*
23 *Federal law relating to a project study*
24 *that requires the preparation of an en-*
25 *vironmental impact statement or envi-*

1 *ronmental assessment, including the*
2 *issuance or denial of a permit, license,*
3 *statement, opinion, or other approval*
4 *by the date described in clause (ii), the*
5 *amount of funds made available to*
6 *support the office of the head of the*
7 *Federal jurisdictional agency shall be*
8 *reduced by an amount of funding equal*
9 *to the amount specified in item (aa) or*
10 *(bb) of subclause (II), and those funds*
11 *shall be made available to the division*
12 *of the Federal jurisdictional agency*
13 *charged with rendering the decision by*
14 *not later than 1 day after the applica-*
15 *ble date under clause (ii), and once*
16 *each week thereafter until a final deci-*
17 *sion is rendered, subject to subpara-*
18 *graph (C).*

19 *(II) AMOUNT TO BE TRANS-*
20 *FERRED.—The amount referred to in*
21 *subclause (I) is—*

22 *(aa) \$20,000 for any project*
23 *study requiring the preparation of*
24 *an environmental assessment or*

1 *environmental impact statement;*

2 *or*

3 *(bb) \$10,000 for any project*
4 *study requiring any type of re-*
5 *view under the National Environ-*
6 *mental Policy Act of 1969 (42*
7 *U.S.C. 4321 et seq.) other than an*
8 *environmental assessment or envi-*
9 *ronmental impact statement.*

10 *(ii) DESCRIPTION OF DATE.—The date*
11 *referred to in clause (i) is the later of—*

12 *(I) the date that is 180 days after*
13 *the date on which an application for*
14 *the permit, license, or approval is com-*
15 *plete; and*

16 *(II) the date that is 180 days*
17 *after the date on which the Federal*
18 *lead agency issues a decision on the*
19 *project under the National Environ-*
20 *mental Policy Act of 1969 (42 U.S.C.*
21 *4321 et seq.).*

22 *(C) LIMITATIONS.—*

23 *(i) IN GENERAL.—No transfer of funds*
24 *under subparagraph (B) relating to an in-*
25 *dividual project study shall exceed, in any*

1 *fiscal year, an amount equal to 1 percent of*
2 *the funds made available for the applicable*
3 *agency office.*

4 *(ii) FAILURE TO DECIDE.—The total*
5 *amount transferred in a fiscal year as a re-*
6 *sult of a failure by an agency to make a de-*
7 *cision by an applicable deadline shall not*
8 *exceed an amount equal to 5 percent of the*
9 *funds made available for the applicable*
10 *agency office for that fiscal year.*

11 *(iii) AGGREGATE.—Notwithstanding*
12 *any other provision of law, for each fiscal*
13 *year, the aggregate amount of financial*
14 *penalties assessed against each applicable*
15 *agency office under this Act and any other*
16 *Federal law as a result of a failure of the*
17 *agency to make a decision by an applicable*
18 *deadline for environmental review, includ-*
19 *ing the total amount transferred under this*
20 *paragraph, shall not exceed an amount*
21 *equal to 9.5 percent of the funds made*
22 *available for the agency office for that fiscal*
23 *year.*

24 *(D) NOTIFICATION OF TRANSFERS.—Not*
25 *later than 10 days after the last date in a fiscal*

1 *year on which funds of the Federal jurisdictional*
2 *agency may be transferred under subparagraph*
3 *(B)(5) with respect to an individual decision, the*
4 *agency shall submit to the appropriate commit-*
5 *tees of the House of Representatives and the Sen-*
6 *ate written notification that includes a descrip-*
7 *tion of—*

8 *(i) the decision;*

9 *(ii) the project study involved;*

10 *(iii) the amount of each transfer under*
11 *subparagraph (B) in that fiscal year relat-*
12 *ing to the decision;*

13 *(iv) the total amount of all transfers*
14 *under subparagraph (B) in that fiscal year*
15 *relating to the decision; and*

16 *(v) the total amount of all transfers of*
17 *the agency under subparagraph (B) in that*
18 *fiscal year.*

19 *(E) NO FAULT OF AGENCY.—*

20 *(i) IN GENERAL.—A transfer of funds*
21 *under this paragraph shall not be made if*
22 *the applicable agency described in subpara-*
23 *graph (A) notifies, with a supporting expla-*
24 *nation, the Federal lead agency, cooperating*

1 agencies, and project sponsor, as applicable,
2 that—

3 (I) the agency has not received
4 necessary information or approvals
5 from another entity in a manner that
6 affects the ability of the agency to meet
7 any requirements under Federal, State,
8 or local law;

9 (II) significant new information,
10 including from public comments, or
11 circumstances, including a major
12 modification to an aspect of the
13 project, requires additional analysis
14 for the agency to make a decision on
15 the project application; or

16 (III) the agency lacks the finan-
17 cial resources to complete the review
18 under the scheduled timeframe, includ-
19 ing a description of the number of full-
20 time employees required to complete
21 the review, the amount of funding re-
22 quired to complete the review, and a
23 justification as to why not enough
24 funding is available to complete the re-
25 view by the deadline.

1 (ii) *LACK OF FINANCIAL RE-*
2 *SOURCES.—If the agency provides notice*
3 *under clause (i)(III), the Inspector General*
4 *of the agency shall—*

5 (I) *conduct a financial audit to*
6 *review the notice; and*

7 (II) *not later than 90 days after*
8 *the date on which the review described*
9 *in subclause (I) is completed, submit to*
10 *the Committee on Natural Resources of*
11 *the House of Representatives and the*
12 *Committee on Energy and Natural Re-*
13 *sources of the Senate the results of the*
14 *audit conducted under subclause (I).*

15 (F) *LIMITATION.—The Federal agency from*
16 *which funds are transferred pursuant to this*
17 *paragraph shall not reprogram funds to the of-*
18 *fice of the head of the agency, or equivalent of-*
19 *fice, to reimburse that office for the loss of the*
20 *funds.*

21 (G) *EFFECT OF PARAGRAPH.—Nothing in*
22 *this paragraph affects or limits the application*
23 *of, or obligation to comply with, any Federal,*
24 *State, local, or tribal law.*

1 (j) *MEMORANDUM OF AGREEMENTS FOR EARLY CO-*
2 *ORDINATION.*—

3 (1) *SENSE OF CONGRESS.*—*It is the sense of*
4 *Congress that—*

5 (A) *the Secretary and other Federal agen-*
6 *cies with relevant jurisdiction in the environ-*
7 *mental review process should cooperate with each*
8 *other, State and local agencies, and Indian*
9 *tribes on environmental review and Bureau of*
10 *Reclamation project delivery activities at the*
11 *earliest practicable time to avoid delays and du-*
12 *plication of effort later in the process, prevent*
13 *potential conflicts, and ensure that planning and*
14 *project development decisions reflect environ-*
15 *mental values; and*

16 (B) *the cooperation referred to in subpara-*
17 *graph (A) should include the development of*
18 *policies and the designation of staff that advise*
19 *planning agencies and project sponsors of studies*
20 *or other information foreseeably required for*
21 *later Federal action and early consultation with*
22 *appropriate State and local agencies and Indian*
23 *tribes.*

24 (2) *TECHNICAL ASSISTANCE.*—*If requested at*
25 *any time by a State or project sponsor, the Secretary*

1 *and other Federal agencies with relevant jurisdiction*
2 *in the environmental review process, shall, to the*
3 *maximum extent practicable and appropriate, as de-*
4 *termined by the agencies, provide technical assistance*
5 *to the State or project sponsor in carrying out early*
6 *coordination activities.*

7 (3) *MEMORANDUM OF AGENCY AGREEMENT.—If*
8 *requested at any time by a State or project sponsor,*
9 *the Federal lead agency, in consultation with other*
10 *Federal agencies with relevant jurisdiction in the en-*
11 *vironmental review process, may establish memo-*
12 *randa of agreement with the project sponsor, Indian*
13 *tribes, State and local governments, and other appro-*
14 *priate entities to carry out the early coordination ac-*
15 *tivities, including providing technical assistance in*
16 *identifying potential impacts and mitigation issues*
17 *in an integrated fashion.*

18 (k) *LIMITATIONS.—Nothing in this section preempts or*
19 *interferes with—*

20 (1) *any obligation to comply with the provisions*
21 *of any Federal law, including—*

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

24 (B) *any other Federal environmental law;*

1 (2) *the reviewability of any final Federal agency*
2 *action in a court of the United States or in the court*
3 *of any State;*

4 (3) *any requirement for seeking, considering, or*
5 *responding to public comment; or*

6 (4) *any power, jurisdiction, responsibility, duty,*
7 *or authority that a Federal, State, or local govern-*
8 *mental agency, Indian tribe, or project sponsor has*
9 *with respect to carrying out a project or any other*
10 *provision of law applicable to projects.*

11 *(l) TIMING OF CLAIMS.—*

12 *(1) TIMING.—*

13 *(A) IN GENERAL.—Notwithstanding any*
14 *other provision of law, a claim arising under*
15 *Federal law seeking judicial review of a permit,*
16 *license, or other approval issued by a Federal*
17 *agency for a project study shall be barred unless*
18 *the claim is filed not later than 3 years after*
19 *publication of a notice in the Federal Register*
20 *announcing that the permit, license, or other ap-*
21 *proval is final pursuant to the law under which*
22 *the agency action is taken, unless a shorter time*
23 *is specified in the Federal law that allows judi-*
24 *cial review.*

1 (B) *APPLICABILITY.*—*Nothing in this sub-*
2 *section creates a right to judicial review or*
3 *places any limit on filing a claim that a person*
4 *has violated the terms of a permit, license, or*
5 *other approval.*

6 (2) *NEW INFORMATION.*—

7 (A) *IN GENERAL.*—*The Secretary shall con-*
8 *sider new information received after the close of*
9 *a comment period if the information satisfies the*
10 *requirements for a supplemental environmental*
11 *impact statement under title 40, Code of Federal*
12 *Regulations (including successor regulations).*

13 (B) *SEPARATE ACTION.*—*The preparation of*
14 *a supplemental environmental impact statement*
15 *or other environmental document, if required*
16 *under this section, shall be considered a separate*
17 *final agency action and the deadline for filing a*
18 *claim for judicial review of the action shall be 3*
19 *years after the date of publication of a notice in*
20 *the Federal Register announcing the action relat-*
21 *ing to such supplemental environmental impact*
22 *statement or other environmental document.*

23 (m) *CATEGORICAL EXCLUSIONS.*—

1 (1) *IN GENERAL.*—Not later than 180 days after
2 the date of enactment of this Act, the Secretary
3 shall—

4 (A) survey the use by the Bureau of Rec-
5 lamation and the Bureau of Indian Affairs of
6 categorical exclusions in projects since 2005;

7 (B) publish a review of the survey that in-
8 cludes a description of—

9 (i) the types of actions that were cat-
10 egorically excluded or could be the basis for
11 developing a new categorical exclusion; and

12 (ii) any requests previously received by
13 the Secretary for new categorical exclusions;
14 and

15 (C) solicit requests from other Federal agen-
16 cies and project sponsors for new categorical ex-
17 clusions.

18 (2) *NEW CATEGORICAL EXCLUSIONS.*—Not later
19 than 1 year after the date of enactment of this Act,
20 if the Secretary has identified a category of activities
21 that merit establishing a categorical exclusion that
22 did not exist on the day before the date of enactment
23 of this Act based on the review under paragraph (1),
24 the Secretary shall publish a notice of proposed rule-
25 making to propose that new categorical exclusion, to

1 *the extent that the categorical exclusion meets the cri-*
2 *teria for a categorical exclusion under section 1508.4*
3 *of title 40, Code of Federal Regulations (or successor*
4 *regulation).*

5 *(n) REVIEW OF PROJECT ACCELERATION REFORMS.—*

6 *(1) IN GENERAL.—The Comptroller General of*
7 *the United States shall—*

8 *(A) assess the reforms carried out under this*
9 *section; and*

10 *(B) not later than 5 years and not later*
11 *than 10 years after the date of enactment of this*
12 *Act, submit to the Committee on Natural Re-*
13 *sources of the House of Representatives and the*
14 *Committees on Energy and Natural Resources*
15 *and Indian Affairs of the Senate a report that*
16 *describes the results of the assessment.*

17 *(2) CONTENTS.—The reports under paragraph*
18 *(1) shall include an evaluation of impacts of the re-*
19 *forms carried out under this section on—*

20 *(A) project delivery;*

21 *(B) compliance with environmental laws;*

22 *and*

23 *(C) the environmental impact of projects.*

24 *(o) PERFORMANCE MEASUREMENT.—The Secretary*
25 *shall establish a program to measure and report on progress*

1 *made toward improving and expediting the planning and*
2 *environmental review process.*

3 (p) *CATEGORICAL EXCLUSIONS IN EMERGENCIES.—*

4 *For the repair, reconstruction, or rehabilitation of a Bureau*
5 *of Reclamation or Bureau of Indian Affairs project that*
6 *is in operation or under construction when damaged by an*
7 *event or incident that results in a declaration by the Presi-*
8 *dent of a major disaster or emergency pursuant to the Rob-*
9 *ert T. Stafford Disaster Relief and Emergency Assistance*
10 *Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such*
11 *repair, reconstruction, or rehabilitation activity as a class*
12 *of action categorically excluded from the requirements relat-*
13 *ing to environmental assessments or environmental impact*
14 *statements under section 1508.4 of title 40, Code of Federal*
15 *Regulations (or successor regulations), if the repair or re-*
16 *construction activity is—*

17 (1) *in the same location with the same capacity,*
18 *dimensions, and design as the original Bureau of*
19 *Reclamation or Bureau of Indian Affairs project as*
20 *before the declaration described in this section; and*

21 (2) *commenced within a 2-year period beginning*
22 *on the date of a declaration described in this sub-*
23 *section.*

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

2 (a) *IN GENERAL.*—Not later than February 1 of each
3 year, the Secretary shall develop and submit to the Com-
4 mittee on Natural Resources of the House of Representatives
5 and the Committees on Energy and Natural Resources and
6 Indian Affairs of the Senate an annual report, to be entitled
7 “Report to Congress on Future Water Project Develop-
8 ment”, that identifies the following:

9 (1) *PROJECT REPORTS.*—Each project report
10 that meets the criteria established in subsection
11 (c)(1)(A).

12 (2) *PROPOSED PROJECT STUDIES.*—Any pro-
13 posed project study submitted to the Secretary by a
14 non-Federal interest pursuant to subsection (b) that
15 meets the criteria established in subsection (c)(1)(A).

16 (3) *PROPOSED MODIFICATIONS.*—Any proposed
17 modification to an authorized water project or project
18 study that meets the criteria established in subsection
19 (c)(1)(A) that—

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

22 (B) is identified by the Secretary for au-
23 thorization.

24 (4) *EXPEDITED COMPLETION OF REPORT AND*
25 *DETERMINATIONS.*—Any project study that was expe-

1 *dited and any Secretarial determinations under sec-*
2 *tion 4 of this Act.*

3 *(b) REQUESTS FOR PROPOSALS.—*

4 *(1) PUBLICATION.—Not later than May 1 of each*
5 *year, the Secretary shall publish in the Federal Reg-*
6 *ister a notice requesting proposals from non-Federal*
7 *interests for proposed project studies and proposed*
8 *modifications to authorized projects and project stud-*
9 *ies to be included in the annual report.*

10 *(2) DEADLINE FOR REQUESTS.—The Secretary*
11 *shall include in each notice required by this sub-*
12 *section a requirement that non-Federal interests sub-*
13 *mit to the Secretary any proposals described in para-*
14 *graph (1) by not later than 120 days after the date*
15 *of publication of the notice in the Federal Register in*
16 *order for the proposals to be considered for inclusion*
17 *in the annual report.*

18 *(3) NOTIFICATION.—On the date of publication*
19 *of each notice required by this subsection, the Sec-*
20 *retary shall—*

21 *(A) make the notice publicly available, in-*
22 *cluding on the Internet; and*

23 *(B) provide written notification of the pub-*
24 *lication to the Committee on Natural Resources*
25 *of the House of Representatives and the Commit-*

1 *tees on Energy and Natural Resources and In-*
2 *dian Affairs of the Senate.*

3 (c) *CONTENTS.—*

4 (1) *PROJECT REPORTS, PROPOSED PROJECT*
5 *STUDIES, AND PROPOSED MODIFICATIONS.—*

6 (A) *CRITERIA FOR INCLUSION IN REPORT.—*

7 *The Secretary shall include in the annual report*
8 *only those project reports, proposed project stud-*
9 *ies, and proposed modifications to authorized*
10 *projects and project studies that—*

11 (i) *are related to the missions and au-*
12 *thorities of the Bureau of Reclamation or*
13 *the Bureau of Indian Affairs;*

14 (ii) *require specific congressional au-*
15 *thorization, including by an Act of Con-*
16 *gress;*

17 (iii) *have not been congressionally au-*
18 *thorized;*

19 (iv) *have not been included in any pre-*
20 *vious annual report; and*

21 (v) *if authorized, could be carried out*
22 *by the Bureau of Reclamation or the Bu-*
23 *reau of Indian Affairs.*

24 (B) *DESCRIPTION OF BENEFITS.—*

1 (i) *DESCRIPTION.*—*The Secretary shall*
2 *describe in the annual report, to the extent*
3 *applicable and practicable, for each pro-*
4 *posed project study and proposed modifica-*
5 *tion to an authorized water resources devel-*
6 *opment project or project study included in*
7 *the annual report, the benefits, as described*
8 *in clause (ii), of each such study or pro-*
9 *posed modification.*

10 (ii) *BENEFITS.*—*The benefits (or ex-*
11 *pected benefits, in the case of a proposed*
12 *project study) described in this clause are*
13 *benefits to—*

14 (I) *the protection of human life*
15 *and property;*

16 (II) *improvement to domestic irri-*
17 *gated water and power supplies;*

18 (III) *the national economy;*

19 (IV) *the environment; or*

20 (V) *the national security interests*
21 *of the United States.*

22 (C) *IDENTIFICATION OF OTHER FACTORS.*—
23 *The Secretary shall identify in the annual re-*
24 *port, to the extent practicable—*

1 (i) for each proposed project study in-
2 cluded in the annual report, the non-Fed-
3 eral interest that submitted the proposed
4 project study pursuant to subsection (b);
5 and

6 (ii) for each proposed project study
7 and proposed modification to a project or
8 project study included in the annual report,
9 whether the non-Federal interest has dem-
10 onstrated—

11 (I) that local support exists for
12 the proposed project study or proposed
13 modification to an authorized project
14 or project study (including the surface
15 water storage development project that
16 is the subject of the proposed feasibility
17 study or the proposed modification to
18 an authorized project study); and

19 (II) the financial ability to pro-
20 vide the required non-Federal cost
21 share.

22 (2) *TRANSPARENCY.*—The Secretary shall in-
23 clude in the annual report, for each project report,
24 proposed project study, and proposed modification to

1 *a project or project study included under paragraph*
2 *(1)(A)—*

3 *(A) the name of the associated non-Federal*
4 *interest, including the name of any non-Federal*
5 *interest that has contributed, or is expected to*
6 *contribute, a non-Federal share of the cost of—*

7 *(i) the project report;*

8 *(ii) the proposed project study;*

9 *(iii) the authorized project study for*
10 *which the modification is proposed; or*

11 *(iv) construction of—*

12 *(I) the project that is the subject*
13 *of—*

14 *(aa) the water report;*

15 *(bb) the proposed project*
16 *study; or*

17 *(cc) the authorized project*
18 *study for which a modification is*
19 *proposed; or*

20 *(II) the proposed modification to*
21 *a project;*

22 *(B) a letter or statement of support for the*
23 *water report, proposed project study, or proposed*
24 *modification to a project or project study from*
25 *each associated non-Federal interest;*

1 (C) *the purpose of the feasibility report,*
2 *proposed feasibility study, or proposed modifica-*
3 *tion to a project or project study;*

4 (D) *an estimate, to the extent practicable, of*
5 *the Federal, non-Federal, and total costs of—*

6 (i) *the proposed modification to an au-*
7 *thorized project study; and*

8 (ii) *construction of—*

9 (I) *the project that is the subject*
10 *of—*

11 (aa) *the project report; or*

12 (bb) *the authorized project*
13 *study for which a modification is*
14 *proposed, with respect to the*
15 *change in costs resulting from*
16 *such modification; or*

17 (II) *the proposed modification to*
18 *an authorized project; and*

19 (E) *an estimate, to the extent practicable, of*
20 *the monetary and nonmonetary benefits of—*

21 (i) *the project that is the subject of—*

22 (I) *the project report; or*

23 (II) *the authorized project study*
24 *for which a modification is proposed,*

1 with respect to the benefits of such
2 modification; or

3 (ii) the proposed modification to an
4 authorized project.

5 (3) *CERTIFICATION.*—The Secretary shall include
6 in the annual report a certification stating that each
7 feasibility report, proposed feasibility study, and pro-
8 posed modification to a project or project study in-
9 cluded in the annual report meets the criteria estab-
10 lished in paragraph (1)(A).

11 (4) *APPENDIX.*—The Secretary shall include in
12 the annual report an appendix listing the proposals
13 submitted under subsection (b) that were not included
14 in the annual report under paragraph (1)(A) and a
15 description of why the Secretary determined that
16 those proposals did not meet the criteria for inclusion
17 under such paragraph.

18 (d) *SPECIAL RULE FOR INITIAL ANNUAL REPORT.*—
19 Notwithstanding any other deadlines required by this sec-
20 tion, the Secretary shall—

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

24 (2) include in such notice a requirement that
25 non-Federal interests submit to the Secretary any

1 *proposals described in subsection (b)(1) by not later*
2 *than 120 days after the date of publication of such*
3 *notice in the Federal Register in order for such pro-*
4 *posals to be considered for inclusion in the first an-*
5 *nual report developed by the Secretary under this sec-*
6 *tion.*

7 *(e) PUBLICATION.—Upon submission of an annual re-*
8 *port to Congress, the Secretary shall make the annual report*
9 *publicly available, including through publication on the*
10 *Internet.*

11 *(f) DEFINITION.—In this section, the term “project re-*
12 *port” means a final feasibility report developed under the*
13 *Reclamation Act of 1902 (32 Stat. 388), and all Acts*
14 *amendatory thereof or supplementary thereto.*

15 **SEC. 7. APPLICABILITY OF THE WIIN ACT.**

16 *Sections 3221 through 3226, 4007 and 4009 of the*
17 *WIIN Act (Public Law 114–322) shall not apply to any*
18 *project (as defined in section 2 of this Act).*

19 **SEC. 8. PROJECT AUTHORIZATIONS.**

20 *The following projects for water resources development*
21 *and conservation and other purposes, as identified in the*
22 *following reports and correspondence are authorized to be*
23 *carried out by the Secretary substantially in accordance*
24 *with the plans, and subject to the conditions, described in*

1 *the respective reports and correspondence designated in this*
 2 *section:*

State	Name	Date of Feasibility Report	Estimated Costs
WA	<i>Yakima Basin Integrated Plan-Initial Development Phase</i>	<i>March 2, 2012</i>	<i>Non-Federal: \$627,000,000 Federal: \$92,100,000 Total: \$719,100,000</i>
KS	<i>Equus Beds Division of the Wichita Project</i>	<i>January 19, 2010</i>	<i>Non-Federal: \$90,000,000 Federal: \$30,000,000 Total: \$120,000,000</i>
MT	<i>Musselshell-Judith Rural Water System</i>	<i>July 31, 2015</i>	<i>Non-Federal: \$21,801,000 Federal: \$65,301,000 Total: \$87,102,000</i>

3 **SEC. 9. DEAUTHORIZATIONS.**

4 (a) *PURPOSES; DEFINITIONS.*—

5 (1) *PURPOSES.*—*The purposes of this section*
 6 *are—*

7 (A) *to identify \$187,401,000 in Bureau of*
 8 *Reclamation projects and programs that are no*
 9 *longer feasible due to—*

10 (i) *a lack of local support;*

11 (ii) *a lack of available Federal or non-*
 12 *Federal resources; or*

13 (iii) *an authorized purpose that is no*
 14 *longer relevant or feasible;*

15 (B) *to establish an efficient and transparent*
 16 *process for deauthorizing Bureau of Reclamation*
 17 *projects and programs that have failed to receive*

1 *a minimum level of investment, thereby ensuring*
2 *active projects can move forward while reducing*
3 *the backlog of authorized projects;*

4 *(C) to create an expedited and definitive*
5 *process to deauthorize Reclamation projects and*
6 *programs;*

7 *(D) to allow the continued authorization of*
8 *programs and projects that are feasible; and*

9 *(E) to establish a process for identifying au-*
10 *thorized Bureau of Reclamation projects and*
11 *programs that are no longer—*

12 *(i) in the Federal interest; or*

13 *(ii) feasible.*

14 (2) *DEFINITIONS.—In this section:*

15 (A) *SECRETARY.—The term “Secretary”*
16 *means the Secretary of the Interior.*

17 (B) *RECLAMATION PROJECT OR PRO-*
18 *GRAM.—The term “Reclamation project and pro-*
19 *gram” includes any project or program that is*
20 *administered by the Bureau of Reclamation.*

21 (b) *COMPREHENSIVE REPORTS.—*

22 (1) *MINIMUM FUNDING LIST.—Not later than*
23 *180 days after the date of the enactment of this Act,*
24 *the Secretary shall submit to the Committee on En-*
25 *ergy and Natural Resources of the Senate and the*

1 *Committee on Natural Resources of the House of Rep-*
2 *resentatives, and make available on a publicly acces-*
3 *sible Internet website in a manner that is*
4 *downloadable, searchable, and sortable, a list of—*

5 *(A) reclamation programs that are author-*
6 *ized and for which funding was obligated during*
7 *the current fiscal year or any of the preceding 5*
8 *fiscal years;*

9 *(B) projects or separable elements of projects*
10 *authorized for construction for which funding*
11 *has been obligated during the current fiscal year*
12 *or any of the 5 preceding fiscal years; and*

13 *(C) for each project or element of a project*
14 *listed pursuant to subparagraph (B)—*

15 *(i) the amount of funding obligated for*
16 *each such project or separable element per*
17 *fiscal year;*

18 *(ii) the current phase of each such*
19 *project or separable element; and*

20 *(iii) the amount required to complete*
21 *the current phase of each such project or*
22 *separable element.*

23 *(2) BACKLOG REPORT.—With the report required*
24 *under paragraph (1), the Secretary shall submit to*
25 *the Committee on Energy and Natural Resources of*

1 *the Senate and the Committee on Natural Resources*
2 *of the House of Representatives, and make available*
3 *on a publicly accessible Internet website in a manner*
4 *that is downloadable, searchable, and sortable, a list*
5 *of—*

6 *(A) programs that are authorized and for*
7 *which funding was not obligated during the cur-*
8 *rent fiscal year or any of the preceding 5 fiscal*
9 *years;*

10 *(B) projects or separable elements that are*
11 *authorized for construction but have not been*
12 *completed; and*

13 *(C) for each project or separable element*
14 *listed pursuant to subparagraph (B)—*

15 *(i) the date of authorization of the*
16 *project or separable element, including any*
17 *subsequent modifications to the original au-*
18 *thorization;*

19 *(ii) the original budget authority for*
20 *the project or separable element;*

21 *(iii) a brief description of the project*
22 *or separable element;*

23 *(iv) the estimated date of completion of*
24 *the project or separable element;*

1 (v) the estimated cost of completion of
2 the project or separable element; and

3 (vi) any amounts appropriated for the
4 project or separable element that remain
5 unobligated.

6 (c) *INTERIM DEAUTHORIZATION LIST.*—

7 (1) *IN GENERAL.*—The Secretary shall develop
8 an interim deauthorization list that identifies each
9 Reclamation program or project, or separable element
10 of a program or project, authorized 5 years prior to
11 enactment of this Act, for which Federal and non-
12 Federal funding was obligated to before the date of the
13 enactment of this Act, but for which no Federal or
14 non-Federal funds were obligated for the program,
15 project, or separable element of the program or project
16 during the current fiscal year or any of the 5 pre-
17 ceding fiscal years.

18 (2) *SPECIAL RULE FOR PROJECTS RECEIVING*
19 *FUNDS FOR POST-AUTHORIZATION STUDY.*—A project
20 or separable element of a project may not be identi-
21 fied on the interim deauthorization list, or the final
22 deauthorization list developed under subsection (d), if
23 the project or separable element received Federal fund-
24 ing for a post-authorization study during the current
25 fiscal year or any of the 5 preceding fiscal years.

1 (3) *PUBLIC COMMENT AND CONSULTATION.*—*The*
2 *Secretary shall solicit comments from the public and*
3 *the Governors of each applicable State on the interim*
4 *deauthorization list developed under paragraph (1).*
5 *The public comment period shall be 90 days.*

6 (4) *SUBMISSION TO CONGRESS; PUBLICATION.*—
7 *Not later than 90 days after the date of the submis-*
8 *sion of the list required by subsection (b), the Sec-*
9 *retary shall—*

10 (A) *submit the interim deauthorization list*
11 *to the Committee on Energy and Natural Re-*
12 *sources of the Senate and the Committee on Nat-*
13 *ural Resources of the House of Representatives;*
14 *and*

15 (B) *publish the interim deauthorization list*
16 *in the Federal Register.*

17 (d) *FINAL DEAUTHORIZATION LIST.*—

18 (1) *IN GENERAL.*—*The Secretary shall develop a*
19 *final deauthorization list of each Reclamation pro-*
20 *gram or project, or separable element of a program or*
21 *project, described in subsection (c)(1) that is identi-*
22 *fied pursuant to this subsection.*

23 (2) *DEAUTHORIZATION AMOUNT.*—*The Secretary*
24 *shall include on the final deauthorization list projects*
25 *and separable elements of projects that have, in the*

1 *aggregate, an estimated Federal cost to complete that*
2 *is at least \$187,401,000.*

3 (3) *IDENTIFICATION OF PROJECTS.—*

4 (A) *SEQUENCING OF PROJECTS.—*

5 (i) *IN GENERAL.—The Secretary shall*
6 *identify projects and separable elements of*
7 *projects for inclusion on the final deauthor-*
8 *ization list according to the order in which*
9 *the projects and separable elements of the*
10 *projects were authorized, beginning with the*
11 *earliest authorized projects and separable*
12 *elements of projects and ending once the last*
13 *project or separable element of a project nec-*
14 *essary to meet the aggregate amount under*
15 *paragraph (2) is identified.*

16 (ii) *FACTORS TO CONSIDER.—The Sec-*
17 *retary may identify programs, projects, and*
18 *separable elements of programs and projects*
19 *for exclusion from the final deauthorization*
20 *list if the Secretary determines, on a case-*
21 *by-case basis, that a project or separable ele-*
22 *ment of a project is critical for interests of*
23 *the United States, based on the possible im-*
24 *act of the project or separable element of*

1 *the project on public health and safety, the*
2 *national economy, or the environment.*

3 *(iii) CONSIDERATION OF PUBLIC COM-*
4 *MENTS.—In making determinations under*
5 *clauses (i) and (ii), the Secretary shall con-*
6 *sider any comments received under sub-*
7 *section (c)(3).*

8 *(B) APPENDIX.—The Secretary shall in-*
9 *clude as part of the final deauthorization list an*
10 *appendix that—*

11 *(i) identifies each program, project,*
12 *and separable element of a program or*
13 *project on the interim deauthorization list*
14 *developed under subsection (c) that is not*
15 *included on the final deauthorization list;*
16 *and*

17 *(ii) describes the reasons why the pro-*
18 *gram, project, or separable element is not*
19 *included.*

20 *(4) SUBMISSION TO CONGRESS; PUBLICATION.—*
21 *Not later than 120 days after the date on which the*
22 *public comment period under subsection (c)(3) ex-*
23 *pires, the Secretary shall—*

24 *(A) submit the final deauthorization list*
25 *and the appendix to the final deauthorization*

1 *list to the Committee on Energy and Natural*
2 *Resources of the Senate and the Committee on*
3 *Natural Resources of the House of Representa-*
4 *tives; and*

5 *(B) publish the final deauthorization list*
6 *and the appendix to the final deauthorization*
7 *list in the Federal Register.*

8 *(e) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—*

9 *(1) IN GENERAL.—Subject to paragraph (2),*
10 *after the date that is 180 days after the date of sub-*
11 *mission of the final deauthorization report under sub-*
12 *section (d), a program, project, or separable element*
13 *of a program or project identified in the report is de-*
14 *authorized, unless Congress passes a joint resolution*
15 *disapproving the final deauthorization report prior to*
16 *the end of that period.*

17 *(2) NON-FEDERAL CONTRIBUTIONS.—A program,*
18 *project, or separable element of a program or project*
19 *identified in the final deauthorization report under*
20 *subsection (d) shall not be deauthorized under this*
21 *subsection if, before the expiration of the 180-day pe-*
22 *riod referred to in paragraph (1), the non-Federal in-*
23 *terest of the program, project, or separable element of*
24 *the project provides sufficient funds to complete the*
25 *program, project, or separable element of the project.*

1 (f) *TREATMENT OF PROJECT MODIFICATIONS.*—For
2 purposes of this section, if an authorized water resources
3 development program, project, or separable element of the
4 program or project has been modified by an Act of Congress,
5 the date of authorization of the program, project, or sepa-
6 rable element shall be deemed to be the date of the most
7 recent modification.

8 (g) *EXEMPTION.*—This section shall not apply to any
9 project that would yield more than 200,000 acre-feet of
10 water per year on average.

Union Calendar No. 782

115TH CONGRESS
2^D SESSION

H. R. 4419

[Report No. 115-1001]

A BILL

To facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects, and for other purposes.

NOVEMBER 2, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed