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(Original Signature of Member)

113TH CONGRESS
2D SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bureau of Reclamation
5 Surface Water Storage Streamlining Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ENVIRONMENTAL IMPACT STATEMENT.—

2 The term “environmental impact statement” means
3 the detailed statement of environmental impacts of
4 a project required to be prepared pursuant to the
5 National Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.).

7 (2) ENVIRONMENTAL REVIEW PROCESS.—

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

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

22 (3) FEDERAL JURISDICTIONAL AGENCY.—The
23 term “Federal jurisdictional agency” means a Fed-
24 eral agency with jurisdiction delegated by law, regu-
25 lation, order, or otherwise over a review, analysis,

1 opinion, statement, permit, license, or other approval
2 or decision required for a project study under appli-
3 cable Federal laws (including regulations).

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

6 (5) PROJECT.—The term “project” means a
7 surface water project to be carried out or funded by
8 the Secretary pursuant to the Act of June 17, 1902
9 (32 Stat. 388, chapter 1093), and Acts supple-
10 mental to and amendatory of that Act (43 U.S.C.
11 371 et seq.).

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

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

22 (8) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (9) SURFACE WATER STORAGE.—The term
25 “surface water storage” means any surface water

1 reservoir or impoundment that would be owned,
2 funded, or operated by the Bureau of Reclamation.

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

4 (a) IN GENERAL.—To the extent practicable, a
5 project study initiated by the Secretary, after the date of
6 enactment of this Act, under the Reclamation Act of 1902
7 (32 Stat. 388), and all Acts amendatory thereof or supple-
8 mentary thereto, shall—

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

12 (2) have a maximum Federal cost of
13 \$3,000,000; and

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

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

23 (1) prepare an updated project study schedule
24 and cost estimate;

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

3 (3) provide written notice to the Committee on
4 Natural Resources of the House of Representatives
5 and the Committee on Energy and Natural Re-
6 sources of the Senate as to the reasons the require-
7 ments of subsection (a) are not attainable.

8 (c) EXCEPTION.—

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

15 (2) FACTORS.—In making a determination that
16 a study is too complex to comply with the require-
17 ments of subsection (a), the Secretary shall con-
18 sider—

19 (A) the type, size, location, scope, and
20 overall cost of the project;

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

23 (C) whether the project will require signifi-
24 cant action by other Federal, State, or local
25 agencies;

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

4 (E) whether there is significant public dis-
5 pute as to the economic or environmental costs
6 or benefits of the project.

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

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

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

24 (1) take all steps necessary to initiate the proc-
25 ess for completing federally mandated reviews that

1 the Secretary is required to complete as part of the
2 study, including the environmental review process
3 under section 5;

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

7 (A) have jurisdiction over the project;

8 (B) be required by law to conduct or issue
9 a review, analysis, opinion, or statement for the
10 project study; or

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

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

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

1 (1) the status of the implementation of the
2 planning process under this section, including the
3 number of participating projects;

4 (2) a review of project delivery schedules, in-
5 cluding a description of any delays on those studies
6 initiated prior to the date of the enactment of this
7 Act; and

8 (3) any recommendations for additional author-
9 ity necessary to support efforts to expedite the
10 project.

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

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

20 (2) the amount of time taken to complete each
21 project study; and

22 (3) any recommendations for additional author-
23 ity necessary to support efforts to expedite the
24 project study process, including an analysis of
25 whether the limitation established by subsection

1 (a)(2) needs to be adjusted to address the impacts
2 of inflation.

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

4 The Secretary shall—

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

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

14 **SEC. 5. PROJECT ACCELERATION.**

15 (a) APPLICABILITY.—

16 (1) IN GENERAL.—This section shall apply to
17 each project study that is initiated after the date of
18 enactment of this Act and for which an environ-
19 mental impact statement is prepared under the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.).

22 (2) FLEXIBILITY.—Any authority granted
23 under this section may be exercised, and any re-
24 quirement established under this section may be sat-
25 isfied, for the conduct of an environmental review

1 process for a project study, a class of project stud-
2 ies, or a program of project studies.

3 (3) LIST OF PROJECT STUDIES.—

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

8 (i) meets the standards described in
9 paragraph (1); and

10 (ii) does not have adequate funding to
11 make substantial progress toward the com-
12 pletion of the project study.

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

18 (b) PROJECT REVIEW PROCESS.—

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

22 (2) COORDINATED REVIEW.—The coordinated
23 environmental review process described in paragraph
24 (1) shall require that any review, analysis, opinion,
25 statement, permit, license, or other approval or deci-

1 sion issued or made by a Federal, State, or local
2 governmental agency or an Indian tribe for a project
3 study described in subsection (b) be conducted, to
4 the maximum extent practicable, concurrently with
5 any other applicable governmental agency or Indian
6 tribe.

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

13 (c) LEAD AGENCIES.—

14 (1) JOINT LEAD AGENCIES.—

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

23 (B) PROJECT SPONSOR AS JOINT LEAD
24 AGENCY.—A project sponsor that is a State or
25 local governmental entity may—

1 (i) with the concurrence of the Sec-
2 retary, serve as a joint lead agency with
3 the Federal lead agency for purposes of
4 preparing any environmental document
5 under the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4321 et seq.); and

7 (ii) prepare any environmental review
8 process document under the National En-
9 vironmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.) required in support of any
11 action or approval by the Secretary if—

12 (I) the Secretary provides guid-
13 ance in the preparation process and
14 independently evaluates that docu-
15 ment;

16 (II) the project sponsor complies
17 with all requirements applicable to the
18 Secretary under—

19 (aa) the National Environ-
20 mental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.);

22 (bb) any regulation imple-
23 menting that Act; and

24 (cc) any other applicable
25 Federal law; and

1 (III) the Secretary approves and
2 adopts the document before the Sec-
3 retary takes any subsequent action or
4 makes any approval based on that
5 document, regardless of whether the
6 action or approval of the Secretary re-
7 sults in Federal funding.

8 (2) DUTIES.—The Secretary shall ensure
9 that—

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

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

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

1 the Federal agency could adopt or use a document
2 prepared by another Federal agency under—

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

5 (B) parts 1500 through 1508 of title 40,
6 Code of Federal Regulations (or successor regu-
7 lations).

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

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

17 (B) to prepare or ensure that any required
18 environmental impact statement or other envi-
19 ronmental review document for a project study
20 required to be completed under the National
21 Environmental Policy Act of 1969 (42 U.S.C.
22 4321 et seq.) is completed in accordance with
23 this section and applicable Federal law.

24 (d) PARTICIPATING AND COOPERATING AGENCIES.—

1 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
2 CIES.—With respect to carrying out the environ-
3 mental review process for a project study, the Sec-
4 retary shall identify, as early as practicable in the
5 environmental review process, all Federal, State, and
6 local government agencies and Indian tribes that
7 may—

8 (A) have jurisdiction over the project;

9 (B) be required by law to conduct or issue
10 a review, analysis, opinion, or statement for the
11 project study; or

12 (C) be required to make a determination
13 on issuing a permit, license, or other approval
14 or decision for the project study.

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

21 (A) have jurisdiction over the project;

22 (B) are required to conduct or issue a re-
23 view, analysis, opinion, or statement for the
24 project study; or

1 (C) are required to make a determination
2 on issuing a permit, license, or other approval
3 or decision for the project study.

4 (3) INVITATION.—

5 (A) IN GENERAL.—The Federal lead agen-
6 cy shall invite, as early as practicable in the en-
7 vironmental review process, any agency identi-
8 fied under paragraph (1) to become a partici-
9 pating or cooperating agency, as applicable, in
10 the environmental review process for the project
11 study.

12 (B) DEADLINE.—An invitation to partici-
13 pate issued under subparagraph (A) shall set a
14 deadline by which a response to the invitation
15 shall be submitted, which may be extended by
16 the Federal lead agency for good cause.

17 (4) PROCEDURES.—Section 1501.6 of title 40,
18 Code of Federal Regulations (as in effect on the
19 date of enactment of the Bureau of Reclamation
20 Surface Water Storage Streamlining Act) shall gov-
21 ern the identification and the participation of a co-
22 operating agency.

23 (5) FEDERAL COOPERATING AGENCIES.—Any
24 Federal agency that is invited by the Federal lead
25 agency to participate in the environmental review

1 process for a project study shall be designated as a
2 cooperating agency by the Federal lead agency un-
3 less the invited agency informs the Federal lead
4 agency, in writing, by the deadline specified in the
5 invitation that the invited agency—

6 (A)(i) has no jurisdiction or authority with
7 respect to the project;

8 (ii) has no expertise or information rel-
9 evant to the project; or

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

12 (B) does not intend to submit comments
13 on the project.

14 (6) ADMINISTRATION.—A participating or co-
15 operating agency shall comply with this section and
16 any schedule established under this section.

17 (7) EFFECT OF DESIGNATION.—Designation as
18 a participating or cooperating agency under this
19 subsection shall not imply that the participating or
20 cooperating agency—

21 (A) supports a proposed project; or

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

1 (8) CONCURRENT REVIEWS.—Each partici-
2 pating or cooperating agency shall—

3 (A) carry out the obligations of that agen-
4 cy under other applicable law concurrently and
5 in conjunction with the required environmental
6 review process, unless doing so would prevent
7 the participating or cooperating agency from
8 conducting needed analysis or otherwise car-
9 rying out those obligations; and

10 (B) formulate and implement administra-
11 tive, policy, and procedural mechanisms to en-
12 able the agency to ensure completion of the en-
13 vironmental review process in a timely, coordi-
14 nated, and environmentally responsible manner.

15 (e) PROGRAMMATIC COMPLIANCE.—

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

20 (A) eliminates repetitive discussions of the
21 same issues;

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

24 (C) establishes a formal process for coordi-
25 nating with participating and cooperating agen-

1 cies, including the creation of a list of all data
2 that are needed to carry out an environmental
3 review process; and

4 (D) complies with—

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

7 (ii) all other applicable laws.

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

10 (A) as the first step in drafting guidance
11 under that paragraph, consult with relevant
12 Federal, State, and local governmental agen-
13 cies, Indian tribes, and the public on the appro-
14 priate use and scope of the programmatic ap-
15 proaches;

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

22 (C) ensure that the programmatic re-
23 views—

24 (i) promote transparency, including of
25 the analyses and data used in the environ-

1 mental review process, the treatment of
2 any deferred issues raised by Federal,
3 State, and local governmental agencies, In-
4 dian tribes, or the public, and the temporal
5 and special scales to be used to analyze
6 those issues;

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

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

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

15 (iii) describe—

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

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

21 (iv) are available to other relevant
22 Federal, State, and local governmental
23 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 (f) 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
12 joint lead agency, as applicable, establish a plan
13 for coordinating public and agency participation
14 in, and comment on, the environmental review
15 process for a project study or a category of
16 project 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
23 with and the concurrence of each partici-
24 pating and cooperating agency and the
25 project sponsor or joint lead agency, as ap-

1 plicable, shall establish, as part of the co-
2 ordination plan established in subpara-
3 graph (A), a schedule for completion of the
4 environmental review process for the
5 project study.

6 (ii) FACTORS FOR CONSIDERATION.—

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

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

12 (II) the resources available to the
13 project sponsor, joint lead agency, and
14 other relevant Federal and State
15 agencies, as applicable;

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

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

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

23 (iii) MODIFICATIONS.—The Secretary
24 may—

1 (I) lengthen a schedule estab-
2 lished under clause (i) for good cause;
3 and

4 (II) shorten a schedule only with
5 concurrence of the affected partici-
6 pating and cooperating agencies and
7 the project sponsor or joint lead agen-
8 cy, as applicable.

9 (iv) DISSEMINATION.—A copy of a
10 schedule established under clause (i) shall
11 be—

12 (I) provided to each participating
13 and cooperating agency and the
14 project sponsor or joint lead agency,
15 as applicable; and

16 (II) made available to the public.

17 (2) COMMENT DEADLINES.—The Federal lead
18 agency shall establish the following deadlines for
19 comment during the environmental review process
20 for a project study:

21 (A) DRAFT ENVIRONMENTAL IMPACT
22 STATEMENTS.—For comments by Federal and
23 States agencies and the public on a draft envi-
24 ronmental impact statement, a period of not
25 more than 60 days after publication in the Fed-

1 eral Register of notice of the date of public
2 availability of the draft environmental impact
3 statement, unless—

4 (i) a different deadline is established
5 by agreement of the Federal lead agency,
6 the project sponsor or joint lead agency, as
7 applicable, and all participating and co-
8 operating agencies; or

9 (ii) the deadline is extended by the
10 Federal lead agency for good cause.

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

19 (i) a different deadline is established
20 by agreement of the Federal lead agency,
21 the project sponsor, or joint lead agency,
22 as applicable, and all participating and co-
23 operating agencies; or

24 (ii) the deadline is extended by the
25 Federal lead agency for good cause.

1 (3) DEADLINES FOR DECISIONS UNDER OTHER
2 LAWS.—In any case in which a decision under any
3 Federal law relating to a project study, including the
4 issuance or denial of a permit or license, is required
5 to be made by the date described in subsection
6 (h)(5)(B), the Secretary shall submit to the Com-
7 mittee on Natural Resources of the House of Rep-
8 resentatives and the Committee on Energy and Nat-
9 ural Resources of the Senate—

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

14 (B) every 60 days thereafter until such
15 date as all decisions of the Federal agency re-
16 lating to the project study have been made by
17 the Federal agency, an additional notice that
18 describes the number of decisions of the Fed-
19 eral agency that remain outstanding as of the
20 date of the additional notice.

21 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
22 in this subsection reduces any time period provided
23 for public comment in the environmental review
24 process under applicable Federal law (including reg-
25 ulations).

1 (5) TRANSPARENCY REPORTING.—

2 (A) REPORTING REQUIREMENTS.—Not
3 later than 1 year after the date of enactment of
4 this Act, the Secretary shall establish and main-
5 tain an electronic database and, in coordination
6 with other Federal and State agencies, issue re-
7 porting requirements to make publicly available
8 the status and progress with respect to compli-
9 ance with applicable requirements of the Na-
10 tional Environmental Policy Act of 1969 (42
11 U.S.C. 4321 et seq.) and any other Federal,
12 State, or local approval or action required for a
13 project study for which this section is applica-
14 ble.

15 (B) PROJECT STUDY TRANSPARENCY.—
16 Consistent with the requirements established
17 under subparagraph (A), the Secretary shall
18 make publicly available the status and progress
19 of any Federal, State, or local decision, action,
20 or approval required under applicable laws for
21 each project study for which this section is ap-
22 plicable.

23 (g) ISSUE IDENTIFICATION AND RESOLUTION.—

24 (1) COOPERATION.—The Federal lead agency,
25 the cooperating agencies, and any participating

1 agencies shall work cooperatively in accordance with
2 this section to identify and resolve issues that could
3 delay completion of the environmental review process
4 or result in the denial of any approval required for
5 the project study under applicable laws.

6 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
7 ITIES.—

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

16 (B) DATA SOURCES.—The information
17 under subparagraph (A) may be based on exist-
18 ing data sources, including geographic informa-
19 tion systems mapping.

20 (3) COOPERATING AND PARTICIPATING AGENCY
21 RESPONSIBILITIES.—Based on information received
22 from the Federal lead agency, cooperating and par-
23 ticipating agencies shall identify, as early as prac-
24 ticable, any issues of concern regarding the potential
25 environmental or socioeconomic impacts of the

1 project, including any issues that could substantially
2 delay or prevent an agency from granting a permit
3 or other approval that is needed for the project
4 study.

5 (4) ACCELERATED ISSUE RESOLUTION AND
6 ELEVATION.—

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

14 (i) delay completion of the environ-
15 mental review process; or

16 (ii) result in denial of any approval re-
17 quired for the project study under applica-
18 ble laws.

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

1 (C) NOTIFICATION.—On receipt of a re-
2 quest for a meeting under this paragraph, the
3 Secretary shall notify all relevant participating
4 and cooperating agencies of the request, includ-
5 ing the issue to be resolved and the date for the
6 meeting.

7 (D) ELEVATION OF ISSUE RESOLUTION.—
8 If a resolution cannot be achieved within the
9 30-day period beginning on the date of a meet-
10 ing under this paragraph and a determination
11 is made by the Secretary that all information
12 necessary to resolve the issue has been ob-
13 tained, the Secretary shall forward the dispute
14 to the heads of the relevant agencies for resolu-
15 tion.

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

22 (5) FINANCIAL PENALTY PROVISIONS.—

23 (A) IN GENERAL.—A Federal jurisdictional
24 agency shall complete any required approval or
25 decision for the environmental review process

1 on an expeditious basis using the shortest exist-
2 ing applicable process.

3 (B) FAILURE TO DECIDE.—

4 (i) IN GENERAL.—

5 (I) TRANSFER OF FUNDS.—If a
6 Federal jurisdictional agency fails to
7 render a decision required under any
8 Federal law relating to a project study
9 that requires the preparation of an
10 environmental impact statement or
11 environmental assessment, including
12 the issuance or denial of a permit, li-
13 cense, statement, opinion, or other ap-
14 proval by the date described in clause
15 (ii), the amount of funds made avail-
16 able to support the office of the head
17 of the Federal jurisdictional agency
18 shall be reduced by an amount of
19 funding equal to the amount specified
20 in item (aa) or (bb) of subclause (II),
21 and those funds shall be made avail-
22 able to the division of the Federal ju-
23 risdictional agency charged with ren-
24 dering the decision by not later than
25 1 day after the applicable date under

1 clause (ii), and once each week there-
2 after until a final decision is rendered,
3 subject to subparagraph (C).

4 (II) AMOUNT TO BE TRANS-
5 FERRED.—The amount referred to in
6 subclause (I) is—

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

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

19 (ii) DESCRIPTION OF DATE.—The
20 date referred to in clause (i) is the later
21 of—

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

1 (II) the date that is 180 days
2 after the date on which the Federal
3 lead agency issues a decision on the
4 project under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.).

7 (C) LIMITATIONS.—

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

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

21 (iii) AGGREGATE.—Notwithstanding
22 any other provision of law, for each fiscal
23 year, the aggregate amount of financial
24 penalties assessed against each applicable
25 agency office under this Act and any other

1 Federal law as a result of a failure of the
2 agency to make a decision by an applicable
3 deadline for environmental review, includ-
4 ing the total amount transferred under this
5 paragraph, shall not exceed an amount
6 equal to 9.5 percent of the funds made
7 available for the agency office for that fis-
8 cal year.

9 (D) NO FAULT OF AGENCY.—

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

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

23 (II) significant new information,
24 including from public comments, or
25 circumstances, including a major

1 modification to an aspect of the
2 project, requires additional analysis
3 for the agency to make a decision on
4 the project application; or

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

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

19 (I) conduct a financial audit to
20 review the notice; and

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

1 tives and the Committee on Energy
2 and Natural Resources of the Senate
3 a report on the notice.

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

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

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

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

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

1 potential conflicts, and ensure that planning
2 and project development decisions reflect envi-
3 ronmental values; and

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

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

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

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

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

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

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

12 (B) any other Federal environmental law;

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

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

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

23 (j) TIMING OF CLAIMS.—

24 (1) TIMING.—

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

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

18 (2) NEW INFORMATION.—

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

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

12 (k) CATEGORICAL EXCLUSIONS.—

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

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

19 (B) publish a review of the survey that in-
20 cludes a description of—

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

1 (ii) any requests previously received
2 by the Secretary for new categorical exclu-
3 sions; and

4 (C) solicit requests from other Federal
5 agencies and project sponsors for new categor-
6 ical exclusions.

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

19 (1) REVIEW OF PROJECT ACCELERATION RE-
20 FORMS.—

21 (1) IN GENERAL.—The Comptroller General of
22 the United States shall—

23 (A) assess the reforms carried out under
24 this section; and

1 (B) not later than 5 years and not later
2 than 10 years after the date of enactment of
3 this Act, submit to the Committee on Natural
4 Resources of the House of Representatives and
5 the Committee on Energy and Natural Re-
6 sources of the Senate a report that describes
7 the results of the assessment.

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

11 (A) project delivery;

12 (B) compliance with environmental laws;

13 and

14 (C) the environmental impact of projects.

15 (m) PERFORMANCE MEASUREMENT.—The Secretary
16 shall establish a program to measure and report on
17 progress made toward improving and expediting the plan-
18 ning and environmental review process.

19 (n) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—
20 For the repair, reconstruction, or rehabilitation of a Bu-
21 reau of Reclamation surface water storage project that is
22 in operation or under construction when damaged by an
23 event or incident that results in a declaration by the Presi-
24 dent of a major disaster or emergency pursuant to the
25 Robert T. Stafford Disaster Relief and Emergency Assist-

1 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall
2 treat such repair, reconstruction, or rehabilitation activity
3 as a class of action categorically excluded from the re-
4 quirements relating to environmental assessments or envi-
5 ronmental impact statements under section 1508.4 of title
6 40, Code of Federal Regulations (or successor regula-
7 tions), if the repair or reconstruction activity is—

8 (1) in the same location with the same capacity,
9 dimensions, and design as the original Bureau of
10 Reclamation surface water storage project as before
11 the declaration described in this section; and

12 (2) commenced within a 2-year period begin-
13 ning on the date of a declaration described in this
14 subsection.

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

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

23 (1) PROJECT REPORTS.—Each project report
24 that meets the criteria established in subsection
25 (c)(1)(A).

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

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

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

12 (B) is identified by the Secretary for au-
13 thorization.

14 (b) REQUESTS FOR PROPOSALS.—

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

22 (2) DEADLINE FOR REQUESTS.—The Secretary
23 shall include in each notice required by this sub-
24 section a requirement that non-Federal interests
25 submit to the Secretary any proposals described in

1 paragraph (1) by not later than 120 days after the
2 date of publication of the notice in the Federal Reg-
3 ister in order for the proposals to be considered for
4 inclusion in the annual report.

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

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

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

15 (c) CONTENTS.—

16 (1) PROJECT REPORTS, PROPOSED PROJECT
17 STUDIES, AND PROPOSED MODIFICATIONS.—

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

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

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

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

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

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

10 (B) DESCRIPTION OF BENEFITS.—

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

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

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

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

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

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

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

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

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

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

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

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

18 (i) the project report;

19 (ii) the proposed project study;

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

22 (iv) construction of—

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

25 (aa) the water report;

1 (bb) the proposed project
2 study; or

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

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

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

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

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

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

24 (ii) construction of—

1 (I) the surface water storage de-
2 velopment project that is the subject
3 of—

4 (aa) the project report; or

5 (bb) the authorized project
6 study for which a modification is
7 proposed, with respect to the
8 change in costs resulting from
9 such modification; or

10 (II) the proposed modification to
11 an authorized surface water storage
12 development project; and

13 (E) an estimate, to the extent practicable,
14 of the monetary and nonmonetary benefits of—

15 (i) the surface water storage develop-
16 ment project that is the subject of—

17 (I) the project report; or

18 (II) the authorized project study
19 for which a modification is proposed,
20 with respect to the benefits of such
21 modification; or

22 (ii) the proposed modification to an
23 authorized surface water storage develop-
24 ment project.

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

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

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

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

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

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

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

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