

114TH CONGRESS  
1ST SESSION

**S.** 1236

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

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IN THE SENATE OF THE UNITED STATES

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Hydropower Improve-  
5 ment Act of 2015".

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

6           (A) hydropower accounted for—

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

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

12           and

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

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

19           (4) hydropower provides—

20                   (A) baseload power;

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

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

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

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

6                   (B) powering nonpowered dams;

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

9                   (D) pumped storage hydropower; and

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

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

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

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

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

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

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

3 It is the sense of Congress that—

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

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

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

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

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

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

22 (1) in the first sentence—

23 (A) by striking “deem” and insert “deter-  
24 mine to be”; and

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

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

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

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

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

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

16           (2) in subsection (b)—

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

21          “Commission may—

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

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

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

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

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

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

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

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

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

20 “(e) LICENSE TERM ON RELICENSING.—

21 “(1) IN GENERAL.—Except”; and

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

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

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

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

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

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

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

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

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

24 (1) in subsection (a)—

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

3 (B) in paragraph (2)—

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

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

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

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

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

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



1 (C) in paragraph (3)—

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

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

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

9 (E) by striking paragraph (5);

10 (2) in subsection (b)—

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

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

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

22 (B) in paragraph (3)—

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

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

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

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

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

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

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

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

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

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

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

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

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

2 “(a) LICENSE STUDIES.—

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

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

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

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

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

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

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

9           “(2) PUBLIC NOTICE.—The Commission—

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

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

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

18           “(ii) a summary of the meeting.

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

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

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

2           or

3           “(2) a facility exempted under—

4                 “(A) section 30; or

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

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

7           2705(d)).

8           “(b) DESIGNATION AS LEAD AGENCY.—

9                 “(1) IN GENERAL.—The Commission shall act  
10           as the lead agency for the purposes of coordinating  
11           all applicable Federal authorizations.

12                 “(2) OTHER AGENCIES.—Each Federal and  
13           State agency considering an aspect of an application  
14           for Federal authorization shall cooperate with the  
15           Commission.

16           “(c) SCHEDULE.—

17                 “(1) TIMING FOR ISSUANCE.—It is the sense of  
18           Congress that all Federal authorizations required for  
19           a project or facility, including a license or exemption  
20           order of the Commission, should be issued by the  
21           date that is 3 years after the date on which an ap-  
22           plication is considered to be complete by the Com-  
23           mission.

24                 “(2) COMMISSION SCHEDULE.—

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

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

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

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

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

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

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

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

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

3 “(d) CONSOLIDATED RECORD.—

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

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

13 “(A) the recommendations;

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

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

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





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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15           “(A) cost significantly less to implement;

16           or

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

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

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

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

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

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

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

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

13 **“SEC. 38. ANNUAL REPORTS.**

14 “(a) COMMISSION ANNUAL REPORT.—

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

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

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

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

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

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

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

5           “(b) RESOURCE AGENCY ANNUAL REPORT.—

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

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

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

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

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

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

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



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

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

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

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