

107TH CONGRESS  
1ST SESSION

# H. R. 2353

To revise certain policies of the Army Corps of Engineers for the purpose of improving the Corps' community relations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2001

Mr. TANCREDO (for himself, Mr. LARGENT, Mr. BARTLETT of Maryland, Mr. GILCHREST, Mr. TERRY, and Mr. HEFLEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To revise certain policies of the Army Corps of Engineers for the purpose of improving the Corps' community relations, 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 “Army Corps of Engi-  
5       neers Reform and Community Relations Improvement Act  
6       of 2001”.

7       **SEC. 2. FINDINGS AND PURPOSES.**

8       (a) FINDINGS.—Congress finds the following:

1           (1) The United States Army Corps of Engi-  
2           neers is the primary Federal agency responsible for  
3           developing and managing the Nation's harbors, wa-  
4           terways, shorelines and water resources.

5           (2) The United States has a backlog of more  
6           than \$54,000,000,000 for water development  
7           projects, \$38,000,000,000 of which are for projects  
8           that have begun construction or preconstruction, en-  
9           gineering, and design but not yet been completed.

10          (3) The Corps' civil works program budget for  
11          construction of new water development projects in  
12          recent years and in the foreseeable future has been  
13          approximately \$1,500,000,000.

14          (4) Due to the large disparity between budget  
15          authority for authorized water resources projects  
16          and the actual annual funding levels, the current  
17          method of developing project construction schedules  
18          based upon optimum funding levels is unrealistic  
19          and does not reflect the likely true costs and benefits  
20          of constructing most Corps' projects.

21          (5) At the current rate of funding for the civil  
22          works construction program, it would take more  
23          than 50 years to eliminate the current backlog, not  
24          accounting for the water development needs of the  
25          next 50 years.

1           (6) It is in the national economic interest for  
2           the Corps to manage the Nation's harbors, water-  
3           ways, shorelines, and water resources in the most ef-  
4           ficient manner practically feasible and with the high-  
5           est level of fiscal discipline.

6           (b) PURPOSES.—The purposes of this Act are as fol-  
7           lows:

8           (1) To restore communication and cooperation  
9           between the Army Corps of Engineers and State and  
10          local governments.

11          (2) To improve relations between the Army  
12          Corps of Engineers and communities neighboring its  
13          project sites.

14          (3) To ensure that the Nation's Federal water  
15          resources investments are economically justified.

16          (4) To reduce the backlog of authorized  
17          projects.

18          (5) To establish new criteria for projects.

19          (6) To modernize the calculation of costs and  
20          benefits by the Army Corps of Engineers.

21          (7) To prioritize Army Corps of Engineers con-  
22          struction spending.

23          (8) To share the costs of water resources in-  
24          vestments with project beneficiaries.

1 **SEC. 3. COMMUNITY RELATIONS IMPROVEMENT PLAN.**

2 Not later than 1 year after the date of enactment  
3 of this Act, the Secretary of the Army, acting through the  
4 Chief of Engineers (in this Act referred to as the “Sec-  
5 retary”) shall prepare and transmit to Congress a report  
6 that includes the following:

7 (1) A list of all federally owned lands under the  
8 jurisdiction of the Secretary.

9 (2) A list of such lands that no longer serve a  
10 project purpose or that possess no demonstrated  
11 compelling program or project need.

12 (3) A plan regarding cost-sharing for rehabilita-  
13 tion, modification, operation, and maintenance of  
14 recreation facilities at water resources projects under  
15 the jurisdiction of the Secretary that are leased by  
16 non-Federal interests.

17 **SEC. 4. PUBLIC HEARINGS.**

18 (a) IN GENERAL.—Before the Secretary or any other  
19 public or private entity commences any work at a water  
20 resources project under the jurisdiction of the Secretary,  
21 the Secretary shall hold in the vicinity of the project a  
22 public hearing for the purpose of receiving public com-  
23 ments on the proposed work and the project.

24 (b) HEARING AS ADDITIONAL REQUIREMENT.—A  
25 hearing under this section shall be in addition to any hear-  
26 ing otherwise required for compliance with the National

1 Environmental Policy Act of 1969 (42 U.S.C. 4321 et  
2 seq.) or any other law.

3 (c) INCLUSION OF PROJECT STUDIES.—The com-  
4 ments received in a public hearing held under this section  
5 with respect to a water resources project shall be included  
6 in any feasibility report, general reevaluation study, envi-  
7 ronmental impact statement, or other decision document  
8 recommending major construction, rehabilitation, project  
9 modification, or major and substantial change in operating  
10 and management practices prepared for the project.

11 **SEC. 5. INDEPENDENT REVIEW.**

12 (a) PROJECTS SUBJECT TO INDEPENDENT RE-  
13 VIEW.—

14 (1) IN GENERAL.—The Secretary shall ensure  
15 that feasibility reports, general reevaluation studies,  
16 and environmental impact statements for each water  
17 resources project described in paragraph (2) are  
18 subject to review by an independent panel of experts  
19 established under this section.

20 (2) PROJECTS SUBJECT TO REVIEW.—A project  
21 shall be subject to review under paragraph (1) if—

22 (A) the project has an estimated total cost  
23 of more than \$25,000,000, including mitigation  
24 costs;

1 (B) the Governor of an affected State re-  
2 quests the establishment of an independent  
3 panel of experts for the project;

4 (C) the Director of the United States Fish  
5 and Wildlife Service determines that the project  
6 is likely to have significant adverse impacts on  
7 fish or wildlife after implementation of proposed  
8 mitigation plans; or

9 (D) the Secretary determines that the  
10 project is controversial under paragraph (3).

11 (3) CONTROVERSIAL PROJECTS.—

12 (A) IN GENERAL.—The Secretary shall de-  
13 termine that a project is controversial for pur-  
14 poses of paragraph (2)(D) if the Secretary finds  
15 that—

16 (i) there is a significant public dispute  
17 as to the size, nature, or effects of the  
18 project; or

19 (ii) there is a significant public dis-  
20 pute as to the economic or environmental  
21 costs or benefits of the project.

22 (B) WRITTEN REQUESTS.—The Secretary  
23 shall determine whether or not a project is con-  
24 troversial within 30 days of the date of receipt

1 of a written request of an interested party or on  
2 the initiative of the Secretary.

3 (4) AFFECTED STATE DEFINED.—In paragraph  
4 (2)(B), the term “affected State” as used with re-  
5 spect to a project means a State or a part thereof  
6 that is at least partially within the drainage basin in  
7 which the project is located and would be economi-  
8 cally or environmentally affected as a consequence of  
9 the project.

10 (b) DIRECTOR OF INDEPENDENT REVIEW.—

11 (1) APPOINTMENT.—The Inspector General of  
12 the Department of Army shall appoint in the Office  
13 of the Inspector General a Director of Independent  
14 Review (in this section referred to as the “Direc-  
15 tor”). The term of a Director appointed under this  
16 subsection shall be 3 years.

17 (2) QUALIFICATIONS.—The Inspector General  
18 shall select the Director from among individuals who  
19 are distinguished scholars in biology, engineering,  
20 economics, or another discipline related to water re-  
21 sources management.

22 (3) LIMITATION ON APPOINTMENTS.—The In-  
23 spector General shall not appoint an individual to  
24 serve as the Director if the individual has a financial  
25 or close professional association with any organiza-

tion or group with a strong financial or organizational interest in a water resources project that, on the date of appointment, is under construction, in the preconstruction, engineering, and design phase, or under feasibility or reconnaissance study by the Army Corps of Engineers.

(4) TERMS.—An individual may not serve for more than 1 term as the Director.

(5) DUTIES.—The Director shall establish a panel of experts to review each project subject to review under subsection (a).

(c) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—As soon as practicable after the Secretary selects a preferred alternative for a project subject to review under subsection (a) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not less than 5 and not more than 9 independent experts who represent a balance of areas of expertise, including biologists, engineers, and economists.



1           (3) LIMITATION ON APPOINTMENTS.—The Di-  
2       rector shall not appoint an individual to serve on a  
3       panel of experts for a project if the individual has  
4       a financial or close professional association with any  
5       organization or group with a strong financial or or-  
6       ganizational interest in the project.

7           (4) CONSULTATION.—The Director shall con-  
8       sult with the National Academy of Sciences in devel-  
9       oping lists of individuals to serve on panels of ex-  
10      perts under this section.

11          (5) COMPENSATION.—An individual serving on  
12      a panel of experts under this section shall be com-  
13      pensated at a rate of pay to be determined by the  
14      Inspector General.

15          (6) TRAVEL EXPENSES.—An individual serving  
16      on a panel of experts under this section shall receive  
17      travel expenses, including per diem in lieu of subsist-  
18      ence, as authorized by law for persons serving inter-  
19      mittently in Government service under subchapter I  
20      of chapter 57 of title 5, United States Code, while  
21      away from their homes and places of business in the  
22      performance of services for the panel of experts.

23          (d) DUTIES OF PANELS.—A panel of experts estab-  
24      lished for a project under this section shall—

1           (1) review each feasibility study, general re-  
2           evaluation study, and environmental impact state-  
3           ment prepared for the project;

4           (2) assess the adequacy of the economic and  
5           scientific models used by the Secretary in reviewing  
6           the project to ensure that—

7                   (A) multiple methods of economic analysis  
8                   have been used, and the best available scientific  
9                   methods of analysis have been used; and

10                   (B) any regional effects on navigation sys-  
11                   tems have been examined;

12           (3) receive written and oral comments of a  
13           technical nature concerning the project from the  
14           public;

15           (4) submit to the Secretary a report containing  
16           the panel's economic, engineering, and environ-  
17           mental analysis of the project, including the panel's  
18           conclusions on the feasibility study, general reevalua-  
19           tion study, or environmental impact statement with  
20           particular emphasis on areas of public controversy;  
21           and

22           (5) within 30 days after the issuance of a final  
23           feasibility study, final general reevaluation study, or  
24           final environmental impact statement, but prior to  
25           the entry of a record of decision, the independent re-

1 view panel shall submit to the Secretary a brief re-  
2 port stating its views on the extent to which the  
3 final analysis adequately addresses issues or con-  
4 cerns raised by the panel's earlier evaluation.

5 (e) DURATION OF PROJECT REVIEWS.—Not later  
6 than 180 days after the date of establishment of a panel  
7 of experts for a project under this section, the panel shall  
8 complete its review of the project and all of its other duties  
9 with respect to the project (other than duties described  
10 in subsection (d)(5)).

11 (f) RECOMMENDATIONS OF PANEL.—

12 (1) CONSIDERATION BY SECRETARY.—After re-  
13 ceiving a report on a project from a panel of experts  
14 under this section and before entering a final record  
15 of decision for the project, the Secretary shall con-  
16 sider any recommendations contained in the report  
17 and prepare a written explanation for any rec-  
18 ommendations not adopted. Recommendations and  
19 findings that are inconsistent with recommendations  
20 and findings of an independent review panel shall  
21 not be entitled to deference in a judicial proceeding.

22 (2) PUBLIC REVIEW; TRANSMITTAL TO CON-  
23 GRESS.—After receiving a report on a project from  
24 a panel of experts under this section (including a re-  
25 port under subsection (d)(5)), the Secretary shall—

1 (A) make a copy of the report (and any  
2 written explanation of the Secretary on rec-  
3 ommendations contained in the report) available  
4 for public review under section 6; and

5 (B) include a copy of the report (and any  
6 such written explanation) in any report trans-  
7 mitted to Congress concerning the project.

8 (g) COSTS.—

9 (1) LIMIT ON COST OF REVIEW.—The cost of  
10 conducting a review of a project under this section  
11 shall not exceed—

12 (A) \$250,000 for a project if the total real  
13 cost in current year dollars of the project is less  
14 than \$50,000,000; and

15 (B) one-half of one percent of the total  
16 real cost in current year dollars of the project  
17 if such total real cost is \$50,000,000 or more.

18 (2) TREATMENT.—For purposes of paragraph  
19 (1), the cost of conducting an independent review  
20 under this section shall be treated as part of the  
21 total cost of the project.

22 (3) WAIVER OF LIMIT.—The Secretary may  
23 waive a limitation set forth in paragraph (1) if the  
24 Secretary determines that the waiver is appropriate.

1 (h) APPLICABILITY OF FEDERAL ADVISORY COM-  
2 MITTEE ACT.—The Federal Advisory Committee Act (5  
3 U.S.C. App.) shall apply to a panel of experts established  
4 under this section.

5 **SEC. 6. PUBLIC ACCESS TO INFORMATION AND DATA.**

6 (a) IN GENERAL.—The Secretary shall ensure that  
7 all information and data related to the analysis of a water  
8 resources project by the Corps of Engineers, whether in  
9 final or draft form and including all supporting data and  
10 information that the Corps of Engineers has considered  
11 in its analysis, is made available to any person upon re-  
12 quest and, to the maximum extent practicable, to the pub-  
13 lic on the Internet.

14 (b) TYPES OF INFORMATION.—Information about a  
15 water resources project to be made available under sub-  
16 section (a) shall include any information that has been  
17 made available to the project sponsor and all data used  
18 by the Corps of Engineers in its justification and analysis  
19 of the project.

20 (c) EXCEPTION FOR TRADE SECRETS.—

21 (1) IN GENERAL.—The Secretary shall not  
22 make information available under subsection (a) that  
23 the Secretary determines to be a trade secret of the  
24 person or entity that supplied the information to the  
25 Corps of Engineers.

1           (2) CRITERIA FOR TRADE SECRETS.—For pur-  
2       poses of this subsection, the Secretary shall consider  
3       information to be a trade secret only if—

4           (A) the person or entity that supplied the  
5       information to the Corps of Engineers has not  
6       disclosed the information to any other person or  
7       entity, other than—

8           (i) an officer or employee of the  
9       United States or a State or local govern-  
10      ment;

11          (ii) an employee of such person or en-  
12      tity; or

13          (iii) a person or entity that is bound  
14      by a confidentiality agreement, and the  
15      person or entity that supplied the informa-  
16      tion has taken reasonable measures to pro-  
17      tect the confidentiality of such information  
18      and intends to continue to take such meas-  
19      ures;

20          (B) the information is not required to be  
21      disclosed, or otherwise made available, to the  
22      public under any other Federal or State law;  
23      and

24          (C) disclosure of the information is likely  
25      to cause substantial harm to the competitive po-

1           sition of the person or entity that supplied the  
2           information.

3           (d) REPORT ON THE WATER RESOURCES CONSTRUC-  
4   TION BACKLOG.—

5           (1) IN GENERAL.—Not later than 1 year after  
6   enactment of this Act, the Secretary shall transmit  
7   to Congress a list of all water resources projects in  
8   the construction backlog, consisting of the  
9   uncompleted portion of any project authorized by  
10   law for funding from the Construction, General ap-  
11   propriations account or the construction portion of  
12   the Flood Control, Mississippi River and Tributaries  
13   appropriations account. Each project on this list  
14   shall be accompanied by information on—

15           (A) the total real cost in current year dol-  
16   lars of the project and the fully funded total  
17   cost of the project in current year dollars;

18           (B) the benefit-to-cost ratio of the project;

19           (C) the remaining additional benefits and  
20   the remaining additional costs to complete con-  
21   struction of the project and the ratio of remain-  
22   ing benefits to remaining costs;

23           (D) the year the last major studies of the  
24   project's feasibility and designs were completed;

(E) the date of the last year of economic data that was included in the latest analysis of the project's feasibility and justification;

(F) the status of each project as either—

(i) reconnaissance;

(ii) preconstruction, engineering, and design;

(iii) construction; or

(iv) not funded and active, deferred, or inactive; and

(G) the information described in paragraph (2) for each particular type of project.

(2) INFORMATION FOR PARTICULAR PROJECT TYPE.—The information transmitted under paragraph (1) for each of the following project types shall include the following:

(A) For a flood damage reduction project—

(i) the extent to which the project reflects national flood damage reduction priorities as established by the Federal Emergency Management Agency;

(ii) the level of flood protection provided and the relative amount of protection provided to and benefits derived from pro-



1           tecting urban property and agricultural  
2           property; and

3                 (iii) the extent to which the project re-  
4           stores natural aquatic ecosystem functions  
5           and avoids adverse environmental impacts  
6           and risk.

7           (B) For a navigation project—

8                 (i)(I) the extent to which the project's  
9           economic benefits are based on existing  
10          levels of traffic rather than projected  
11          growth in traffic; and

12                (II) the level of certainty in a growth  
13          projection if the justification for the  
14          project is based on such projected growth;  
15          and

16               (ii) the extent of the project's likely  
17          environmental benefits, including extent of  
18          remediation of contaminated sediments or  
19          reuse of dredge material to restore aquatic  
20          habitat, and extent of the project's adverse  
21          environmental impacts and risk.

22           (C) For an environmental restoration  
23          project—

24                (i) the cost effectiveness of the project  
25          in achieving environmental results;

1 (ii) the extent to which the project re-  
2 stores natural hydrologic processes and the  
3 spatial extent of aquatic habitat and other-  
4 wise produces self-sustaining environ-  
5 mental benefits; and

6 (iii) the extent to which the project  
7 addresses critical national conservation pri-  
8 orities, including preservation and en-  
9 hancement of endangered and threatened  
10 species.

11 (3) MEASUREMENT AND REPORTING.—The  
12 Secretary shall use objective and quantifiable stand-  
13 ards for measuring and reporting the information  
14 required in paragraph (2). In any case in which such  
15 information cannot feasibly be quantified, the re-  
16 quired information shall be reported through an ob-  
17 jective description of the project's benefits and im-  
18 pacts.

19 (4) AVAILABILITY TO THE PUBLIC AND UP-  
20 DATES.—The list and any information transmitted  
21 to Congress under paragraphs (1) and (2) shall be  
22 made available to any person upon request and to  
23 the public on the Internet. The list shall also be up-  
24 dated and retransmitted to Congress annually.

1           (5) DEFINITIONS.—In this subsection, the fol-  
2       lowing definitions apply:

3           (A) ACTIVE.—The term “active”, as used  
4       with respect to a project, means the project has  
5       received preconstruction, engineering, and de-  
6       sign or construction funding, is economically  
7       justified, and is supported by the non-Federal  
8       sponsor.

9           (B) DEFERRED.—The term “deferred”, as  
10      used with respect to a project, means the  
11      project has doubtful economic justification, re-  
12      quires restudy to determine its economic feasi-  
13      bility, or is a project for which the non-Federal  
14      sponsor is currently unable to provide required  
15      cooperation.

16          (C) INACTIVE.—The term “inactive”, as  
17      used with respect to a project, means the  
18      project is not economically justified because  
19      costs outweigh projected benefits, no longer  
20      meets current and prospective needs, or is not  
21      actively supported by the non-Federal sponsor.

22   **SEC. 7. MODERN PROJECT CRITERIA.**

23          (a) NEGATIVE BENEFITS.—

24              (1) INCORPORATION.—When evaluating a civil  
25      works project’s national economic development bene-

fits, the Secretary shall incorporate into the benefit-to-cost analysis for the project the negative benefits of the project activities under study, including any negative benefits of such activities on any federally managed lands or infrastructure and on private lands enrolled in the conservation reserve program or wetlands reserve program.

(2) DEFINITION.—In this subsection, the term “negative benefits” includes net adverse impacts to flood control, navigation, recreation (including, but not limited to, hunting, fishing, tourism, boating, and wildlife watching), water supply, irrigation, hydropower, and any other public benefit derived from a Federal waterway or adjacent lands.

(b) EFFICIENT MANAGEMENT AND OPERATING PRACTICES.—

(1) IN GENERAL.—The Secretary shall not include in the benefits base for justifying a water resources project any benefits that could reasonably be achieved through better and more efficient management or operating practices by a Federal agency or the project beneficiaries.

(2) EVALUATIONS.—In any feasibility report, general reevaluation study, environmental impact statement, or other decision document recom-

1 mending major construction, rehabilitation, or  
2 project modification, the Secretary shall include a  
3 management and operating practices evaluation that  
4 takes into consideration the requirements of para-  
5 graph (1).

6 (c) LIMITATION UPON COMPETITION WITH THE PRI-  
7 VATE SECTOR.—

8 (1) IN GENERAL.—Any civil works project the  
9 primary benefits of which are not for flood damage  
10 reduction, navigation, or environmental restoration,  
11 shall not be recommended for construction by the  
12 Secretary if—

13 (A) there exist corporations or other non-  
14 governmental entities in the United States with  
15 significant relevant experience in the particular  
16 project activity under consideration by the Sec-  
17 retary; or

18 (B) similar project activities have been un-  
19 dertaken by nongovernmental entities within  
20 the last 10 years.

21 (2) EVALUATIONS.—In any feasibility report,  
22 general reevaluation study, environmental impact  
23 statement or other decision document recommending  
24 major construction, rehabilitation, or modification of  
25 a civil works project, the Secretary shall include a

1 private sector competition evaluation that takes into  
2 consideration the requirements of paragraph (1).

3 (d) RECOMMENDATION OF PROJECTS.—Beginning in  
4 fiscal year 2003, in the case of a civil works project that  
5 is subject to a benefit-cost analysis (including any project  
6 that has been contingently authorized subject to a favor-  
7 able report from the Chief of Engineers), the Secretary  
8 shall only recommend the project for authorization by  
9 Congress, and shall only choose the project as a rec-  
10 ommended alternative in any record of decision or environ-  
11 mental impact statement if the project, in addition to  
12 meeting any other criteria required by law, has projected  
13 benefits that are at least 1.5 times as great as the  
14 project's estimated total cost.

15 (e) REALISTIC CONSTRUCTION SCHEDULING.—Not  
16 later than 1 year after the date of enactment of this Act,  
17 the Secretary shall revise, in consultation with the Na-  
18 tional Academy of Sciences, the principles and guidelines  
19 of the Corps of Engineers to—

20 (1) direct the Corps to give preference in eco-  
21 nomic analyses to project alternatives that maximize  
22 the rate of return of national economic development  
23 benefits to investment over alternatives that maxi-  
24 mize net national economic development benefits;

1           (2) provide guidance on how to implement para-  
2       graph (1); and

3           (3) require the Corps to document and report  
4       to the Secretary incremental components of project  
5       alternatives and their effect on the overall benefits  
6       and costs of a project.

7       **SEC. 8. REGIONAL IMPACTS OF PORT AND HARBOR**  
8                               **PROJECTS.**

9       (a) IN GENERAL.—It is the intent of Congress that  
10      federally funded port maintenance and expansion projects  
11      maximize national economic development goals while mini-  
12      mizing adverse regional economic and environmental im-  
13      pacts.

14      (b) PRINCIPLES AND GUIDELINES.—Not later than  
15      1 year after the date of enactment of this Act, the Sec-  
16      retary shall revise, in consultation with the National Acad-  
17      emy of Sciences, the principles and guidelines of the Corps  
18      of the Engineers to provide that feasibility studies, general  
19      reevaluation studies, and environmental impact state-  
20      ments for a port or harbor project give detailed and thor-  
21      ough consideration to the project's—

22           (1) economic impacts upon other United States  
23      ports in the same region; and

24           (2) cumulative environmental impacts within  
25      the region.

1 (c) REGIONS.—The regions referred to in subsection  
2 (b) are the North Atlantic, South Atlantic, Great Lakes,  
3 Gulf of Mexico, South Pacific, and North Pacific regions  
4 of the United States.

5 **SEC. 9. REDUCTION OF THE CONSTRUCTION BACKLOG.**

6 Section 1001 of the Water Resources Development  
7 Act of 1986 (33 U.S.C. 579a) is amended to read as fol-  
8 lows:

9 **“SEC. 1001. PROJECT DEAUTHORIZATIONS.**

10 **“(a) INACTIVE PROJECTS.—**

11 **“(1) LIST.—**The Secretary shall transmit annu-  
12 ally to Congress a list of inactive projects.

13 **“(2) DEAUTHORIZATION.—**Any inactive project  
14 shall not be authorized after the last day of the 1-  
15 year period beginning on the date of transmittal of  
16 the list under paragraph (1) that includes such  
17 project unless Congress takes action to reauthorize  
18 the project or separable element during such 1-year  
19 period.

20 **“(3) DEFINITION.—**In this subsection, the term  
21 ‘inactive project’ means a project or a separate ele-  
22 ment of a project that is not economically justified  
23 because costs outweigh projected benefits, no longer  
24 meets current and prospective needs, or is not ac-  
25 tively supported by the non-Federal sponsor.



1 “(b) PROJECTS NEVER UNDER CONSTRUCTION.—

2 “(1) LIST.—The Secretary shall transmit annu-  
3 ally to Congress a list of projects and separable ele-  
4 ments of projects not subject to subsection (a) that  
5 have been authorized for construction, but for which  
6 no funds have been obligated for construction of the  
7 project or separable element during the 4 consec-  
8 tive fiscal years preceding the transmittal of such  
9 list.

10 “(2) DEAUTHORIZATION.—Any water resources  
11 project authorized for construction and any sepa-  
12 rable element of such a project not subject to sub-  
13 section (a) shall not be authorized after the last day  
14 of the 7-year period beginning on the date of the  
15 project or separable element’s most recent authoriza-  
16 tion or reauthorization unless during such period  
17 funds are obligated for construction of the project or  
18 separable element.

19 “(c) PROJECTS WHERE CONSTRUCTION HAS BEEN  
20 SUSPENDED.—

21 “(1) LIST.—The Secretary shall transmit annu-  
22 ally to Congress a list of projects and separable ele-  
23 ments of projects not subject to subsection (a) that  
24 have been authorized for construction, and for which  
25 funds have been obligated for construction of the

1 project or separable element but not during the 2  
2 consecutive fiscal years preceding the date of trans-  
3 mittal of such list.

4 “(2) DEAUTHORIZATION.—Any water resources  
5 project and any separable element of such a project  
6 not subject to subsection (a) for which funds have  
7 been obligated for construction of the project or sep-  
8 arable element shall not be authorized if funds ap-  
9 propriated specifically for construction of the project  
10 or separable element (either in statute or in the ac-  
11 companying legislative report language) are not obli-  
12 gated for construction of the project or separable  
13 element during any 5 consecutive fiscal years subse-  
14 quent to the last fiscal year in which funds were ob-  
15 ligated for construction of the project.

16 “(d) CONGRESSIONAL NOTIFICATIONS.—Upon trans-  
17 mission of a list under subsection (a), (b), or (c), the Sec-  
18 retary shall notify each Senator in whose State, and each  
19 Member of the House of Representatives in whose district,  
20 a project or separable element on the list is or would be  
21 located.

22 “(e) FINAL DEAUTHORIZATION LIST.—The Sec-  
23 retary shall publish annually in the Federal Register a list  
24 of all projects or separable elements deauthorized under  
25 subsections (a), (b), and (c).

1 “(f) DEFINITIONS.—

2 “(1) CONSTRUCTION OF THE PROJECT OR SEP-  
3 ARABLE ELEMENT.—In this section, the term ‘con-  
4 struction of a project or separable element of a  
5 project’ means—

6 “(A) as used with respect to a non-  
7 structural flood control project, the acquisition  
8 of lands, easements, and rights-of-way primarily  
9 to relocate structures or the performance of  
10 physical work under a construction contract for  
11 other nonstructural measures;

12 “(B) as used with respect to an environ-  
13 mental protection and restoration project, the  
14 acquisition of lands, easements, and rights-of-  
15 way primarily to facilitate the restoration of  
16 wetlands or similar habitats or the performance  
17 of physical work under a construction contract  
18 to modify existing project facilities or to con-  
19 struct new environmental protection and res-  
20 toration measures; and

21 “(C) as used with respect to any water re-  
22 sources project that is not described in subpara-  
23 graph (A) or (B) or both, the performance of  
24 physical work under a construction contract.

1           “(2) PHYSICAL WORK UNDER A CONSTRUCTION  
 2           CONTRACT.—As used in this subsection, in no case  
 3           shall the term ‘physical work under a construction  
 4           contract’ include activities related to project plan-  
 5           ning, engineering and design, relocation, or the ac-  
 6           quisition of lands, easements, and rights-of-way.”.

7   **SEC. 10. COST-SHARING.**

8           (a) FLOOD DAMAGE REDUCTION.—Subsections (a)  
 9           and (b) of section 103 of the Water Resources Develop-  
 10          ment Act of 1986 (33 U.S.C. 2213(a) and (b)) are each  
 11          amended by striking “35” and inserting “50”.

12          (b) INLAND WATERWAYS CONSTRUCTION.—Section  
 13          102(a) of the Water Resources Development Act of 1986  
 14          (33 U.S.C. 2212(a)) is amended—

15               (1) by striking “One-half of the costs of con-  
 16               struction” and inserting “Forty-five percent of the  
 17               costs of construction”; and

18               (2) by striking “One-half of such costs shall be  
 19               paid only from amounts appropriated from the In-  
 20               land Waterways Trust Fund.” and inserting “Forty-  
 21               five percent of such costs shall be paid only from  
 22               amounts appropriated from the Inland Waterways  
 23               Trust Fund. Ten percent of such costs shall be paid  
 24               by non-Federal cost-sharing partners and or the af-  
 25               fected States.”.

1       (c) INLAND WATERWAYS OPERATIONS AND MAINTENANCE.—Section 102(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(b)) is amended by  
2       striking “100 percent” and inserting “87.5 percent. 12.5  
3       percent of the costs of operation and maintenance shall  
4       be paid only from amounts appropriated from the Inland  
5       Waterway Trust Fund.”.

6       (d) BEACH REPLACEMENT.—Section 103(d)(2) of  
7       the Water Resources Development Act of 1986 (33 U.S.C.  
8       2213(d)(2)) is amended by striking subparagraph (A) and  
9       inserting the following:

10               “(A) IN GENERAL.—In the case of a  
11               project authorized for construction after De-  
12               cember 31, 1999, or for which a feasibility  
13               study is completed after that date, the non-Fed-  
14               eral cost of the periodic nourishment of the  
15               project or any measure for shore protection or  
16               beach erosion control for the project shall be 65  
17               percent.”.

18               ○