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WATER RESOURCES DEVELOPMENT ACT OF 2013

APRIL 22, 2013.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 601]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 601) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

In 1986, a House-Senate Conference Committee produced a Conference Report (H. Rpt. 99–1013), passed by the House and Senate and signed into law on November 17, 1986, that was the largest and most comprehensive authorization of projects and programs for the Army Corps' Civil Works Program since the Senate Public Works Committee was created in 1947. The Water Resources Development Act of 1986 (WRDA) authorized numerous projects and resolved longstanding disputes relating to cost sharing, user fees, and environmental requirements.

Some of the major reforms included in the Water Resources Development Act of 1986 and subsequent legislation are listed below:

Cost-sharing formulas were established for harbor dredging (section 101), inland navigation (section 102), flood control, hydroelectric power, water supply, recreation, hurricane and storm damage reduction, and aquatic plant control (section 103). Ecosystem Restoration was added to section 103 in 1996. Project Cooperation

Agreements were required for all such projects. Projects for mitigation of fish and wildlife resources were allowed to be carried out at up to 100 percent Federal expense under section 906 and modifications of Army Corps of Engineers (Corps) projects in the interest of environmental quality were authorized to be carried out at 75 percent Federal expense under section 1135. The Water Resources Development Act of 1996 extended harbor cost sharing formulas to dredged material disposal facilities, increased the non-Federal cost share for flood control, and established cost sharing for environmental protection and restoration.

The Harbor Maintenance Trust Fund, capitalized by a new Harbor Maintenance Tax, was established in the 1986 Act to pay 40 percent of the Federal cost of maintaining authorized deep draft navigation channels (sections 210, 1402, and 1403). The tax that supports the trust fund was subsequently increased and authorized to provide for 100 percent of the cost under the Revenue Reconciliation Act of 1990 and the Water Resources Development Act of 1990.

These policy changes applied to projects contained in the Water Resources Development Acts of 1988 (Public Law 100–676); 1990 (Public Law 101–640); 1992 (Public Law 102–580); 1996 (Public Law 104–303); 1999 (Public Law 106–53); 2000 (Public Law 106–541); and 2007 (Public Law 110–114).

In approving the Water Resources Development Act of 2013, the Committee is adhering to the principles for cost-sharing and related policies established in the Water Resources Development Act of 1986 (P.L. 99–662) and continued in the civil works program of the Army Corps of Engineers.

This bill includes authorization for new projects for navigation, flood and coastal storm damage reduction, and ecosystem restoration which have undergone extensive review and for which a completed report of the Chief of Engineers has been submitted to Congress by the Assistant Secretary of the Army for Civil Works. The legislation also creates a Commission to identify existing projects for deauthorization.

The legislation contains important reforms to increase flexibility for non-Federal sponsors of Corps projects and accelerate project delivery. The legislation also addresses the growing surplus of funds in the Harbor Maintenance Trust Fund by ensuring all revenues will be spent for port maintenance without impacting other important Corps of Engineers projects. The legislation establishes a 5-year innovative project financing pilot program to provide loans and loan guarantees for important flood control, water supply, and wastewater projects.

OBJECTIVES OF THE LEGISLATION

The Water Resources Development Act of 2013 authorizes water resources projects related to flood and storm risk reduction, coastal and inland navigation, and ecosystem restoration and reforms water resources policies of the U.S. Army Corps of Engineers.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; Table of contents

Section 1 states that the Act may be cited as the "Water Resources Development Act of 2013" and includes a Table of Contents.

Sec. 2. Definition of Secretary

Section 2 defines the term "Secretary" for the purposes of the Act as the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

Sec. 1001. Purposes

Section 1001 describes the purposes of Title I, which include authorizing projects that have a completed report of the Chief of Engineers, and have been recommended to Congress for authorization by the Assistant Secretary of Army for Civil Works and authorizing the Secretary to request an increase in an authorization for an existing project after submitting a report on the need for increased authorization to Congress.

Sec. 1002. Project authorizations

Section 1002 provides authority for the Secretary to carry out projects for water resources development, conservation, and other purposes substantially in accordance with the plans recommended to Congress. Projects authorized for construction under this section must have a completed report of the Chief of Engineers that has been referred to Congress by the Assistant Secretary of Army for Civil Works by the date of enactment of this Act.

Sec. 1003. Project review

Section 1003 authorizes the Secretary to modify the cost of an authorized project that is subject to the cost limitations of section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280). Modification to authorized project costs can occur after the Secretary has submitted to Congress the required certification and additional information required in this section and the Congress has appropriated funds to initiate or continue construction of the project in an appropriations or other Act. This section allows for modification of authorized costs of projects which have not yet initiated construction and projects that are already under construction. For projects under construction, the Secretary must certify that a temporary stop or delay resulting from a failure to increase the authorized cost of the project will increase costs to the Federal government and the amount requested for the project in the President's budget or a work plan for expenditure of funds will exceed the authorized cost of the project.

TITLE II—WATER RESOURCES POLICY REFORMS

Sec. 2001. Purposes

Section 2001 identifies the purposes of Title II including, reforming the implementation of water resources projects by the Corps of

Engineers and making other technical changes to the water resources policy of the Corps.

Sec. 2002. Safety assurance review

Section 2002 amends section 2035 of WRDA 2007 to clarify that the panels established to conduct safety assurance reviews are not subject to the Federal Advisory Committee Act.

Sec. 2003. Continuing authority programs

The Corps manages multiple "Continuing Authority Programs", which allow for the planning and construction of small projects without additional authorization from Congress. These programs address flood control, navigation, and ecosystem restoration needs. Currently, these programs have varying authorization levels and per project limitations. Many of these limits have not been updated in many years. Section 2003 increases the program authorization levels and raises the per project limits to accommodate for increased project costs.

Section 2003 also clarifies the cost-share for projects authorized in WRDA 2007 for the beneficial use of dredge material.

Sec. 2004. Continuing authority program prioritization

Section 2004 is intended to provide additional transparency in the implementation of the Corps' continuing authority programs. Specifically, this section requires the Secretary to publish in the Federal Register and on a publicly available website the criteria used for prioritizing annual funding for continuing authority program projects. The Secretary is also required to publish an annual report on the status of each continuing authority program, including the name and a short description of each active continuing authority project, a cost estimate to complete each project, and the funding available in that fiscal year for each program. The Secretary must provide the prioritization criteria and annual report to Congress.

Sec. 2005. Fish and wildlife mitigation

Section 2005 makes clarifying changes to section 906 of WRDA 1986, as amended by WRDA 2007.

Subsection (a) amends paragraph "(d)(1)" to conform the mitigation requirements contained in section 906 to the Corps' policy guidance. Current Corps policy requires mitigation for impacts to ecological resources, including both aquatic and terrestrial resources.

The amendments to paragraph "(d)(1)" also clarify that the determination of whether a proposed project will have negligible adverse impacts on fish and wildlife is to be made without consideration of proposed mitigation. Section 906 of WRDA 1986 requires that any proposal for authorization of a water resources project must contain either a specific plan to mitigate fish and wildlife losses created by such project or a determination that the project will have negligible adverse impact on fish and wildlife. Section 906 does not require a mitigation plan such that only non-negligible impacts remain. Section 906 requires that every water resources project contain either, "(A) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (B) a determination

by the Secretary that such project will have negligible adverse impact on fish and wildlife."

Subsection (a) amends Section 906 to require that a report to Congress recommending a project for authorization include a detailed justification any time the Secretary does not mitigate to in-kind conditions. Currently, section 906 requires that mitigation to in-kind conditions occur for bottomland hardwood forests and requires that "other habitat types are mitigated to not less than in-kind conditions, to the extent possible". It should be presumed that mitigation to in-kind conditions is possible for other habitat types unless clearly demonstrated otherwise. Such a justification must be included in the report recommending authorization of the project.

Subsection (a) also amends paragraph "(d)(3)" to clarify that the requirement that mitigation plans for Corps projects comply with mitigation requirements under the regulatory programs administered by the Secretary is a minimum requirement. This conforms to Corps policies to include a broader analysis of ecological impacts, not only aquatic impacts, in developing mitigation plans.

Subsection (a) modifies the requirement in clause "(d)(3)(B)(iii)" that the Secretary identify the land or interest in land that will be acquired to implement the mitigation plan. The amendments require that the Secretary determine that the interest in land to be acquired does not exceed the minimum interest in land necessary to meet mitigation requirements. For example, the Secretary shall consider if a permanent easement is sufficient to meet mitigation requirements instead of fee title acquisition.

In addition, subsection (a) adds a new clause "(iv)", which establishes alternate requirements for information that must be provided when third party mitigation arrangements, such as mitigation banks and in-lieu fee programs, will be used.

Subsection (a) adds a new subsection "(h)" authorizing the Secretary to develop programmatic mitigation plans or use qualified mitigation plans developed by other entities pursuant to paragraph "(3)". Paragraph "(2)" requires that the Secretary, to the maximum extent practicable, shall use programmatic mitigation plans to guide the development of a mitigation plan under subsection "(d)'". This provision is intended to encourage mitigation for water resources projects that results in broader ecosystem benefits and complements other ongoing Federal, state, and local conservation and restoration actions.

Paragraph "(4)" outlines the scope of programmatic mitigation plans, which should be designed to mitigate current or future impacts; be developed on a regional, ecosystem, watershed, or statewide scale; encompass multiple environmental resources within a specific area or focus on a specific resource; and address impacts of multiple projects within the defined area or impacting the specific resource.

Paragraph "(5)" requires that plans be developed in consultation with state and Federal agencies with jurisdiction over the resources being addressed. Paragraph "(6)" outlines the contents of programmatic mitigation plans. Paragraph "(7)" requires public comment on plans developed by the Secretary and non-Federal entities and requires the Secretary to determine whether plans developed by non-Federal entities meet the requirements of paragraphs "(4)" through "(6)". Paragraph "(8)" encourages integration of pro-

grammatic mitigation plans with other plans, including watershed, ecosystem, species recovery, growth management, and land use plans. Paragraph "(9)" authorizes other Federal agencies to use programmatic mitigation plans developed under this subsection in carrying out reviews of a water resources project. Paragraph "(10)" clarifies that nothing in this subsection limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969.

Subsection (a) adds a new subsection "(i)" which clarifies that the Secretary may use third party mitigation arrangements, such as mitigation banks and in-lieu fee programs, to meet the mitigation requirements of this section. Such mitigation can take place concurrent with or in advance of funding for a project. At the request of a non-Federal interest, preference may be given to use of these mitigation arrangements.

Subsection (a) adds a new subsection "(j)" which gives the Secretary the authority to use funds made available for preconstruction engineering and design prior to project authorization to acquire interests in land necessary for meeting mitigation requirements.

Subsection (b) clarifies that the amendments made by subsection (a) shall not apply to a project for which a mitigation plan has not been completed as of the date of enactment.

Subsection (c) authorizes the Secretary to provide technical assistance to States and local governments to establish third-party mitigation instruments to target mitigation payments to high-priority ecosystem restoration actions. Priority shall be given to States and local governments with State, regional, or watershed-based plans identifying priority restoration actions.

Sec. 2006. Mitigation status report

Section 2006 amends section 2036(b) of WRDA 2007. Section 2036 requires an annual report to the committees of jurisdiction on the status of mitigation required for projects of the Corps. The report is also to include information on the required consultations among the Corps, Federal agencies, and the States on the success of mitigation efforts.

The quality of information provided in the annual reports has improved since the initial reports were provided in 2008 and 2009. In the initial reports, the Corps acknowledged that "there are different methodologies utilized by Corps districts to calculate percent of mitigation complete." Subsequent reports have appeared to use a more consistent methodology. In future reports, the Committee encourages the Corps to include a more detailed explanation of the methodology used to evaluate the percent of mitigation complete.

This section ensures that the Corps continues to use the best practices in evaluating and reporting on its mitigation activities. Specifically, this section requires the Corps to use uniform methods for determining mitigation status that include both qualitative and quantitative analysis. This section also requires that the status report include the specific dates and participants in consultation meetings required under section 906(d)(4)(B) of WRDA 1986.

Sec. 2007. Independent peer review

Section 2007 amends section 2034 of WRDA 2007 to increase transparency in the independent review process, and make adjustments based on experience to date.

Subsection (a) adds a new paragraph to section 2034(b) to increase public disclosure concerning the decision of the Chief of Engineers to not conduct an independent review. Section 2034 requires independent reviews of certain types of project studies. To date, the Corps has shown a tendency to have independent review occur late in the study process for draft feasibility reports.

Section 2034 allows the Chief of Engineers wide discretion in when to conduct the review, but to avoid issues arising for the first time at the end of the study process, Congress included language calling for the Chief to make a determination as to whether to conduct an independent review at three specific times during the study. These times are: (1) when the without-project conditions are identified (status quo); (2) when the array of alternatives to be considered is identified (i.e., what options will the Corps explore); and (3) when the preferred alternative is identified (i.e., the likely recommended project). The implementing guidance for section 2034 does not include these references. The result can be that review comes too late in the process. The Committee intends that by requiring public disclosure of the reasons for not conducting a review at the three decision points required by law, the decision to conduct or delay review until a time later in the study process will be a deliberative one, rather than one by default.

Subsection (b) is intended to increase transparency in the process. Section 2034(c) currently requires the Chief of Engineers to notify the committees of jurisdiction of an upcoming review prior to initiating the review. The intent of the requirement was to ensure that Congressional supporters of the study under review were aware of the review, and that information could be publicly disclosed. The amendment proposed by subsection (b) reinforces the requirement that the committees of jurisdiction be notified of upcoming reviews being conducted under section 2034. In addition, the Chief of Engineers would be required to make publicly available, including on the Internet, information on the upcoming review.

Subsection (c) adds transparency requirements for review documents after they are completed. The Corps currently does not routinely make completed independent review documents publicly available. Subsection (c) amends section 2034 to require the completed reviews to be provided to the committees of jurisdiction and the public, including on the Internet, within seven days of the Chief of Engineers receiving the report. Any responses to the review are subject to a three-day availability requirement.

Sec. 2008. Operation and maintenance of navigation and hydroelectric facilities

Section 2008 amends section 314 of the Water Resources Development Act of 1990 (P.L. 101–640) (WRDA 1990) to designate all activities performed by personnel under the direction of the Secretary in connection with the operation and maintenance of navigation projects or navigational infrastructure, including floodgates, locks, and dams, at Corps water resources projects, as inherently

governmental functions. Section 2008 includes an "Exclusion" provision stating that the section shall not apply to those navigation facilities that have been or currently are under contract with a non-Federal interest to provide operations and maintenance as of the date of enactment.

The Committee recognizes the importance of the nation's 12,000 miles of commercially navigable channels across the United States to its economy, homeland security, and national security. Any accident or incident at a lock or dam structure on the nation's inland system could seriously jeopardize the nation's economy or its ability to quickly respond to threats to homeland or national security. This provision is intended to preserve the operation of these vital transportation corridors.

Sec. 2009. Hydropower at Corps of Engineers facilities

In April 2012, the Oak Ridge National Laboratory of the Department of Energy released a report finding that adding hydroelectric power to the non-powered dams of the United States has the potential to add more than 12 gigawatts of new generating capacity. Of the 50 non-powered dams identified by the Oak Ridge Lab as having the highest hydroelectric power potential, 48 are Corps civil works projects.

Because of the findings of the Oak Ridge Report, the Committee believes the Secretary should seek to maximize opportunities to expand the implementation of non-Federal hydropower at Corps facilities. This section directs the Secretary to submit a report to Congress not later than one year after enactment and annually thereafter that includes a description of the activities carried out by the Secretary to encourage the development of hydroelectric power at Corps civil works projects and a list of new hydroelectric power activities by non-Federal entities at Corps civil works projects.

Sec. 2010. Clarification of work-in-kind credit authority

Section 2010 makes a technical correction to that allows the sharing of non-Federal credits across all projects included under the ecosystem restoration program in Title VII of WRDA 2007. This section also clarifies that the costs of land, easements, rights-of-way, relocations, and dredged material disposal areas that are in excess of the non-Federal cost-share for a project may be applied to another study, program, or project.

Sec. 2011. Transfer of excess work-in-kind credit

Section 2011 authorizes the Corps to enter into agreements with non-Federal sponsors to transfer credits in excess of the non-Federal cost-share to other eligible projects. All credit received or transferred under this subsection must comply with the requirements of section 221 of the Flood Control Act of 1970 (P.L. 91–611), including the requirement to sign a written agreement prior to proceeding with any construction work for credit and the requirement that any work carried out be determined to be integral to the project.

To be eligible to transfer credit under this section, a non-Federal interest must submit a comprehensive plan to the Secretary that identifies the studies and projects for which the non-Federal inter-

est intends to provide in-kind contributions in excess of the cost-share and the studies and projects to which credit would be applied. The Secretary must approve any credit awarded pursuant to the requirements of section 221 of the Flood Control Act of 1970, the Secretary must then approve the transfer of any eligible credit, and the total amount of credit applied cannot exceed the total non-Federal share for all projects identified in the comprehensive plan. This section establishes criteria for evaluating requests to transfer credits. The authority provided in this section terminates in ten years. The Secretary is directed to provide to Congress interim and final reports on the use of this authority.

Sec. 2012. Credit for in-kind contributions

Section 2012 amends section 221 of the Flood Control Act of 1970 (P.L. 91–611) (1970 Act) to clarify language that was added to that section by WRDA 2007. Section 2003 of WRDA 2007 amended section 221 of the 1970 Act to provide general authority to the Secretary to provide credit for work undertaken by non-Federal interests without project-specific legislative authority. In providing the credit, certain conditions of eligibility would need to be met.

This amendment addresses issues with the implementation of the amendments included in WRDA 2007. In addition, these amendments clarify the process for approving credit under section 221. However, these amendments do not modify any requirement for a non-Federal interest to enter into a written agreement with the Secretary prior to carrying out any work or any requirement that the work carried out must ultimately be determined to be integral to the project by the Secretary.

Subsection (a) amends section 221(a)(4).

Paragraph (1) clarifies that environmental infrastructure projects and programs are subject to the crediting provisions of section 221.

Paragraph (2) makes clear that planning activities are eligible for credit under this section and that any design work that is carried out for construction work that is to receive credit pursuant to a written agreement under subparagraph (A) is also eligible for credit.

Paragraph (5) clarifies that construction carried out by the non-Federal interests pursuant to a written agreement shall not count against the future without project condition for the purposes of calculating the benefits and costs of the project. This paragraph also allows that in-kind contributions that exceed the non-Federal interest's cost-share for an authorized separable element may be applied toward the non-Federal cost share for a different authorized separable element. Paragraph (5) also authorizes the Secretary to reimburse the non-Federal interest for costs that exceed the non-Federal cost-share requirements if the excess costs are incurred for work carried out pursuant to a written agreement and are a result of the requirement that the non-Federal sponsor provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations for the authorized project under this section.

Paragraph (6) clarifies the relationship between the amendments made to the general Section 221 crediting authority included in WRDA 2007 and specific crediting provisions also included in WRDA 2007. In the years prior to WRDA 2007, the Committee received an increasing number of requests from non-Federal interests

for credit for work undertaken by the non-Federal interest and associated with a Federal project. In the absence of a general authority, the Committee was accommodating these requests by individual provisions in WRDA bills.

To accommodate both the general provision being added to section 221 and the project-specific provisions in the Act, WRDA 2007 included language that allowed the project-specific provision to apply rather than the general provision. Subsequent implementation of amended section 221 by the Corps has resulted in consequences contrary to the intent of the amendment. For example, where the project language allows for credit for work done prior to the date of enactment of the Act, the Corps interpreted the current language in section 221 to preclude credit for any work undertaken following the date of enactment of WRDA 2007.

Paragraph (6) authorizes the Secretary to apply the provisions of section 221 to eligible work carried out by a non-Federal interest even if a specific provision of law allows for credit for work undertaken prior to the execution of the project partnership agreement. Moreover, if the non-Federal interest seeks to conduct additional work beyond the scope of the project specific credit language and with the intent of receiving credit, the Secretary is to give credit to the non-Federal sponsor using the general credit authority in section 221.

Subsection (b) clarifies that activities to correct design deficiencies are eligible for credit.

Subsection (c) establishes the effective date of subsections (a) and (b) as November 8, 2007.

Subsection (d) directs the Secretary to update any guidance or regulations for carrying out section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C.1962d–5b(a)(4). This subsection requires that at a minimum, the new or updated guidelines will include the milestone for executing the memorandum of understanding for construction by the non-federal interest; criteria and procedures for evaluating a request to execute an in-kind memorandum of understanding for construction by a non-Federal interest that is earlier than the milestone under subparagraph (A) for that execution; and criteria and procedures for determining whether work carried out by a non-Federal interest is integral to a project.

Subsection (e) clarifies that nothing in section 221 (a)(4) as amended by this section affects any eligibility for credit under section 104 of the Water Resources Development Act of 1986 (33 U.S.C. 2214) that was approved by the Secretary prior to the date of enactment of this Act.

Sec. 2013. Credit in lieu of reimbursement

Section 2013 amends section 211(e)(2) of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13(e)(2)) to authorize the Secretary to provide the non-Federal interest of a flood damage reduction project credit in lieu of reimbursement owed to the non-Federal interest for work carried out prior to the date of enactment.

Sec. 2014. Dam optimization

The Corps operates more than 600 dams and other water control structures around the country. The operation of many of these

structures is subject to outdated plans that do not efficiently balance all needs of these reservoirs (e.g., flood control, water supply, environmental restoration, and recreation). Updating the operation plans for these dams and reservoirs could have significant benefits for the environment as well as the authorized project purposes. Section 2014 establishes a program to evaluate and update operation and management of Corps facilities to more efficiently meet all project needs.

Activities carried out under this program shall only be those activities that the Secretary is otherwise authorized to carry out under other laws, and any activity must be carried out in compliance with other laws. Further, this section clarifies that an activity carried out under this section does not supersede or modify existing agreements, including agreements for water supply at Corps facilities.

In carrying out activities under this section, the Secretary is directed to coordinate with appropriate Federal, state, and local agencies and public and private entities that could be impacted as well as affected non-Federal interests. The Committee directs the Secretary to consult with all affected interests, including non-Federal entities responsible for operations and maintenance costs of a Corps facility, affected water rights holders, individuals and entities with storage entitlements, and local agencies with flood control responsibilities downstream of a Corps facility.

Sec. 2015. Water supply

The Water Supply Act of 1958 (WSA), 43 U.S.C. § 390b, provides that municipal and industrial water supply is the "primary responsibilit[y] of the States and local interests," and that Congress must approve adding water supply storage under the WSA if it would "seriously affect" a reservoir's purposes or involve a "major operational change." These terms were not defined in the WSA.

Section 2015 clarifies the WSA in two ways. First, it amends 43 U.S.C. § 390b to require federal agencies to consider new WSA allocations "cumulatively" with all previous such allocations at the reservoir. This is intended to prevent federal agencies from circumventing the intent of the WSA through gradual allocations.

Second, it clarifies the WSA by adding a threshold when congressional approval is required. Under Section 2015, Congress would be required to authorize modification that provides storage for municipal or industrial water supply at a reservoir project that "involve an allocation or reallocation of storage that is equal to or exceeds 5 percent of the conservation storage pool of the project."

These limits do not constrain water supply uses otherwise authorized through project-specific legislation.

Sec. 2016. Report on water storage pricing formulas

Ongoing droughts in many areas of the United States have resulted in communities looking for ways to enhance their water storage on Corps reservoirs to maintain reliable supplies of water. As a result of this additional need for water supply, water storage pricing formulas should be equitable between users. Section 2016 directs the Comptroller General of the United States to conduct an assessment of the water supply pricing formulas of the Corps.

Sec. 2017. Clarification of previously authorized work

Section 2017 clarifies the Secretary's authority to carry out measures to improve fish species habitat within the footprint and downstream of a water resources project constructed by the Secretary that includes a fish hatchery. The Secretary must determine the project has been explicitly authorized to compensate for fish losses associated with the project and that the measures are feasible, consistent with authorized project purposes and the fish hatchery, and in the public interest.

Sec. 2018. Consideration of Federal land in feasibility studies

Section 2018 directs the Secretary, at the request of the non-federal sponsor, to include in a feasibility analysis any federal lands that fall in the geographic scope of a regional or watershed study.

Sec. 2019. Planning assistance to States

The Planning Assistance to States program authorizes the Corps to work with state and local governments on comprehensive water resources planning activities and to provide technical assistance for such efforts. The small but effective program has been used widely across the country. Section 2019 would increase the authorized size of the program, authorize the Corps to accept contributed funds, modify the cost-share for technical assistance, and clarify that the Corps can work with States and other stakeholders on comprehensive efforts to address water resources and environmental challenges.

Sec. 2020. Vegetation management policy

The Committee is concerned that initial proposals related to the Corps' vegetation management policy failed to consider stakeholder concerns, accommodate for regional variation, and consider the latest scientific information on vegetation impacts on levees. Section 2020 requires the Secretary to undertake a comprehensive review of the Corps policy guidelines on vegetation management for levees. The review is required to seek public input and seek peer review through the National Academy of Engineering. The Secretary is directed to consider regional and watershed variances based on a variety of factors including soil conditions, hydrology, environmental resources, and levee performance history.

The Secretary must revise the vegetation management guidelines not later than two years after the date of enactment of this Act.

Sec. 2021. Levee certifications

Secion 2021(a) requires the Secretary to conduct certain activities in implementing section 100226 of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101 note; 126 Stat. 942). Specifically, the Secretary shall—

1. ensure that at least 1 program activity carried out under the inspection of completed works program of the Corps provides adequate information to the Secretary to reach a levee accreditation decision for each requirement under section 65.10 of title 44, Code of Federal Regulations (or successor regulation); and

2. to the maximum extent practicable, carry out activities under the inspection of completed works program of the Corps

in alignment with the schedule established for the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 40117 et seq.).

Section 2021(b) authorizes the Secretary, on receipt of a request from a non-Federal interest, to carry out a levee system evaluation and certification of a federally authorized levee for purposes of the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) if the evaluation and certification will be carried out earlier than such an evaluation and certification would be carried out under subsection (a). The cost share for activities carried out under this subsection will be 65 percent federal: 35 percent non-federal. The section does allow the Secretary to adjust the non-Federal share of the cost of carrying out a levee system evaluation and certification under this subsection in accordance with section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)).

Sec. 2022. Restoration of flood and hurricane storm damage reduction projects

Section 2022 directs the Secretary to carry out any measure necessary to restore components of authorized and constructed flood and hurricane storm damage reduction projects to the authorized level of protection for reasons including settlement, subsidence, sea-level rise, and new datum, if the Secretary determines the necessary work is feasible.

The Committee is aware of the engineering challenges faced by the Corps in flood-prone coastal zones and encourages the Secretary to expeditiously address flood and hurricane storm damage reduction projects susceptible to changing soil and hydrologic factors that will result in the decertifying of levees or flood protection systems under the National Flood Insurance Program.

The Committee believes that necessary measures may include, but are not limited to, increasing the height of a levee as a viable engineering alternative for providing armoring in certain locations.

Sec. 2023. Operation and maintenance of certain projects

Section 2023 authorizes the Secretary to assume operation and maintenance of a navigation channel that is deepened by a non-Federal interest prior to December 31, 2012 if the Secretary determines that—the requirements of section 204(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(f)) have been met; the activities carried out by the non-Federal interest in deepening the channel are economically justified and environmentally acceptable; and the activities were carried out on an authorized channel existing as of the date of enactment.

Sec. 2024. Dredging study

Section 2024 directs the Secretary, in conjunction with other relevant Federal agencies and applicable non-Federal interests, to conduct a study of international and domestic dredging technologies and management approaches to improve the efficiency and effectiveness of dredging in the United States.

Specifically, the Secretary is directed to establish a study team to assist in planning, carrying out, and reporting on the results of the study. The teams would be appointed by the Secretary to rep-

resent a broad spectrum of experts in the field of dredging and representatives of relevant State agencies and relevant non-Federal interests.

The Secretary is directed to submit a detailed report on the results of the study to Congress and make publically available, including on the Internet, all study findings under this section.

Sec. 2025. Non-Federal project implementation pilot program

Section 2025 directs the Secretary to establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out flood risk management, hurricane and storm damage reduction, and coastal harbor and channel and inland harbor navigation projects.

In carrying out this section, the Secretary is directed to identify not more than 12 projects that (1) have received Federal funds prior to the date of enactment, (2) have more than 2 consecutive years of unobligated funding balances in the Corps construction account, and (3) are located in each of the divisions of the Corps.

This section also directs the Secretary, in collaboration with the non-Federal interest, to develop a detailed project management plan and enter into a project partnership agreement with the non-Federal interest for the non-Federal interest to provide full project management control for construction of the project or separable element in accordance with plans approved by the Secretary. Upon execution of the project partnership agreement, the Secretary is directed to transfer the balance of the unobligated amounts appropriated for the projects as well as additional appropriated amounts made available. At the request of the non-Federal interest, the Secretary may provide technical assistance relating to any study, engineering activity, and design activity for construction carried out by the non-Federal interest under this section. Nothing in this section affects the cost share requirements applicable on the date of enactment of this act to a project carried out under this section.

The Secretary is directed to submit a report to Congress detailing the results of the pilot program carried out under this section, including progress of the non-Federal interests in meeting milestones in detailed project schedules and any recommendations for national implementation of the program.

Sec. 2026. Non-Federal implementation of feasibility studies

Section 2026 directs the Secretary to establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out feasibility studies for flood risk management, hurricane and storm damage reduction, ecosystem restoration, and coastal harbor and channel and inland harbor navigation.

This section authorizes the Secretary to enter into an agreement with the non-Federal interest for the non-Federal interest to provide full project management control of a feasibility study. A non-Federal interest that has entered into such an agreement to assume management of a feasibility study may use non-Federal funds to carry out the study.

This section directs the Secretary to credit towards the non-Federal share of the cost of construction of a project for which a feasibility study is carried out under this section an amount equal to

the portion of the cost of developing the study that would have been the responsibility of the Secretary, if the study were to be carry out by the Secretary, subject to the conditions that (1) non-Federal funds were used to carry out the activities that would have been the responsibility of the Secretary, (2) the Secretary determines that the feasibility study complies with all applicable Federal laws and regulations, and (3) the project is authorized by any provision of Federal law enacted after the date on which a study agreement is entered into.

This section authorizes the Secretary to transfer to the non-Federal interest to carry out the feasibility the balance of any unobligated amounts appropriated for the study, except that the Secretary could retain sufficient amounts for the Corps to carry out any responsibilities of the Corps relating to the project and additional amounts, as determined by the Secretary, from amounts made available from appropriations for this authority.

Sec. 2027. Tribal Partnership Program

Section 2027 requires the Corps to issue guidance on cost-sharing procedures for the Corps' Tribal Partnership Program. This section also extends the program until 2023.

Sec. 2028. Cooperative agreements with Columbia River Basin Indian tribes

Section 2028 authorizes the Secretary to enter into cooperative agreements with one or more federally recognized Indian tribes that are located in whole or in part within the boundaries of the Columbia River basin to carry out authorized activities within the Columbia River basin to protect fish, wildlife, water quality and cultural resources.

Sec. 2029. Military munitions response actions at civil works shoreline protection projects

This section authorizes the Secretary to implement response activities at a site where the Secretary has carried out a project under the Corps civil works authority that includes placing sand on a beach and resulted in military munitions from the Department of Defense being deposited on the beach, posing a threat to human health or the environment.

Sec. 2030. Beach nourishment

Section 2030 modifies the Secretary's authority to provide periodic beach nourishment for authorized projects by authorizing the Secretary to review the feasibility of extending periodic nourishment beyond the current 50-year limit by a period of not to exceed 15 years.

Sec. 2031. Regional sediment management

Section 2031 amends Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), as amended by the Water Resources Development Act of 2007 (P.L. 110–114), to enhance the Corps' authority to engage in the regional planning and implementation of water resources projects including navigation, storm protection, and environmental restoration. The Committee recognizes that the establishment and implementation of Regional Sediment

Management Plans in cooperation with non-Federal interests can improve the management of water resource projects and that greater flexibility in developing and carrying out these plans can further improve outcomes.

This section enhances the authority of Federal and non-Federal agencies to cooperatively plan and implement the management of such water resource projects across levels of government, between various agencies, and across the business lines of the Army Corps. This section provides additional flexibility for the ongoing regional planning and management of these projects to improve the Corps' civil works program, decrease long-term projects costs, conserve sediment, and promote the beneficial use of sediment either obtained from or used in Federal projects.

Paragraph (1) enhances the Secretary's authority to transport and place dredged material for the purpose of carrying out projects at locations identified in regional sediment management plans. It expands this authority to include any Federal project for which sediment is either obtained or deposited. This paragraph also adds several purposes for sediment use related to improving environmental conditions in marshes, littoral systems, stream channels, coasts, and in support of State and local risk management adaptation strategies.

Paragraph (2) authorizes the Secretary to adjust the non-Federal share of the costs of construction of a specific project. If the selection of placement of sediment that is not the least-cost option results in a reduction or avoidance of Federal costs for any other project, the Secretary may adjust the required non-Federal shares to reflect this Federal cost savings.

Paragraph (3) authorizes the Secretary to consider benefits related to flood and storm damage reduction when considering whether the incremental costs of the proposed disposal method are reasonable compared to the least cost option.

Paragraph (4) authorizes the Secretary to cooperate with groups of States in the preparation of sediment management plans and allows for plans that involve multiple States.

Sec. 2032. Study acceleration

Section 2032 codifies the administrative process established by the Corps for completing feasibility studies, known as "3–3–3". The three elements of this process are that feasibility studies will be completed in less than three years; studies will have a maximum Federal share of $3 million; and integrated reviews will take place at all three levels of the Corps (District, Division, Headquarters).

This section allows for certain exceptions to the requirement that studies be completed in three years for less than $3 million in Federal share. These include:

- a determination at the beginning of the study that the study will be too complex to meet the requirements;
- study conditions have changed such that the required timelines and costs cannot be met;
- sufficient appropriations have not been provided to meet the required timelines and costs.

If any of these exceptions are met, the Secretary must notify the non-Federal sponsor. In addition, the Secretary must establish a revised timeline for completion of the feasibility study.

This section requires an annual report to Congress on the implementation of the "3–3–3" planning process.

Sec. 2033. Project acceleration

Section 2033 amends Section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348), which requires a coordinated review process for feasibility studies requiring an Environmental Impact Statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.) (NEPA), including deadlines for completing reviews and approvals of water resources projects and reporting to Congress regarding missed deadlines. The amendments contained in this section establish additional project acceleration measures. New or modified elements are described below.

Definitions

Subsection (a), as amended, defines terms used in this section including the new term "environmental review process", which includes the process of preparing documents under NEPA and the completion of any environmental permit, approval, review, or study required under any Federal law. The coordinated review procedures in Section 2045 of WRDA 2007 also included all reviews, analyses, opinions, permits, licenses, and approvals required of a Federal, State, or local government agency or Tribe.

Applicability

Subsection (c) clarifies that the project development procedures under this section apply to projects initiated after the enactment of this Act.

State and local participation

Subsection (g), as amended, clarifies the role of non-Federal interests and state and local agencies by allowing these entities to serve as joint lead agencies in the environmental review process. This subsection also states that a joint lead agency can prepare documents required for any action or approval of the Secretary if the Corps provides guidance in the preparation of the document, independently evaluates the document, and approves and adopts the document. This authority applies to those documents that the Secretary would prepare for a project under existing law. A document prepared in accordance with this subsection may be used by any Federal agency to the same extent the agency could use the document if it were prepared by another Federal agency.

The Secretary must ensure that the non-Federal interest complies with all design and mitigation commitments included in jointly prepared documents.

Participating agencies

Subsection (h) outlines the role for participating agencies, which include any other Federal or non-Federal agencies that may have an interest in the project, and requires the Corps to identify and invite these agencies to participate in the environmental review process as early as practicable.

This subsection also requires each participating agency to carry out reviews for which it is responsible concurrently and in conjunc-

tion with the required environmental review process for the water resources project.

Programmatic compliance

Subsection (i) requires the Secretary to issue guidance on programmatic approaches to environmental review, which eliminates repetitive discussions, focuses on issues ripe for discussion, and establishes a formal process for coordinating with participating agencies.

Coordinated reviews

Subsection (j) establishes additional procedures for coordinated review of water resources projects, including requiring the Corps to establish a plan for coordinating public and agency participation in the environmental review process, which must also be incorporated into project milestones required under section 905(g)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(g)(2)). The intent of this subsection is to involve relevant agencies in the decision-making process to identify issues for consideration as early as possible so as to avoid delays later in the process.

This subsection requires 60 day public and agency comment periods on draft Environmental Impact Statements and 30 day comment periods on other documents prepared by the lead agency. The Corps may extend the deadline for good cause or establish a different deadline with the concurrence of the non-Federal interest and all participating agencies.

Subjection (j) modifies the WRDA 2007 requirements for Congressional reporting related to missed deadlines by another Federal, State, or local agency, by increasing the frequency of the reporting and requiring additional information.

Nothing in this subsection shall reduce any time period provided for public comment under existing Federal law (including regulations).

Issue identification and resolution

Subsection (k) requires the Corps to make information available to participating agencies as early as practicable in the environmental review process and requires participating agencies to identify issues of concern as early as practicable.

As in subsection (c) of Section 2045 of WRDA 2007, the Secretary may convene all relevant agencies and the non-Federal interest to set deadlines for completion of the environmental review. Subsection (k) provides additional requirements related to setting deadlines, including that the Secretary should convene the agencies not later than 30 days after the close of the public comment period on a draft Environmental Impact Statement and that the Secretary, in setting deadlines, must consult with all relevant agencies and consider a number of factors, such as available financial resources, the size and complexity of the project, and the sensitivity of natural and historical resources that could be impacted.

The Secretary, a non-Federal sponsor, or a participating agency may initiate an issue resolution process to resolve issues that could delay completion of the environmental review process or result in denial of any approvals for the project.

If initiated, the Secretary has 21 days to schedule an issue resolution meeting. If the issue isn't resolved within 30 days of the initial meeting, the Secretary notifies the other agencies that the issue will be elevated and must hold an issue resolution meeting involving the heads of all applicable agencies not later than 30 days after the notification. If the issue is not resolved within 30 days of holding the second issue resolution meeting, the Secretary must refer the issue to the Council on Environmental Quality (CEQ). CEQ must schedule an issue resolution meeting with all affected agencies not later than 30 days after receiving a referral. If an issue is not resolved within 30 days of the issue resolution meeting hosted by CEQ, the matter must be referred to the President for resolution.

The process is not initiated if the agency that missed a deadline certifies it does not have information necessary; significant new information has arisen; or the agency lacks financial resources to complete the review within the timelines; and the agency establishes a new deadline for completion of the review. If an agency certifies it does not have sufficient financial resources, the Inspector General of that agency must conduct an audit of the certification and report to Congress within 90 days.

If agencies' reviews under all laws are not complete by the later of 180 days after the later of the completion of the Record of Decision under the National Environmental Policy Act or 180 days after all necessary requests for approval have been made, $20,000 (for projects requiring an environmental impact statement or environmental assessment) and $10,000 (for projects requiring any other type of review) must be transferred from the head of the agency to the division of the agency responsible for carrying out the review in order to ensure sufficient resources are available to complete the review.

The transfer is not initiated if the agency that missed the deadline certifies it does not have information necessary; significant new information has arisen; or the agency lacks financial resources to complete the review within the timelines. If an agency certifies it does not have sufficient financial resources, the Inspector General of that agency must conduct an audit of the certification and report to Congress within 90 days.

The amount of transfers are limited to 1 percent of the funds available to the applicable agency office per project and 5 percent total per fiscal year.

Performance measurement

Subsection (l) requires the Secretary to establish a program to measure and report on progress made toward expediting the planning and environmental review process.

Memorandum of agreements for early coordination

Subsection (m) requires the Corps to enter into a memorandum of agreement with the Non-Federal interest, State and local governments, and other appropriate entities to carry out early coordination activities, including providing technical assistance.

Limitations

Subsection (n) clarifies that the requirements of all other laws continue to apply to a water resources project. Specifically, nothing in this section preempts, supersedes, amends, modifies, or interferes with—any statutory requirement for seeking public comment; any power, jurisdiction, or authority that a Federal, State, or local government agency, Indian tribe, or non-Federal interest has with respect to a project; any obligation to comply with the National Environmental Policy Act and associated regulations; the reviewability of any final Federal agency action in a Federal or state court; any practice of seeking, considering or responding to public comment; any other provision of law applicable to water resources development projects.

Categorical exclusions

Subsection (o) requires the Secretary to undertake a review of existing categorical exclusions under the National Environmental Policy Act and if new categorical exclusions are identified, to initiate a rulemaking to propose these new categorical exclusions.

Oversight

Subsection (n) requires GAO and Inspector General oversight of the implementation of the provisions of this section.

Sec. 2034. Feasibility studies

Section 2034 amends section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282) to require the Secretary to issue a set of milestones that must be met for all feasibility studies. Each District Engineer must establish a detailed project schedule using the milestones developed by the Secretary for all new feasibility studies as well as feasibility studies that have received funding since October 1, 2009. The District Engineer must submit the schedule to the non-Federal interest for the study. If a deadline in the schedule is missed, the District Engineer must submit a report to the non-Federal interest on why the deadline was missed along with a revised project schedule. These reports must also be made publically available. The Secretary must provide an annual report to Congress listing all detailed project schedules and an explanation of any missed deadlines.

Sec. 2035. Accounting and administrative expenses

Section 2035 directs, at the request of a non-Federal interest, the Secretary to provide to the non-Federal interest a detailed accounting of the Federal expenses associated with a water resources project.

This section further requires the Secretary to contract with the National Academy of Public Administration to conduct a study on the efficiency of the Corps current staff salaries and administrative expense procedures as compared to using a separate administrative expense account. This study must include any recommendations of the National Academy of Public Administration for improvements to the budgeting and administrative processes that will increase the efficiency of the Corps project delivery.

Sec. 2036. Determination of project completion

Section 2036 directs the Secretary to transfer to the non-Federal interest the responsibility for the operation and maintenance of any water resources project for which operation and maintenance is required of the non-Federal interest or separable element or functional portion of that water resources project on such date that the Secretary determines that the project is complete.

This section would also establish a process for the non-Federal interest of a project to appeal a Secretarial decision that the project is complete and subject to transfer. On notification that a non-Federal interest has submitted an appeal of a completion determination, the Secretary would contract with 1 or more independent, non-Federal experts to determine whether the applicable water resources project or separable element or functional portion of the water resources project is complete.

Sec. 2037. Project partnership agreements

The Corps and the non-Federal interest for a water resources projects are required to enter into a Project Partnership Agreement that governs the roles and responsibilities of each party as it pertains to carrying out the water resources project. Further, the agreements require the non-Federal interest to assume costs associated with liability, operations, maintenance, repair, rehabilitation and replacement of the projects for the entire life of the projects.

The Committee is concerned that the current process for preparing, negotiating, and approving Project Partnership Agreements is inefficient, and believes that these agreements could be streamlined and restructured to provide an increased role for non-Federal interests in decision-making for water resources projects.

Section 2037 directs the Secretary to contract with the National Academy of Public Administration to evaluate the current Project Partnership Agreement process and make recommendations to make the process more efficient.

Sec. 2038. Interagency and international support authority

Section 2038 amends section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a). This authority addresses interagency and international support, and enables the Corps to participate with Federal or international organizations and foreign governments to address problems of national significance related to water resources, infrastructure development, and environmental protection. Actions pursuant to this authority have been valuable in bringing the expertise of the Corps to projects addressing freshwater management issues in a variety of circumstances.

The amendment would further enhance this authority by enabling the Corps to partner with and accept funds from the non-Corps elements of the Department of Defense and to partner with organizations providing water resources management assistance. The amendment would also ensure that any use of this authority in conjunction with international organizations or foreign governments would be only with the concurrence of the Department of State.

Sec. 2039. Acceptance of contributed funds to increase lock operations

In October, 2012, the Corps began implementing an initiative to reduce lock hours of operations. This began with implementation on low commercial use river systems. By April, 2013, the Corps will have achieved full implementation of the new program. The changes in the levels of service at each lock are being implemented as a result of the Corps' nationwide effort to reduce costs by standardizing lock service levels based on actual usage while still providing efficient support to the navigation community and other waterway users. The new lock hours of operation are based on historic usage.

The Committee supports efforts to reduce costs. However, the Committee believes that adequate public consultation should be undertaken prior to modifying lock operations. Therefore, Sec. 2039 requires the Secretary to publish a proposed modification in the Federal Register and accept public comment, not later than 180 days before a modification will go into effect. This section also requires the Secretary to submit a report to the Committees of jurisdiction within one year that evaluates the cost-savings resulting from reduced lock hours and any economic impacts of modifying lock operations.

The Committee is encouraged that the Corps has given local communities assurances that, within their current statutory authority, they will be sensitive to related impacts on local economies. The Committee expects that the Corps will consider economic incentives unrelated to commercial barge traffic when presented with requests by local communities for specific and unique activities requiring locks to be operated outside of established levels of service.

This section also provides authority for the Corps to accept funds from non-Federal interests to extend lock operations. This authority is intended to allow additional lock operation beyond the times the Corps has determined is justified. However, the acceptance of funds shall in no way affect the review of lock operations and any decisions on lock hours of operation. These decisions shall remain based solely on commercial traffic.

Sec. 2040. Emergency response to natural disasters

Section 2040 makes a technical modification to the Corps' authority for post-disaster rehabilitation contained in 33 U.S.C. 701n, commonly known as the PL84–99 program, to give the Corps the authority to repair hurricane or shore protection projects to the design level of protection. Currently, the Corps has authority to rehabilitate an eligible shore protection structure if damaged by wind, water or wave action. Following such damage, the structure would be restored to its pre-disaster status. The amendments made by this section clarify that the Corps can rebuild a project to the design condition, not the pre-disaster condition. This will ensure funds are not spent to rebuild projects that provide inadequate protection.

Sec. 2041. Systemwide improvement frameworks

Section 2041 provides that a levee system shall remain eligible for rehabilitation assistance under the PL 84–99 program (33 U.S.C. 701n) as long as the levee sponsor continues to make satis-

factory progress under a system-wide improvement framework in accordance with the memorandum issued on November 29, 2011, entitled "Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)". This flexible process allows local levee sponsors to address levee deficiencies or issues that cannot be corrected through normal corrective actions. This section will allow levee systems that would otherwise be ineligible for PL 84–99 assistance to remain eligible while they address deficiencies through the SWIF process.

Sec. 2042. Funding to process permits

Section 2042 amends section 214(a) of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594) to permanently extend the program. Section 214 allows the Corps to receive funds from non-Federal entities to support additional staff to process permits. This section also includes additional transparency provisions, including an annual report to Congress, and safeguards to ensure that a consistent approach is taken in implementing this program across the nation.

Sec. 2043. National riverbank stabilization and erosion prevention study and pilot program

Section 2043 would authorize the Secretary to study and implement a national pilot program for riverbank stabilization and erosion prevention pilot to address river bank erosion along inland and intracoastal waterways described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804).

This section directs the Secretary, in consultation with appropriate Federal, State, local, and nongovernmental entities, to carry out a study of the options and technologies available to prevent the erosion and degradation of riverbanks along inland and intracoastal waterways. In addition to the study, this section directs the Secretary develop a pilot program for the construction of riverbank stabilization and erosion prevention projects on public land along inland and intracoastal waterways if the Secretary determines that the projects are feasible and lower maintenance costs of those inland and intracoastal waterways.

The Committee recognizes the importance of navigation on inland and intracoastal waterways, but believes the Corps has a responsibility to maintain and stabilize the riverbanks of Corps-constructed navigation channels to prevent the continued loss of wetlands and public lands. The Committee encourages the Corps to utilize innovative technologies to abate or reverse the effects of erosion.

Sec. 2044. Hurricane and storm damage risk reduction prioritization

Section 2044 directs the Secretary to prioritize ongoing hurricane and storm damage reduction feasibility studies that address an imminent threat to life and property, prevent storm surge from inundating populated areas, prevent adverse impacts to publicly owned or funded infrastructure and assets, and address hurricane and storm damage risk reduction in an area for which the President declared a major disaster in accordance with section 401 of the Rob-

ert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

This section also provides prioritization of new studies for hurricane and storm damage reduction that have been recommended in a comprehensive hurricane protection study carried out by the Corps or are included in a State plan or program for hurricane and storm damage reduction in areas for which the President declared a major disaster in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

Sec. 2045. Prioritization of ecosystem restoration efforts

Section 2045 directs the Secretary to prioritize funding for ecosystem restoration projects based on benefits for public health and safety, preservation of habitats of national significance, or preservation of habitats of importance for Federally protected species. In addition, prioritization must be given to restoration activities that contribute to other ongoing or planned Federal, State, or local restoration initiatives.

Sec. 2046. Special use permits

Section 2046 authorizes the Secretary to issue special permits for activities at Corps recreation facilities and to recoup fees for administering the permits and carrying out related operation and maintenance activities.

In addition, this section expands the Corps' ability to partner with other Federal, State, or local agencies and non-governmental entities to leverage funding and in-kind resources that contribute to the maintenance of Corps recreation facilities. The expanded ability to exchange services and partner with these agencies will help to reduce Federal expenditures and increase management efficiencies.

Sec. 2047. Operations and maintenance on fuel taxed inland waterways

Section 2047 establishes cost share requirements for operation and maintenance of structures associated with authorized hurricane and storm damage reduction projects that bisect an inland or intracoastal waterway described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804).

Sec. 2048. Corrosion prevention

Section 2048 directs the Secretary to develop guidance and procedures for the certification of qualified contractors for application of protective coatings and the removal of hazardous coatings. The section also requires the Secretary to use only certified contractors for application of protective coatings for complex works and structures subject to immersion and for the removal of hazardous coatings or materials that are in great enough concentrations to create an occupational or environmental hazard. The Secretary may approve exceptions to this requirement but must provide for public notice and comment on the proposed exception.

Sec. 2049. Project deauthorizations

Section 2049 requires the Corps to provide Congress with a complete list of all uncompleted, authorized projects and reforms the existing five-year deauthorization process by requiring a notice to non-federal sponsors prior to deauthorization and an annual report to Congress on the amount of funding each authorized project has received. Currently, the law automatically deauthorizes all projects that have not received funding over a five fiscal year period. The additional reporting requirements ensure transparency in how the Corps is funding projects and which projects are automatically deauthorized.

This section also creates a Commission to identify projects for deauthorization. The Commission will hold public hearings and solicit comments from the Corps, States, and the public prior to making final recommendations to Congress. Congress will have 180 days to disapprove of the deauthorizations proposed by the Commission.

Sec. 2050. Reports to Congress

Section 2050 directs the Secretary to provide specific reports to Congress under this act. Failure to provide a report to Congress by the mandated deadline would trigger a schedule of penalties to the General Expenses account of the civil works program for the Army Corps.

Those penalties and subsequent penalties shall be reprogrammed into the account of the division of the Army Corps with responsibility for completing that report until such report is transmitted to Congress.

The Committee believes the Army Corps should be accountable to the mandated reports set forth in this Act and it is the Committee's desire to have those reports by their prescribed deadline.

Sec. 2051. Indian Self-Determination and Education Assistance Act conforming amendment

Section 2051 clarifies and affirms that allowable costs for tribal water projects constructed under Indian Self-Determination Act (ISDA) contracts or cooperative agreements include debt financing instruments. This language codifies a 2005 Interior Bureau of Indian Appeals ruling (*Three Affiliated Tribes of the Fort Berthold Reservation v. Great Plains Regional Dir., Bureau of Reclamation*, IBIA 05–07–A, at 25–31 (Dec. 22, 2005)) and is consistent with current Department of Interior policy.

Sec. 2052. Invasive species review

Section 2052 requires the Corps, in consultation with the U.S. Fish and Wildlife Service, Tennessee Valley Authority (TVA), and other applicable federal entities to review the existing federal authorities related to invasive species, such as invasive weeds and snails, that have an impact on water resources, and to make specific recommendations for responding more effectively to the threats posted by invasive species.

Sec. 2053. Wetlands conservation study

Section 2053 requires the General Accountability Office (GAO) to evaluate federal programs related to wetlands conservation and to identify options for maximizing wetlands conservation benefits

while reducing redundancies, increasing efficiencies, and reducing costs.

Sec. 2054. Dam repair study

Section 2054 requires the General Accountability Office (GAO) to evaluate how the Corps classifies costs of dam repair projects at certain dams and to report to Congress on the same.

TITLE III—PROJECT MODIFICATIONS

Sec. 3001. Purpose

Sec. 3001 describes the purpose of this Title, which includes modifications of projects that do not increase the authorized cost of the project.

Sec. 3002. Chatfield Reservoir, Colorado

Section 3002 modifies section 116 of the Energy and Water Development and Related Agencies Appropriations Act, 2009 (123 Stat. 608) by striking "Colorado Department of Natural Resources is authorized" and inserting "Colorado Department of Natural Resources, or its assignee, is authorized".

Sec. 3003. Missouri River Recovery Implementation Committee expenses reimbursement

Section 3003 authorizes reimbursement for individuals' travel expenses associated with participation in the Missouri River Recovery Implementation Committee established in Section 5018(b) of the WRDA 2007 (121 Stat. 1200).

Sec. 3004. Hurricane and storm damage reduction study

Section 3004 clarifies that the study for flood and storm damage reduction authorized in Public Law 113–2 shall include specific project recommendations. This study of areas affected by Superstorm Sandy is intended to identify projects that will reduce risks and should provide Congress with specific recommendations of projects for authorization.

Sec. 3005. Lower Yellowstone Project, Montana

Section 3005 modifies Section 3109 of WRDA 2007 (121 Stat. 1135) to clarify that the Secretary shall consult with other Federal agencies, conservation districts, the Yellowstone River Conservation District Council, and the State of Montana in carrying out the project.

Sec. 3006. Project deauthorizations

Section 3006 deauthorizes obsolete Federal navigation channels or portions thereof.

Sec. 3007. Raritan River Basin, Green Brook Sub-basin, New Jersey

Section 3007 removes a prohibition in the Energy and Water Development Appropriations Act of 1998 (P.L. 105–62, 111 Stat. 1327) which limited the ability of the Corps to implement the project for flood control, Green Brook Sub-Basin, Raritan River Basin, New Jersey, authorized by 401(a) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4119).

Sec. 3008. Red River Basin, Oklahoma, Texas, Arkansas, Louisiana

Section 3008 authorizes the Secretary to reassign unused irrigation storage within the Red River Basin to municipal and industrial water supply if the non-federal interest has already contracted for a share of municipal and industrial water supply on the same reservoir.

Sec. 3009. Point Judith Harbor of Refuge, Rhode Island

Section 3009 modifies the River and Harbor Act of 1890 (26 Stat. 426, chapter 907) which was modified by the River and Harbor Act of 1910 (36 Stat., 632 chapter 382) to add shore protection and erosion control as additional project purposes.

TITLE IV—WATER RESOURCE STUDIES

Sec. 4001. Purpose

Sec. 4001 describes the purposes of Title IV, which include providing authority to initiate new studies of water resource issues.

Sec. 4002. Initiation of new water resources studies

Section 4002 establishes a process for initiating new studies, at the request of a non-Federal interest, related to flood risk and storm damage reduction, navigation, and ecosystem restoration. To initiate a new study, the Corps must submit a request to Congress certifying that the project is likely to have a Federal interest, addresses a high-priority water resources issue, and can be carried out in three years for a maximum federal cost of $3 million. The Corps may proceed with the study when Congress appropriates funding for the project requested.

Sec. 4003. Applicability

Section 4003 clarifies that nothing in this title authorizes the construction of a new project. Additional Congressional authority is needed to initiate construction of a project for which a study was conducted under this title.

TITLE V—REGIONAL AND NON-PROJECT PROVISIONS

Sec. 5001. Purpose

Section 5001 describes the purposes of this title, which includes authorization of regional and multistate initiatives to address water resource needs and other non-project provisions.

Sec. 5002. Northeast Coastal Region ecosystem restoration

Section 5002 directs the Secretary to plan, design, and construct projects for aquatic ecosystem restoration within the coastal waters of the Northeastern United States from Virginia to Maine, including associated bays, estuaries, and critical riverine areas. The Secretary, in coordination with the Administrator of EPA, the heads of other appropriate Federal agencies, the Governors of the coastal States from Virginia to Maine, nonprofit organizations, and other interested parties, shall develop a general coastal management plan for aquatic ecosystem restoration within the coastal waters of the Northeastern United States. The Secretary is authorized to carry out aquatic ecosystem restoration projects pursuant to the

general coastal management plan. Subsection (d) authorizes an annual appropriation of $25,000,000 to carry out this section, including the completion of the general coastal management plan. Not more than $10,000,000 in Federal funds may be allocated under this section for any single eligible project.

Sec. 5003. Chesapeake Bay Environmental Restoration and Protection Program

Sec. 5003 reauthorizes the Chesapeake Bay Environmental Restoration Program, which was originally authorized in Section 510 of the Water Resources Development Act of 1996.

The program has historically excluded the headwater states of the Chesapeake Bay and was limited to Maryland, Pennsylvania and Virginia. The modifications made in Section 5003 incorporate the regions within the Chesapeake Bay basin in Maryland, Pennsylvania, Virginia, New York, West Virginia, Delaware and the District of Columbia. This section also requires the Corps in cooperation with state and local officials to develop a "comprehensive Chesapeake Bay restoration plan" to assure that the restoration projects executed in the states across the basin occur where they are most needed and will achieve maximum benefit and to implement projects in accordance with this plan. Sec. 5003 modifies the list of eligible projects, including removing wastewater treatment and water supply facilities from the eligible projects list.

This section provides that projects carried out on federal lands shall be carried out at the expense of the federal agency who owns the land, and not at the Corps' expense, even though the Corps may be charged with doing the restoration work. These federal agencies may accept funds contributed by non-federal entities to do this work. This section also requires cooperation between the Corps and the Environmental Protection Agency, the National Oceanic and Atmospheric Administration (i.e. Commerce Dept.), the U.S. Fish and Wildlife Service (i.e. Interior Dept.), and state and local authorities.

This section also prescribes that that the Corps, to the maximum extent practicable, must pursue at least one project in each of the five Chesapeake Bay basin states, and DC.

Sec. 5004. Rio Grande environmental management program, Colorado, New Mexico, Texas

Section 5004 modifies section 5056(f) of WRDA 2007 (121 Stat. 1213) to authorize appropriations for this program through FY 2024. The section also authorizes interagency agreements with the International Boundary and Water Commission.

Sec. 5005. Lower Columbia River and Tillamook Bay ecosystem restoration, Oregon and Washington

Section 5005 modifies section 536(g) of the WRDA of 2000 (114 Stat. 2662) to increase the authorization of appropriations for this authority to $75,000,000.

Sec. 5006. Arkansas River, Arkansas and Oklahoma

Section 5006 authorizes the Secretary to establish a McClellan-Kerr Arkansas River Navigation System Advisory Committee (Committee). The Committee will serve in an advisory capacity

only and duties include providing information and recommendations to the Corps relating to the efficiency, reliability, and availability of the operations of the McClellan-Kerr Arkansas River navigation system.

Sec. 5007. Aquatic invasive species prevention and management; Columbia River Basin

Section 5007 allows the Secretary to establish a program to prevent and manage aquatic invasive species in the Columbia River Basin in the States of Idaho, Montana, Oregon, and Washington. The Secretary shall establish watercraft inspection stations in the Columbia River Basin to be located in the States of Idaho, Montana, Oregon, and Washington at locations, as determined by the Secretary, with the highest likelihood of preventing the spread of aquatic invasive species into reservoirs operated and maintained by the Secretary.

The section also authorizes the Secretary to conduct monitoring and contingency planning. These activities shall include carrying out risk assessments of each major public and private water resources facility in the Columbia River Basin; establishing an aquatic invasive species monitoring program in the Columbia River Basin; establishing a Columbia River Basin watershed wide plan for expedited response to an infestation of aquatic invasive species; and monitoring water quality, including sediment cores and fish tissue samples, at facilities owned or managed by the Secretary in the Columbia River Basin.

The section also requires consultation and coordination with States in the basin, Tribes, and Federal agencies.

Sec. 5008. Upper Missouri Basin flood and drought monitoring

In recognition of the drought and flood cycles of the Upper Missouri River Basin, Section 5008 authorizes the Secretary, in coordination with the Administrator of the National Oceanic and Atmospheric Administration, the Chief of the Natural Resources Conservation Service, the Director of the United States Geological Survey, and the Commissioner of the Bureau of Reclamation, to establish a program to provide for soil moisture and snowpack monitoring in the Upper Missouri River Basin. The goal of the monitoring is to help reduce flood risk and improve river and water resource management in the Upper Missouri River Basin, as outlined in the February 2013 report entitled "Upper Missouri Basin Monitoring Committee—Snow Sampling and Instrumentation Recommendations"; restore and maintaining existing mid- and high-elevation snowpack monitoring sites operated under the SNOTEL program of the Natural Resources Conservation Service; and operate streamflow gages and related interpretive studies in the Upper Missouri River Basin under the cooperative water program and the national streamflow information program of the United States Geological Service.

Sec. 5009. Northern Rockies headwaters extreme weather mitigation

Section 5009 authorizes the Secretary to establish a program to mitigate the impacts of extreme weather events, such as floods and droughts, on communities, water users, and fish and wildlife located in and along the headwaters of the Columbia, Missouri, and

Yellowstone Rivers (including the tributaries of those rivers) in the States of Idaho and Montana by carrying out river, stream, and floodplain protection and restoration projects.

Sec. 5010. Aquatic nuisance species prevention, Great Lakes and Mississippi River Basin

Section 5010 authorizes the Secretary to implement measures recommended in the efficacy study authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121) or in interim reports, with modifications or any emergency measures that the Secretary determines to be appropriate to prevent aquatic nuisance species from dispersing into the Great Lakes by way of any hydrologic connection between the Great Lakes and the Mississippi River Basin. The Committee notes that the emergency measures authorized by this section do not include permanent hydrologic separation of the Great Lakes Basin from the Mississippi River Basin, which are being separately evaluated under the Great Lakes and Mississippi River Interbasin Study (GLMRIS) pursuant to Section 3061(d) of Water Resources Development Act of 2007 and should continue to be evaluated under that authority. The Secretary is required to report to the Committees on Environment and Public Works and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives any emergency actions taken pursuant to this section.

TITLE VI—LEVEE SAFETY

Title VI implements the recommendations of the National Levee Safety Committee and related levee safety provisions.

Sec. 6001. Short title

Section 6001 states that this title may be cited as the National Levee Safety Program Act.

Sec. 6002. Findings; Purposes

Section 6002 establishes findings related to levee safety and provides the purposes of the National Levee Safety Program Act.

Sec. 6003. Definitions

Section 6003 provides definitions used in the National Levee Safety Program Act.

Sec. 6004. National levee safety program

Section 6004 establishes a National Levee Safety Program to promote improved levee safety practices at the local, State and Federal levels and provide funding for states to establish participating levee safety programs. This section directs the Secretary to appoint an Administrator and staff of the National Levee Safety Program and carry out the following activities to support the National Levee Safety Program——

- Develop voluntary, comprehensive national levee safety guidelines.
- Develop a hazard potential classification program for use under the national levee safety program.

• Establish, in coordination with the National Levee Safety Advisory Board (Board), a national levee safety technical assistance and training program to provide technical assistance and support to state and local levee safety efforts.
• Establish, in coordination with the Administrator of the Federal Emergency Management Agency (FEMA) and the Board, a national public education and awareness campaign relating to the national levee safety program.
• Evaluate opportunities, in coordination with the Board, to coordinate, public safety, floodplain management, and environmental protection activities relating to levees.
• Carry out a one-time inventory and inspection of levees identified in the national levee safety database.
• Issue, in coordination with the Board, guidelines that establish minimum components for recognition as a participation State or tribal levee safety program.
• Establish a grant program to assist States and Indian tribes in establishing participating programs, conducting levee safety activities and carrying out this Act.
• Establish a program to provide assistance to non-Federal entities for the rehabilitation and repair of levees. Eligible projects include any activity to rehabilitate a levee that will maximize overall risk reduction. This may include relocation of structures on or near a levee that compromise the levee's integrity. Routine operation and maintenance activities are not eligible for funding.

Sec. 6005. National levee safety advisory board

Section 6005 requires the Secretary, in coordination with the Administrator of FEMA to establish a National Levee Safety Advisory Board that will advise the Secretary and Congress regarding consistent approaches to levee safety, monitor the safety of levees in the U.S., and assess the effectiveness of the National Levee Safety Program.

The Board will consist of 14 voting members, including eight representatives of State levee safety agencies (1 from each of the Civil Works Divisions of the Corps), two representatives of the private sector, two representatives of local and regional government agencies with expertise in levee safety, and two representatives if Indian tribes with expertise in levee safety. This section includes criteria for selection of members of the Board, establishes terms of service, and describes other related procedures.

Section 6005 also establishes four voluntary Standing Committees to advise the Board regarding the national levee safety program. The Standing Committees include Participating Programs, Technical Issues, Public Education and Awareness, and Safety and Environment.

Section 6005 directs the Board to coordinate with the Federal Interagency Floodplain Management Task Force.

The Federal Advisory Committee Act does not apply to the Board or its Standing Committees.

Sec. 6006. Inventory and inspection of levees

Section 6006 clarifies that the Secretary shall accept for inclusion in the National Levee Safety Database information provided by States, Indian tribes, Federal agencies, and other entities.

Sec. 6007. Reports

Section 6007 requires the Secretary to submit multiple reports to Congress, including——

- An annual report on the status of the nation's levees
- A report on establishing a joint national dam and levee safety program
- A report identifying and addressing legal liability associated with levee engineering projects

This section also requires the Comptroller General to submit a report on opportunities for alignment of Federal programs to promote shared responsibility for levee safety, better align the national levee safety program and other Federal flood risk management programs, and promoting levee safety through other Federal programs providing assistance to State and local governments.

Sec. 6008. Effect of title

Section 6008 clarifies that nothing in this title establishes any liability of the United States or any officer or employee of the United States for any damages caused by any action or failure to act nor relieves any owner or operator of a levee of any legal duty, obligation, or liability incident to the ownership or operation of the levee.

Sec. 6009. Authorization of appropriations

Section 6009 authorizes appropriations to carry out this title, including——

- $5 million for each of fiscal years 2014–2023 for administration and staff
- $5 million for each fiscal years 2014–2018, $7 million for each of 2019–2020, and $10 million for each of 2021–2023 for technical programs, including the development of levee safety guidelines, publications, training and technical assistance
- $3 million for each of fiscal years 2014–2023 for public involvement and education
- $30 million for each of fiscal years 2014–2018 for levee inventory and inspection under Section 9004 of the Water Resources Development Act of 2007
- $300 million total for fiscal years 2014–2023 for State and tribal levee safety programs
- $300 million total for fiscal years 2014–2023 for levee rehabilitation assistance

TITLE VII—INLAND WATERWAYS

Title VII implement reforms to the Inland Waterways system to improve project delivery and lower costs, including requiring the use of risk-based cost estimates, promoting increased coordination between the Corps and the Inland Waterways User Board, and improving project management.

Sec. 7001. Purposes

Section 7001 provides the purposes of the Inland Waterways title.

Sec. 7002. Definitions

Section 7002 provides definitions that are used in the Inland Waterways title.

Sec. 7003. Project delivery process reforms

Section 7003 establishes project delivery reforms for inland waterways projects, including requiring:

- Training and certification for project managers;
- Only certified project managers will be assigned to inland waterways projects;
- Development of risk based cost estimates that have confidence levels of 80 percent.

This section also authorizes one or more pilot projects to evaluate processes or procedures for study, design, or construction of qualifying projects.

Section 7003 makes a number of reforms to the Inland Waterways User Board to increase the role of the Board in project decision-making and to ensure improved communication between the Corps and the Board. Section 7003:

- Revises the duties of the Inland Waterways Users Board and requires the Board provide advice and recommendations on Corps budget, pending Chief's reports, and increases in funding to existing authorizations;
- Authorizes the Inland Waterways Users Board to appoint a representative to project delivery teams;
- Requires the Secretary to communicate at least quarterly to the Users Board about status of study, design and construction of all commercial navigation features or components of the inland waterways;
- Requires development of a capital investment program within a year that lays out a 20 year program for capital investment in the inland waterways system.

Sec. 7004. Major rehabilitation standards

Section 7004 directs the Secretary to develop a methodology for classifying major rehabilitation projects.

Sec. 7005. Inland waterways system revenues

Section 7005 highlights the lack of funding necessary to invest in critical inland waterways projects and declares that it is the Sense of Congress that existing revenue sources for inland waterways construction and rehabilitation are insufficient and should be addressed.

Sec. 7006. Efficiency of revenue collection

Section 7006 directs the Comptroller General to prepare a report on the efficiency of collections of the fuel tax for the Inland Waterways Trust Fund, including:

- Evaluation of whether current collection of the fuel tax results in full compliance with the law;
- Whether alternative collection methods would result in increased revenues in the Inland Waterways Trust Fund.

TITLE VIII—HARBOR MAINTENANCE

Title VIII makes a number of reforms to the Harbor Maintenance Trust Fund (HMTF) to increase use of the Fund for Operation and Maintenance (O&M) for navigation channels and to provide equity for ports nation-wide.

The U.S. Army Corps operates and/or maintains 13,000 miles of commercial deep draft ship channels and 12,000 miles of commercial inland waterways channels, which serve 41 states and transport much of the cargo moved by waterways.

In 1986, Congress enacted the Harbor Maintenance Tax to fund operations and maintenance (O&M) costs at U.S. coastal and Great Lakes harbors. The revenues are deposited into the Harbor Maintenance Trust Fund (HMTF) from which Congress appropriates funds for dredging harbors to their authorized depths and widths. The tax is levied on the value of cargo imported through coastal or Great Lakes ports.

At the end of Fiscal Year 2012, the HMTF received $1.587 billion in receipts and collections. The budget for FY 2013 proposed $848 million in appropriations for O&M at the nation's ports. The balance in the Trust Fund at the end of FY 2012 was $6.95 billion.

Despite a large surplus in the HMTF, the busiest U.S. harbors are presently under-maintained. The Corps estimated in 2010 that full channel dimensions at the nation's busiest 59 ports were available less than 35% of the time. This highlights the significant need for increased investment in port maintenance and the need to ensure revenues collected for harbor maintenance are utilized for their intended purpose.

This title establishes a point of order against any bill that does not expend the full amount collected in the HMTF for that fiscal year. It also establishes a point of order against a bill that reduces funding for other Corps programs. Together, these provisions ensure that all HMTF revenues are expended every year for port maintenance and protect other Corps programs from funding cuts to accommodate increases for port maintenance.

Sec. 8001. Short title

Section 8001 provides that Title VIII may be cited as the Harbor Maintenance Trust Fund Act of 2013.

Sec. 8002. Purposes

Section 8002 describes the purposes of this title, which include ensuring that revenues collected in the HMTF are used for their intended purpose and to increase investment in the operation and maintenance of the nation's ports.

Sec. 8003. Funding for harbor maintenance programs

Section 8003 provides a guarantee that the expenditures from the HMTF will equal receipts in each fiscal year. No funds may be appropriated for harbor maintenance unless the total budget resources made available in a fiscal year equal to the level of receipts plus interest credited to the HMTF for that fiscal year.

Sec. 8004. Harbor Maintenance Trust Fund prioritization

Section 8004 amends the original Harbor Maintenance Trust Fund authorization in WRDA 1986 to allow the use of trust fund revenues to maintain Federal channels to 50 foot depths. Currently, federal O&M is limited to 45 feet. However, additional O&M is necessary to accommodate larger vessels with deeper drafts.

This section also prioritizes future expenditures from the Harbor Maintenance Trust Fund. The prioritization and expanded use provisions are included as part of a package of HMTF reforms, which include increased expenditures from the Trust Fund. As expenditures are increased under Section 8003, this additional prioritization is intended to ensure that any additional funds first address ports that are a priority for commerce and ports that have received minimal investment in previous years and to ensure that additional funds are distributed in an equitable manner.

When full expenditure of HMTF receipts is achieved, priority is given to high-use deep draft ports. This term identifies those coastal navigation projects that annually move 10 million tons or more of cargo and are maintained at a depth of 14 feet or greater. A set-aside is also included for underserved projects, which haven't received maintenance funding in the previous five fiscal years and for which significant State or local investment has been made in infrastructure served by the navigation channel.

Section 8004 also authorizes limited expanded uses for "donor states", which are states that contribute significantly more to the HMTF than they receive in Federal operation and maintenance (O&M) funding. Expenditures from the HMTF are authorized in these states for two additional activities—dredging of berths that are adjacent to channels currently at their authorized width and depth and contaminated sediment disposal. HMTF revenues can only be used for these additional activities after all traditional operation and maintenance needs in a state are met.

Sec. 8005. Civil works program of the Corps of Engineers

Section 8005 establishes a point of order that can only be waived by a 3/5 majority of the Senate, against any bill, joint resolution, amendment, motion, or conference report that would result in amounts available to carry out all programs, projects, and activities of the civil works program of the Corps, except harbor maintenance programs, less than the amounts made available in the previous fiscal year. Exceptions are made for reductions that apply to all discretionary funds and programs of the Federal government and that apply in the same manner to the civil works program. This provision is intended to ensure required increases in expenditures for harbor maintenance do not result in a commensurate decrease for other important Corps programs.

TITLE IX—DAM SAFETY

In 1972, after several prominent dam failures, Congress directed the Secretary of the Army to undertake a national program on the inspection of dams (Public Law 92–367). The National Dam Inspection Program, administered by the U.S. Army Corps of Engineers, provided for a nationwide inspection and inventory of dams. WRDA

1986 (P.L. 99–662) expanded on the 1972 legislation and authorized several new activities, including establishment of a National Dam Safety Review Board, authorization of assistance to state dam safety programs, authorization to maintain and update the aforementioned inventory through the National Inventory of Dams (based on the previous inspections), and authorization of dam safety research.

The Water Resources Development Act of 1996 (Public Law 104–303) amended that Act to establish the National Dam Safety Program, led by the Federal Emergency Management Agency, as a partnership of the States, Federal agencies and other stakeholders to encourage individual and community responsibility for dam safety. Previously there had been no comprehensive national effort devoted to non-federal dam safety. The amended Act is cited as the National Dam Safety Program Act.

The Act includes:

1. a National Dam Inventory to provide to the public periodically updated information on the inventory of dams in the United States;
2. an Interagency Committee on Dam Safety to encourage the establishment and maintenance of effective Federal and State programs, policies and guidelines intended to enhance dam safety;
3. a National Dam Safety Program, including a strategic plan, a National Dam Safety Review Board and grant assistance to the States to provide vital support for the improvement of the State dam safety programs that regulate most of the 84,130 dams in the United States;
4. a dam safety research effort for technical and archival research; and
5. dam safety training for State dam safety staff and inspectors.

The Dam Safety and Security Act of 2002 (Public Law 107–310), signed into law on December 2, 2002, reauthorized the Act for 4 years and added enhancements designed to safeguard dams against terrorist attacks.

The Dam Safety Act of 2006 (Public Law 109–460), signed into law on December 22, 2006. reauthorized the Act through 2011 and required that supported state programs to have legislation providing for periodic safety evaluations of relevant dams, and also required the Secretary of the Army to update the National Inventory of Dams, which was previously optional.

The Dam Safety Act of 2013 would reauthorize the National Dam Safety Program through 2018 and increase public safety by safeguarding dams nationwide. The legislation would provide support for state dam safety programs, training, research and public outreach and awareness of dam safety hazards.

The Committee is concerned that the Federal Emergency Management Agency is not consistently meeting its requirements under the National Dam Safety Program Act to submit biennial reports to Congress on program status, Federal and State progress, and recommendations for legislative or other action.

Sec. 9001. Short title

This section provides that this Act may be cited as the "Dam Safety Act of 2013".

Sec. 9002. Purpose

The purpose of the Dam Safety Act of 2013 is to reduce the risks to life and property from dam failure in the United States through the reauthorization of an effective national dam safety program that brings together the expertise and resources of the federal and non-federal communities in achieving national dam safety hazard reduction.

Sec. 9003. Administrator

Section 9003 replaces the term "Director" with "Administrator" to reflect the updated title for the head of the Federal Emergency Management Agency.

Sec. 9004. Inspection of dams

When requested by a state dam safety agency, federal agencies are currently required to provide information on the construction, operation, and maintenance of a dam whose failure would affect that state. Section 9004 additionally requires that federal agencies provide information on the condition and provisions for emergency operations, as requested.

Sec. 9005. National Dam Safety Program

Section 9005 updates the current public outreach objective for the National Dam Safety Program from "develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs" to "develop and implement a comprehensive dam safety hazard education and public awareness program to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents."

The FEMA Administrator is authorized to invite representatives from nongovernmental organizations to be nonvoting members of the Board.

Sec. 9006. Public awareness and outreach for dam safety

Under current law, FEMA seeks to encourage states to implement individual public awareness and outreach programs. However, state programs generally have inadequate funding to carry out the inspections and other critical work they do to ensure the safety of dams. Section 9006 establishes a national public awareness program in consultation with stakeholders in order to more efficiently carry out this important outreach function.

Sec. 9007. Authorization of appropriations

Section 9007 authorizes appropriations for activities in the National Dam Safety Program Act. The National Dam Safety Program, including the state assistance grant program, the Interagency Committee on Dam Safety, and reports to Congress are together authorized at $9,200,000 each year from FY 2014 through FY 2018. Starting in FY 2014, funding allocated to a state may not exceed the amount of funds committed by the state to implement dam safety activities. The National Inventory of Dams is author-

ized at $500,000 each year for FY 2016 through FY 2018. Funding is authorized at $1,000,000 each year for FY 2014 through 2018 to meet the public outreach objective, as updated in Section 9006 of this Act. Research activities are authorized at $1,450,000 for each year from FY 2014 through FY 2018. Dam safety training is authorized at $750,000 for each year from FY 2014 through FY 2018. Funding is authorized at $1,000,000 for each year from FY 2014 through FY 2018 for FEMA staff.

TITLE X—INNOVATIVE FINANCING PILOT PROJECTS

Title X establishes a five-year pilot program, known as the Water Infrastructure Finance and Innovation Act (WIFIA) program, to allow the Corps of Engineers and the Environmental Protection Agency to provide loans and loan guarantees for flood control, water supply, and wastewater infrastructure projects. This program, based on the successful Transportation Infrastructure Finance and Innovation Act (TIFIA) program within the Department of Transportation, would support local efforts to leverage funds for water resources projects and help speed construction of local projects.

Numerous studies have highlighted the need to increase investment in the nation's water infrastructure. A 2011 report by the American Society of Civil Engineers (ASCE) found "if current trends persist, the investment required [for wastewater and drinking water infrastructure] will amount to $126 billion by 2020, and the anticipated capital funding gap will be $84 billion . . . by 2040, the needs for capital investment will amount to $195 billion and the funding gap will have escalated to $144 billion, unless strategies to address the gap are implemented . . ." In addition, ASCE's recently-released infrastructure report card rated the nation's dams a "D" and levees a "D−".

The WIFIA program is designed to assist a wide array of water resources infrastructure projects with their own revenue streams, which can attract substantial private capital with a limited Federal investment. This program offers the sponsors of these water infrastructure projects a new tool to leverage limited Federal resources, stimulate additional investment in our Nation's water resources infrastructure, and encourage greater private sector participation in meeting our water infrastructure needs.

Section 10001. Short Title

This section gives the name for this title of the Water Resources Development Act of 2013 as the "Water Infrastructure Finance and Innovation Act of 2013."

Section 10002. Purposes

Section 10002 describes the purpose of the WIFIA program, which is to leverage Federal funds by attracting substantial private or other non-Federal investment to promote increased development of critical water resources infrastructure. The program provides this support at favorable terms to projects that are capable of generating revenue streams through user fees or other dedicated funding sources to assist communities facing significant water quality, drinking water, or flood risk challenges.

Section 10003. Definitions

Section 10003 establishes definitions for terms used under this title.

Section 10004. Authority to provide assistance

Section 10004 establishes a pilot program for the Secretary of the Army and the Administrator of the Environmental Protection Agency, respectively, to provide financial assistance to water infrastructure projects under their jurisdictions. The projects selected under this program should represent a diversity of project types and geographical locations.

Section 10005. Applications

Section 10005 lays out the application process for the WIFIA program, which shall be submitted to either the Secretary or the Administrator, as applicable, and includes a provision specifying the process under which an entity is applying for financial assistance for a group of projects.

Section 10006. Eligible entities

Section 10006 establishes the entities eligible to receive assistance under this program, which include a corporation, a partnership, a joint venture, a trust, a federal, state, or local government entity, agency, or instrumentality, a tribal government or consortium of tribal governments, or a State infrastructure financing authority.

Section 10007. Projects eligible for assistance

This section establishes what types of projects are eligible for assistance under this program. This includes projects for flood control or hurricane and storm damage reduction, projects eligible for assistance from the Clean Water State Revolving Fund, projects eligible for assistance from the Drinking Water State Revolving Fund, a project for increased energy efficiency of a public water system or publicly owned treatment works, a project for repair, a project to repair, rehabilitate, or replace a treatment works, community water system, or aging water distribution system, a brackish or sea water desalination project, a managed aquifer recharge project, or a water recycling project, acquisition of real property, including acquisition of property necessary to mitigate environmental impacts of current or future water resources infrastructure projects.

Combinations of eligible projects are also eligible to receive assistance. This will allow smaller projects to receive assistance and can increase efficiencies in providing loan assistance to existing infrastructure programs. Paragraph (8) specifically allows loans to state infrastructure financing authorities, such as State Revolving Funds under the Clean Water Act and Safe Drinking Water Act, and paragraph (9) allows other entities to combine projects.

Section 10008. Activities eligible for assistance

Section 10008 establishes which activities related to an eligible project are eligible to be funded under this program.

Section 10009. Determination of eligibility and project selection

Section 10009 establishes the criteria that applicants must meet in order to receive credit assistance under this program. This includes creditworthiness, which will require that each applicant provides a preliminary rating opinion letter from a credit rating agency indicating that the senior obligations of the project have the potential to achieve an investment-grade rating. It also directs the Administrator to develop a credit evaluation process to evaluate an application from a State infrastructure financing authority for a group of eligible projects. In implementing credit evaluation procedures for projects funded under this title, the Secretary and the Administrator are encouraged to develop procedures that take into account the type of applicant and the projects that will be funded. An eligible project must also demonstrate it will generate economic and public benefits such as improving water quality and reducing flood risk.

Paragraph (5) of this section prohibits the use of certain tax-exempt bonds to finance or refinance a project receiving Federal credit assistance under this title.

This section also sets a minimum project cost of $20,000,000 and requires that each project must have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. The Secretary or the Administrator, as applicable, are also directed to select among potential projects based on various criteria, including the project's regional or national significance, its potential economic benefits, the likelihood that it will proceed at an earlier date because of assistance provided under this program, and other factors.

Section 10010 Secured loans

Section 10010 provides the authority for the Secretary or the Administrator, as applicable, to enter into agreements to make secured loans under this program to finance eligible projects. This section also requires that a secured loan may not be executed under this program until the senior obligations of the project receive an investment-grade rating.

This section sets the maximum share of project costs to receive assistance under this section to be an amount equal to no more than 49 percent of eligible project costs. This section also establishes the repayment requirements and other terms on the credit assistance, such as the interest rate and maximum federal assistance to a project receiving credit assistance under this program.

This section also provides the authority for the Secretary or the Administrator, as applicable, to make loan guarantees in lieu of making a secured loan if the budgetary cost of such loan guarantee is substantially the same as the secured loan.

Section 10011. Program administration

Section 10011 establishes the requirements and procedures for the Secretary and the Administrator, as applicable, to service credit assistance made under this program, including the collection of fees and the authority to retain outside expertise to assist in carrying out the underwriting and servicing requirements of this program.

Section 10012. State and local permits

Section 10012 states that receiving financial assistance under this program does not relieve a recipient of any State or local requirements.

Section 10013. Regulations

Section 10013 provides the authority for the Secretary and the Administrator to promulgate regulations, as appropriate, to carry out this program.

Section 10014. Funding

Section 10014 authorizes $50,000,000 per year to both the Secretary and the Administrator, to provide assistance to eligible projects within their jurisdiction, for each of fiscal years 2014 through 2018. It also provides that up to $2,200,000 of the funds provided to both the Secretary and the Administrator may be used for the administrative expenses of the program for each of those fiscal years.

Section 10015. Report to Congress

In order to evaluate the effectiveness of this program, section 10015 requires the Secretary or the Administrator, as applicable, to provide a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than two years after the date of enactment of this Act, and every two years thereafter, summarizing a number of details about the performance and benefits of this program.

TITLE XI—EXTREME WEATHER

Sec. 11001. Study on risk reduction

Section 11001 requires the National Academy of Sciences to undertake a comprehensive evaluation of measures to respond to extreme weather and to mitigate risk associated with these disasters. The Academy must evaluate options to reduce risk from extreme weather events, including evaluating efforts in the U.S. and worldwide that have been implemented to address risk, identifying necessary infrastructure improvements, and exploring potential funding sources for new infrastructure investment.

Sec. 11002. GAO study on management of flood, drought, and storm damage

Section 11002 directs the Government Accountability Office to review the Corps' policies and practices related to water resources management in response to floods, storms, and droughts to ensure it is taking appropriate measures to prepare for and respond to these events.

Sec. 11003. Post-disaster watershed assessments

Section 11003 authorizes the Corps to conduct post-disaster watershed assessments immediately following a disaster and implement flood control and ecosystem restoration projects identified in those assessments. This provision will ensure the Corps is better

prepared for future extreme weather events by modernizing the approach used by the agency to respond to disasters such as flooding.

LEGISLATIVE HISTORY

In the 112th Congress, a discussion draft was released by Chairman Boxer, titled the "Water Resources Development Act of 2012". On November 15, 2012, the Full Environment and Public Works Committee held a legislative hearing on the discussion draft.

S. 601, the Water Resources Development Act of 2013, was introduced by Sen. Barbara Boxer and Sen. David Vitter on March 18, 2013. The bill was received, read twice, and referred to the Committee on Environment and Public Works. On March 20, 2013, the full Committee on Environment and Public Works met to consider the bill. A manager's amendment in the nature of a substitute was adopted by voice vote. Nine amendments were adopted en bloc by voice vote. The bill as amended was ordered reported favorably by a unanimous vote of 18–0.

HEARINGS

Since the passage of the Water Resources Development Act of 2007, the Committee has held multiple hearings on issues addressed in the Water Resources Development Act of 2013. These are listed below by Congress.

113th

- February 7, 2013, Full Committee Hearing entitled, "Oversight Hearing on Implementation of Corps of Engineers Water Resources Policies."
- January 31, 2013, Full committee hearing entitled, "The Harbor Maintenance Trust Fund and the Need to Invest in the Nation's Ports."

112th

- November 15, 2012, Full Committee Legislative Hearing on the Water Resources Development Act of 2012.
- September 20, 2012, Full Committee hearing entitled, "Water Resources Development Act: Growing the Economy and Protecting Public Safety."
- October 18, 2011, Full Committee hearing entitled, "A Review of the 2011 Floods and the Condition of the Nation's Flood Control Systems."

111th

- November 17, 2010, Full Committee hearing entitled, "Water Resources Development Act: Legislative and Policy Proposals to Benefit the Economy, Create Jobs, Protect Public Safety and Maintain America's Water Resources Infrastructure" (Rescheduled from September 30th).
- May 6, 2010, Full Committee Hearing entitled, "Water Resources Development Act of 2010: Jobs and Economic Opportunities."
- June 16, 2009, Full Committee hearing entitled, "New Orleans Hurricane and Flood Protection and Coastal Louisiana Restoration: Status and Progress."

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 601 on March 20, 2013. A manager's amendment in the nature of a substitute was adopted by voice vote. Nine amendments were adopted en bloc by voice vote. The bill as amended was ordered reported favorably by a unanimous vote of 18–0.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee notes that the Congressional Budget Office has found that S. 601 authorizes the "Corps of Engineers to carry out watercraft inspections or other measures to prevent the spread of invasive species. Public and private entities would have to comply with requirements established by the Corps. Because the number of affected entities and the cost of compliance would probably be small, CBO expects that the costs of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($75 million and $150 million in 2013, respectively, adjusted annually for inflation)." The Committee finds that S. 601 does not cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee noted that the Congressional Budget Office has found, "S. 601 would impose intergovernmental and private-sector mandates, as defined in UMRA, by authorizing the Corps of Engineers to carry out watercraft inspections or other measures to prevent the spread of invasive species . . . Because the number of affected entities and the cost of compliance would probably be small, CBO expects that the costs of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($75 million and $150 million in 2013, respectively, adjusted annually for inflation)."

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

APRIL 17, 2013.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 601, the Water Resources Development Act of 2013. The legislative language for this version of S. 601 was provided to CBO on April 12, 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Aurora Swanson.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 601—Water Resources Development Act of 2013

Summary: S. 601 would authorize the Army Corps of Engineers (Corps) to construct water projects for mitigating storm damage, re-

storing ecosystems, and reducing erosion on inland and intracoastal waterways. The legislation also would authorize the agency to establish grant programs to assist local and state governments with levee safety and rehabilitation programs. Finally, S. 601 would authorize the Corps and the Environmental Protection Agency (EPA) to provide loans or loan guarantees to state and local governments and certain nongovernmental entities to complete water infrastructure projects.

Assuming appropriation of the authorized and necessary amounts, including adjustments for anticipated increases in construction costs, CBO estimates that implementing S. 601 would cost about $5.7 billion over the 2014–2018 period. Spending would continue from amounts authorized to be appropriated under the bill after 2018, and CBO estimates that such spending would total $6.5 billion over the 2019–2023 period.

Pay-as-you-go procedures do not apply because enacting the bill would not affect direct spending or revenues.

S. 601 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Public and private entities would be required to comply with regulations to prevent the spread of invasive species. Because the number of affected entities and the cost of compliance would probably be small, CBO expects that the costs of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($75 million and $150 million in 2013, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 601 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2014	2015	2016	2017	2018	2014–2018
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Title I—Water Resource Projects:						
Estimated Authorization Level	855	873	892	911	932	4,463
Estimated Outlays	342	606	747	848	867	3,410
Title II—Water Resources Policy Reforms:						
Estimated Authorization Level	261	263	266	272	278	1,341
Estimated Outlays	104	184	225	254	259	1,026
Title V—Regional and Nonproject Provisions:						
Estimated Authorization Level	79	80	82	43	44	327
Estimated Outlays	36	60	71	58	47	271
Title VI—Levee Safety:						
Authorization Level	103	103	103	103	103	515
Estimated Outlays	54	85	94	100	100	443
Title VIII—Harbor Maintenance:						
Estimated Authorization Level	50	50	50	50	50	250
Estimated Outlays	35	50	50	50	50	235
Title X—Innovative Financing Pilot Projects:						
Authorization Level	100	100	100	100	100	500
Estimated Outlays	2	3	10	10	15	40
Other Titles:						
Estimated Authorization Level	66	66	66	68	43	308
Estimated Outlays	35	56	62	66	51	269
Total Changes:						
Estimated Authorization Level	1,514	1,535	1,559	1,546	1,549	7,704
Estimated Outlays	608	1,044	1,258	1,386	1,389	5,685

Note: Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, we assume that S. 601 will be enacted in 2013 and that the necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on information from the Corps, the Federal Emergency Management Agency (FEMA), and EPA, and on historical spending patterns for similar projects.

Spending subject to appropriation

Title I—Water Resource Projects. CBO estimates that implementing title I would cost $3.4 billion over the 2014–2018 period, assuming appropriation of the necessary amounts.

Title I would authorize the Corps to construct water projects that are in the federal interest if it has completed a project report and has recommended to the Congress—prior to enactment of this legislation—that the project should receive funding for construction. According to information from the Corps, 27 projects meet this criteria. The four largest of those projects—the Mississippi Coastal Improvement Program, the American River Watershed Common Features Project in Natomas Basin, California, the Sabine Neches Waterway in Texas and Louisiana, and the Fargo-Moorhead Metro in Minnesota and North Dakota—have a total estimated cost of $5.6 billion, with the federal share totaling about $3.3 billion. CBO estimates that $1.3 billion of those costs would be incurred over the 2014–2018 period. We estimate that construction costs for the other 23 projects would total $1.2 billion over the next five years.

Title I also would enable the Corps to increase the authorized construction cost of a project if it meets the criteria in S. 601, has already received an appropriation, and the Corps submits to the Congress details justifying the higher costs. Three projects meet the criteria under the bill for an increase in authorized construction costs, according to the Corps. The largest increase would be $2.1 billion for the Olmsted Lock and Dam in Illinois. CBO estimates that $0.9 billion of that increase would be incurred over the 2014–2018 period. We estimate that construction costs for the other two projects would total $71 million over the next five years. This authority would expire three years after the bill's enactment.

Title II—Water Resources Policy Reforms. Title II would authorize the Corps to implement a pilot program—in coordination with state and local governments, other federal agencies, and interested parties—to stabilize riverbanks and reduce erosion on inland and intracoastal waterways in the United States. The bill also includes pilot programs through which the Corps would be authorized to contract with nonfederal partners to conduct feasibility studies; construct projects to manage risk from floods; reduce damage from storms; and improve navigation of the nation's harbors.

Finally, title II would increase the amounts authorized to be appropriated for other activities performed by the Corps, including flood control, floodplain management, project modifications to improve the environment, ecosystem restoration, and assistance to states for water resource development.

Based on information from the Corps about costs and the time required to complete similar projects, CBO estimates that implementing this title would cost about $1 billion over the 2014–2018 period, assuming appropriation of the necessary amounts.

Title V—Regional and Nonproject Provisions. Title V would authorize the Corps to establish regional partnerships with state and local governments, other federal agencies, and interested parties to address regional priorities for water resources, including restoring ecosystems, controlling invasive species, and mitigating impacts from floods and extreme weather. The bill also would authorize the Corps to conduct studies—in collaboration with nonfederal partners—to develop plans and designs and to construct projects that meet the water resource priorities in each region. Based on information from the Corps about water resource needs, CBO estimates that implementing this title would cost $271 million over the 2014–2018 period, assuming appropriation of the necessary amounts.

Title VI—Levee Safety. Title VI would direct the Corps—in consultation with FEMA—to develop a levee safety program, including a national database to classify flood risk at federal and nonfederal levees, levee safety guidelines, and a public education program focusing on communities vulnerable to flooding from levee failure. The agencies also would be directed to create an independent board to advise the Corps and the Congress on consistent approaches to levee safety and to report on the efficacy of the national levee safety program.

The Corps also would be directed to provide technical assistance and training to state and tribal governments as they develop safety programs to reduce flood damage. Under the bill, the federal share of costs for those activities would be limited to 65 percent of total costs.

Finally, title VI would authorize the Corps to establish grant programs to assist state and tribal governments to develop safety programs for levees and to provide funding assistance to nonfederal partners for rehabilitating levees.

Based on information from the Corps and FEMA about the historical rate of spending for levee inspections and rehabilitation programs and assuming appropriation of the authorized amounts, CBO estimates that implementing title VI would cost $443 million over the 2014–2018 period.

Title VIII—Harbor Maintenance. The bill would direct the Corps to prioritize navigation projects funded with appropriations from the Harbor Maintenance Trust Fund based on the need to maintain the authorized width and depth of those projects. The bill would make the federal government responsible for all operation and maintenance costs for harbors more than 45 feet deep but less than 50 feet deep. Under current law, such costs for all harbors that are more than 45 feet deep are shared equally with nonfederal partners. Assuming appropriation of the necessary amounts, CBO estimates that those provisions would cost $235 million over the 2014–2018 period. That estimate is based on information from the Corps about the number of harbors that are between 45 feet and 50 feet in depth—or expected to be deepened to 45 feet to 50 feet in the next few years—and the incremental costs to the federal government to provide 100 percent of the operation and maintenance costs.

S. 601 also would establish new procedural points of order for considering legislation in either house of the Congress aimed at ensuring that funds appropriated from the Harbor Maintenance Trust

Fund (HMTF) each year are equal to the receipts plus the interest credited to the fund each year. Over the past five years, appropriations from the HMTF have averaged around $800 million a year—or about $700 million a year less than the revenues and interest credited to the fund. Because current law authorizes the appropriation of such sums as are necessary from the HMTF, this provision does not represent an increase in the amounts authorized to be appropriated.

Title X—Innovative Financing Pilot Projects. This legislation would authorize the appropriation of $500 million over the 2014–2016 period for the Corps and EPA to provide loans or loan guarantees to state and local governments and certain nongovernmental entities to complete water infrastructure projects. Of the amounts authorized, up to $11 million over the next five years would be available to support administrative costs incurred by those agencies to complete and service the loan agreements. The bill also would require that to be eligible for this support, a project must cost $20 million or more and federal loan amounts must account for 49 percent or less of the project's eligible costs. Also, under the bill, the sponsor of each project would be required to demonstrate that it has a financial outlook similar to those of bonds rated B− or better by credit rating companies, such as Standard and Poors and Moodys. Finally, states and other entities would not be permitted to issue tax-exempt bonds to raise additional funds to support the water infrastructure projects under this legislation.

Under procedures established in the Federal Credit Reform Act, funds must be appropriated in advance to cover the estimated subsidy cost of loans and loan guarantees, measured on a present-value basis. Projects with at least a B− rating historically have a cumulative default risk of around 5 percent or less. Considering other features of the proposed loan program, such as a grace period on loan repayments until projects are completed and other optional repayment deferrals if projects cannot make timely loan repayments, CBO estimates that most of the loans and loan guarantees under the proposed program would have a subsidy rate between 3 percent and 11 percent. The Department of Transportation currently operates a similar loan program for transportation infrastructure projects known as the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. Direct loans under the TIFIA program have an estimated subsidy rate of about 10 percent.

CBO expects that the proposed program would operate much like TIFIA and that the Corps and EPA would mostly offer direct federal loans. CBO estimates that demand for loans under this program would be relatively low because tax-exempt financing could not be used by states and other nongovernment entities to obtain at least 51 percent of each project's cost from nonfederal funds as required under S. 601. Based on historical spending rates and the anticipated demand for infrastructure loans under the terms of this bill, CBO estimates that implementing this pilot program would cost $40 million over the 2014–2018 period.

Other Titles. Most other costs would result from titles IV, IX, and XI. Based on information from the Corps and FEMA, and on historical spending patterns of similar programs, CBO estimates

that implementing those titles would cost $269 million over the 2014–2018 period.

• **Title IV—Water Resource Studies.** This title would authorize the Corps to conduct studies of projects aimed at reducing storm damage and flood risk, improving navigation, restoring ecosystems, and other related issues. Assuming appropriation of the authorized amounts, CBO estimates that implementing this title would cost $103 million over the 2014–2018 period.

• **Title IX—Dam Safety.** This title would reauthorize the national dam safety program operated by FEMA. Under the bill, FEMA would also be directed to implement a public awareness and dam safety education program focusing on disaster preparedness. Assuming appropriation of the amounts specifically authorized in the bill, CBO estimates that implementing this title would cost $63 million over the 2014–2018 period.

• **Title XI—Extreme Weather.** This title would authorize the Corps to conduct watershed assessments in disaster areas and to carry out water resources projects to restore water infrastructure and natural features, such as wetlands that help mitigate storm damages. Assuming appropriation of the authorized amounts, CBO estimates that implementing this title would cost $100 million over the 2014–2018 period.

• **Miscellaneous.** Other costs would result from provisions that would make minor changes to specific projects and some process changes to Inland Waterways projects. Assuming appropriation of the necessary amounts, CBO estimates that those provisions would cost about $3 million over the 2014–2018 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact:

Mandates

S. 601 would impose intergovernmental and private-sector mandates, as defined in UMRA, by authorizing the Corps of Engineers to carry out watercraft inspections or other measures to prevent the spread of invasive species. Public and private entities would have to comply with requirements established by the Corps. Because the number of affected entities and the cost of compliance would probably be small, CBO expects that the costs of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($75 million and $150 million in 2013, respectively, adjusted annually for inflation).

Other Impacts

Water resource projects and activities authorized in the bill would benefit state, local, and tribal governments. Governments that chose to participate in programs or applied for grants authorized by the bill could incur costs, but those costs would be incurred voluntarily as conditions of federal assistance.

Previous CBO estimate: On April 9, 2013, CBO transmitted a cost estimate for S. 601, the Water Resources Development Act of 2013, as ordered reported by the Senate Committee on Environment and Public Works on March 20, 2013.

The two versions of S. 601 are the same except for provisions in title X. In both versions of the bill, title X would authorize the ap-

propriation of $500 million for the Corps and EPA to issue direct federal loans and loan guarantees to support water infrastructure projects. The April 12, 2013, version of the legislation, however, would preclude states and other entities from obtaining any project financing by issuing tax-exempt bonds. That change would have two budgetary consequences compared with the cost estimate that CBO prepared for the earlier version of the legislation. First, the staff of the Joint Committee on Taxation estimates that enacting title X of the April 12, 2013, version would have no impact on revenues. Second, CBO's estimate of discretionary spending under title X is lower than we estimated for the earlier version. Under the new version of the bill, CBO estimates that outlays for title X would be $220 million less over the 2015–2018 period than under the earlier version because we expect the demand for federal credit to be lower without the option of using tax-exempt financing.

Estimate prepared by: Federal Spending: Aurora Swanson, Susanne Mehlman, Sarah Puro, and Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 1974

[42 U.S.C 1962d-16 PUBLIC LAW 93–251—MAR. 7, 1974]

SEC. 1962d-16. Comprehensive plans for development, utilization, and conservation of water and related resources

(a) Federal State cooperation—

(1) Comprehensive plans—The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State *or other stakeholder working with a State* in the preparation of comprehensive plans for the development,utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State *, including plans to comprehensively address water resources challenges,* and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(2) Technical assistance—

(A) IN GENERAL.—At the request of a governmental agency or non-Federal interest, the Secretary may provide[, at Federal expense,] technical assistance to such agency or non-Federal interest in managing water resources.

* * * * * * *

(b) Fees—

(1) ESTABLISHMENT AND COLLECTION—For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to [subsection (a)(1)] *subsection (a)*, the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to whom assistance is provided under [subsection (a)(1)] *subsection (a)*.

(2) CONTRIBUTED FUNDS.—The Secretary may accept and expend funds in excess of the fees established under paragraph (1) that are provided by a State or other non-Federal public body for assistance under this section.

[(2)] *(3)* IN-KIND SERVICES.—The non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan.

[(3)] *(4)* DEPOSIT AND USE.—Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) FEDERAL AND STATE COOPERATION.—There is authorized to be appropriated not to exceed [$10,000,000] *$30,000,000* annually to carry out subsection (a)(1), except that not more than [$2,000,000]*$5,000,000 in Federal funds* shall be expended in any one year in any one State.

(2) TECHNICAL ASSISTANCE.—There is authorized to be appropriated [$5,000,000] $15,000,000 annually to carry out subsection (a)(2), of which not more than $2,000,000 annually may be used by the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities.

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WATER RESOURCES DEVELOPMENT ACT OF 1976

[42 U.S.C 1962d-5f PUBLIC LAW 94–587—OCT. 22 1976]

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[SEC. 1962d-5f. Beach nourishment

[The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additionalperiod extend beyond the fiftieth year which begins after the date of initiation of construction of such project.]

SEC. 156. BEACH NOURISHMENT.

(a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers, may provide periodic beach nourishment for each water resources development project for which that nourishment has been authorized for an additional period of time, as determined by the Secretary, subject to the condition that the additional period shall not exceed the later of—

(1) 50 years after the date on which the construction of the project is initiated; or

(2) the date on which the last estimated periodic nourishment for the project is to be carried out, as recommended in the applicable report of the Chief of Engineers.

"(b) EXTENSION.—Before the end of the 50-year period referred to in subsection (a)(1), the Secretary of the Army, acting through the Chief of Engineers—

(1) may, at the request of the non-Federal interest and subject to the availability of appropriations, carry out a review of a nourishment project carried out under subsection (a) to evaluate the feasibility of continuing Federal participation in the project for a period not to exceed 15 years; and

(2) shall submit to Congress any recommendations of the Secretary relating to the review.

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 1986

[33 U.S.C. 2309a; PUBLIC LAW 110–114—NOV. 8, 2007]

* * * * * * *

TITLE I—COST SHARING

SEC. 101. HARBORS.

(a) CONSTRUCTON.—

(1) PAYMENTS DURING CONSTRUCTION.— * * *

* * * * * * *

(b) OPERATION AND MAINTENANCE.—

(1) IN GENERAL.—The Federal share of the cost of operation and maintenance of each navigation project for a harbor or inland harbor constructed by the Secretary pursuant to this Act or any other law approved after the date of the enactment of this Act shall be 100 percent, except that in the case of a deep-draft harbor, the non-Federal interests shall be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost which the Secertary determines would be incurred for operation and maintenance of such project if such project had a depth of **[**45 feet**]** *50 feet*.

(2) DREDGED MATERIAL DISPOSAL FACILITIES.—The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph shall be determined in accordance with subsection (a). The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).

(3) OPERATION AND MAINTENANCE ACTIVITIES DEFINED.—

(A) SCOPE OF OPERATION AND MAINTENANCE ACTIVITIES.—Notwithstanding any other provision of law (including regulations and guidelines) and subject to subparagraph (B), for purposes of this subsection, operation and

maintenance activities that are eligible for the Federal cost share under paragraph (1) shall include—

(i) the dredging of berths in a harbor that is accessible to a Federal channel, if the Federal channel has been constructed to a depth equal to the authorized depth of the channel; and

(ii) the dredging and disposal of legacy-contaminated sediments and sediments unsuitable for ocean disposal that—

(I) are located in or affect the maintenance of Federal navigation channels; or

(II) are located in berths that are accessible to Federal channels.

(B) LIMITATIONS.—

(i) IN GENERAL.—For each fiscal year, subparagraph (A) shall only apply if all operation and maintenance activities that are eligible for the Federal cost share under paragraph (1) in a State described in clause (ii) have been funded.

(ii) STATE LIMITATION.—For each fiscal year, the operation and maintenance activities described in subparagraph (A) may only be carried out in a State—

(I) in which the total amounts collected pursuant to section 4461 of the Internal Revenue Code of 1986 comprise not less than 2.5 percent annually of the total funding of the Harbor Maintenance Trust Fund established under section 9505 of the Internal Revenue Code of 1986; and

(II) that received less than 50 percent of the total amounts collected in that State pursuant to section 4461 of the Internal Revenue Code of 1986 in the previous 3 fiscal years.

(iii) PRIORITIZATION.—In allocating amounts made available under this paragraph, the Secretary shall give priority to projects that have received the lowest rate of funding from the Harbor Maintenance Trust fund in the previous 3 fiscal years.

* * * * * * *

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

(a) TRUST FUND.—There are authorized to be appropriated out of the Harbor Maintenance Trust Fund, established by section 9505 of the Internal Revenue Code of 1954, for each fiscal year such sums as may be necessary to pay—

(1) 100 percent of the eligible operations and maintenance costs of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation for such fiscal year; and

(2) up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.

(b) GENERAL FUND.—There are authorized to be appropriated out of the general fund of the Treasury of the United States for each fiscal year such sums as may be necessary to pay the balance of all eligible operations and maintenance costs not provided by pay-

ments from the Harbor Maintenance Trust Fund under this section.

(c) PRIORITIZATION.—

(1) IN GENERAL.—Of the amounts made available under this section to carry out projects described in subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall give priority to those projects in the following order:

(A) In any fiscal year in which all projects subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or successor regulation) are not maintained to their authorized width and depth, the Secretary shall prioritize amounts made available under this section for those projects that are high-use deep draft.

(B) In any fiscal year in which the projects described in subparagraph (A) are maintained to their constructed width and depth as of the date of enactment of the Water Resources Development Act of 2013, the Secretary shall prioritize not more than 20 percent of remaining amounts made available under this section for projects—

(i) that have been maintained at less than their authorized width and depth during the preceding 5 fiscal years; and

(ii) for which significant State and local investments in infrastructure have been made at those projects.

(2) ADMINISTRATION.—For purposes of this subsection, State and local investments in infrastructure shall include infrastructure investments made using amounts made available for activities under section 105(a)(9) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(9)).

(3) APPLICATION.—The prioritization criteria under paragraph (1) shall not be implemented in any fiscal year in which the guarantee in section 8003 of the Water Resources Development Act of 2013 is not fully enforced.

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[33 U.S.C. 2251; PUBLIC LAW 99–662—NOV. 17, 1986]

SEC. 302. INLAND WATERWAYS USERS BOARD.

(a) ESTABLISHMENT OF USERS BOARD.— * * *

* * * * * * *

[(b) DUTIES.—The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), the Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.]

(b) DUTIES OF USERS BOARD.—

(1) IN GENERAL.—The Users Board shall meet not less frequently than semiannually to develop and make recommenda-

tions to the Secretary and Congress regarding the inland waterways and inland harbors of the United States.

(2) ADVICE AND RECOMMENDATIONS.—For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide—

(A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;

(B) advice and recommendations to Congress regarding any report of the Chief of Engineers relating to those features and components;

(C) advice and recommendations to Congress regarding an increase in the authorized cost of those features and components;

(D) not later than 60 days after the date of the submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels; and

(E) a long-term capital investment program in accordance with subsection (d).

(3) PROJECT DEVELOPMENT TEAMS.—The chairperson of the Users Board shall appoint a representative of the Users Board to serve on the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

(4) INDEPENDENT JUDGMENT.—Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board.

(c) DUTIES OF SECRETARY.—The Secretary shall—

(1) communicate not less than once each quarter to the Users Board the status of the study, design, or construction of all commercial navigation features or components of the inland waterways or inland harbors of the United States; and

(2) submit to the Users Board a courtesy copy of all reports of the Chief of Engineers relating to a commercial navigation feature or component of the inland waterways or inland harbors of the United States.

(d) CAPITAL INVESTMENT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in coordination with the Users Board, shall develop, and submit to Congress a report describing, a 20-year program for making capital investments on the inland and intracoastal waterways, based on the application of objective, national project selection prioritization criteria.

(2) CONSIDERATION.—In developing the program under paragraph (1), the Secretary shall take into consideration the 20-year capital investment strategy contained in the Inland Marine Transportation System (IMTS) Capital Projects Business Model, Final Report published on April 13, 2010, as approved by the Users Board.

(3) CRITERIA.—In developing the plan and prioritization criteria under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that investments made under the 20-year program described in paragraph (1)—

(A) are made in all geographical areas of the inland waterways system; and

(B) ensure efficient funding of inland waterways projects.

(4) STRATEGIC REVIEW AND UPDATE.—Not later than 5 years after the date of enactment of this subsection, and not less frequently than once every 5 years thereafter, the Secretary, in conjunction with the Users Board, shall—

(A) submit to Congress a strategic review of the 20-year program in effect under this subsection, which shall identify and explain any changes to the project-specific recommendations contained in the previous 20-year program (including any changes to the prioritization criteria used to develop the updated recommendations); and

(B) make such revisions to the program as the Secretary and Users Board jointly consider to be appropriate.

(e) PROJECT MANAGEMENT PLANS.—The chairperson of the Users Board and the project development team member appointed by the chairperson under subsection (b)(3) shall sign the project management plan for the qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

[(c)**]** *(f)* ADMINISTRATION.—The Users Board shall be subject to the Federal Advisory Committee Act, other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency. Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

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SEC. 905. FEASIBILITY REPORTS.

(a) PREPARATION OF REPORTS.—

(1) IN GENERAL.— * * *

* * * * * * *

(g) DETAILED PROJECT SCHEDULE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine a set of milestones needed for the completion of a feasibility study under this subsection, including all major actions, report submissions and responses, reviews, and comment periods.

(2) DETAILED PROJECT SCHEDULE MILESTONES.—Each District Engineer shall, to the maximum extent practicable, establish a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to feasibility studies in the District developed by the Secretary under paragraph (1).

(3) NON-FEDERAL INTEREST NOTIFICATION.—Each District Engineer shall submit by certified mail the detailed project schedule under paragraph (2) to each relevant non-Federal interest—

(A) for projects that have received funding from the General Investigations Account of the Corps of Engineers in the period beginning on October 1, 2009, and ending on the date of enactment of this section, not later than 180 days after the establishment of milestones under paragraph (1); and

(B) for projects for which a feasibility cost-sharing agreement is executed after the establishment of milestones under paragraph (1), not later than 90 days after the date on which the agreement is executed.

(4) CONGRESSIONAL AND PUBLIC NOTIFICATION.—Beginning in the first full fiscal year after the date of enactment of this Act, the Secretary shall—

(A) submit an annual report that lists all detailed project schedules under paragraph (2) and an explanation of any missed deadlines to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) make publicly available, including on the Internet, a copy of the annual report described in subparagraph (A) not later than 14 days after date on which a report is submitted to Congress.

(5) FAILURE TO ACT.—If a District Engineer fails to meet any of the deadlines in the project schedule under paragraph (2), the District Engineer shall—

(A) not later than 30 days after each missed deadline, submit to the non-Federal interest a report detailing—

(i) why the District Engineer failed to meet the deadline; and

(ii) a revised project schedule reflecting amended deadlines for the feasibility study; and

(B) not later than 30 days after each missed deadline, make publicly available, including on the Internet, a copy of the amended project schedule described in subparagraph (A)(ii).

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SEC. 906. FISH AND WILDLIFE MITIGATION.

(a)(1) * * *

* * * * * * *

(d) MITIGATION PLANS AS PART OF PROJECT PROPOSALS.—

(1) IN GENERAL.—After November 17, 1986, the Secretary shall not submit any proposal for the authorization of any water resources project to Congress in any report, and shall not select a project alternative in any report, unless such report contains (A) a recommendation with a specific plan to mitigate *for damages to ecological resources, including terrestrial and aquatic resources, and* fish and wildlife losses created by such project, or (B) a determination by the Secretary that such project will have negligible adverse impact on *ecological resources and* fish and wildlife. Specific mitigation plans shall ensure that impacts to bottomland hardwood forests are mitigated in-kind, and other habitat types are mitigated to not less than in-kind conditions, to the extent possible. *If the Secretary*

determines that mitigation to in-kind conditions is not possible, the Secretary shall identify in the report the basis for that determination. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies *without the implementation of mitigation measures*.

* * * * * * *

(3) MITIGATION REQUIREMENTS.—

(A) IN GENERAL.—To mitigate losses to flood damage reduction capabilities and fish and wildlife resulting from a water resources project, the Secretary shall ensure that the mitigation plan for each water resources project complies with*, at a minimum,* the mitigation standards and policies established pursuant to the regulatory programs administered by the Secretary.

(B) INCLUSIONS.—A specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

(i) a plan for monitoring the implementation and ecological success of each mitigation measure, including the cost and duration of any monitoring, and, to the extent practicable, a designation of the entities that will be responsible for the monitoring;

(ii) the criteria for ecological success by which the mitigation will be evaluated and determined to be successful based on replacement of lost functions and values of the habitat, including hydrologic and vegetative characteristics;

(iii) for projects where mitigation will be carried out by the Secretary—

(I) a description of the land and interest in land to be acquired for the mitigation plan;

(II) the basis for a determination that the land and interests are available for acquisition; and

(III) a determination that the proposed interest sought does not exceed the minimum interest in land necessary to meet the mitigation requirements for the project;

(iv) for projects where mitigation will be carried out through a third party mitigation arrangement in accordance with subsection (i)—

(I) a description of the third party mitigation instrument to be used; and

(II) the basis for a determination that the mitigation instrument can meet the mitigation requirements for the project;

[(iii) a description of the land and interests in land to be acquired for the mitigation plan and the basis for a determination that the land and interests are available for acquisition;**]**

[(iv)**]** *(v)* a description of—

(I) the types and amount of restoration activities to be conducted;

(II) the physical action to be undertaken to achieve the mitigation objectives within the watershed in which such losses occur and, in any case

in which the mitigation will occur outside the watershed, a detailed explanation for undertaking the mitigation outside the watershed; and

(III) the functions and values that will result from the mitigation plan; and

[(v)] *(vi)* a contingency plan for taking corrective actions in cases in which monitoring demonstrates that mitigation measures are not achieving ecological success in accordance with criteria under clause (ii).

(C) RESPONSIBILITY FOR MONITORING.—In any case in which it is not practicable to identify in a mitigation plan for a water resources project the entity responsible for monitoring at the time of a final report of the Chief of Engineers or other final decision document for the project, such entity shall be identified in the partnership agreement entered into with the non-Federal interest under section 221 of Flood Control Act of 1970 (42 U.S.C. 1962d–5b).

* * * * * * *

(g) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing in this section is intended to affect that Act.

(h) PROGRAMMATIC MITIGATION PLANS.—

(1) IN GENERAL.—The Secretary may develop 1 or more programmatic mitigation plans to address the potential impacts to ecological resources, fish, and wildlife associated with existing or future water resources development projects.

(2) USE OF MITIGATION PLANS.—The Secretary shall, to the maximum extent practicable, use programmatic mitigation plans developed in accordance with this subsection to guide the development of a mitigation plan under subsection (d).

(3) NON-FEDERAL PLANS.—The Secretary shall, to the maximum extent practicable and subject to all conditions of this subsection, use programmatic environmental plans developed by a State, a body politic of the State, which derives its powers from a State constitution, a government entity created by State legislation, or a local government, that meet the requirements of this subsection to address the potential environmental impacts of existing or future water resources development projects.

(4) SCOPE.—A programmatic mitigation plan developed by the Secretary or an entity described in paragraph (3) to address potential impacts of existing or future water resources development projects may—

(A) be developed on a regional, ecosystem, watershed, or statewide scale;

(B) encompass multiple environmental resources within a defined geographical area or focus on a specific resource, such as aquatic resources or wildlife habitat; and

(C) address impacts from all projects in a defined geographical area or focus on a specific type of project.

(5) CONSULTATION.—The scope of the plan shall be determined by the Secretary or an entity described in paragraph (3), as appropriate, in consultation with the agency with jurisdiction over the resources being addressed in the environmental mitigation plan.

(6) CONTENTS.—A programmatic environmental mitigation plan may include—

(A) an assessment of the condition of environmental resources in the geographical area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

(B) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographical area covered by the plan through strategic mitigation for impacts of water resources development projects;

(C) standard measures for mitigating certain types of impacts;

(D) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

(E) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring;

(F) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources; and

(G) any offsetting benefits of self-mitigating projects, such as ecosystem or resource restoration and protection.

(7) PROCESS.—Before adopting a programmatic environmental mitigation plan for use under this subsection, the Secretary shall—

(A) for a plan developed by the Secretary—

(i) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public; and

(ii) consider any comments received from those agencies and the public on the draft plan; and

(B) for a plan developed under paragraph (3), determine, not later than 180 days after receiving the plan, whether the plan meets the requirements of paragraphs (4) through (6) and was made available for public comment.

(8) INTEGRATION WITH OTHER PLANS.—A programmatic environmental mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

(9) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic environmental mitigation plan has been developed under this subsection, any Federal agency responsible for environmental reviews, permits, or approvals for a water resources development project may use the recommendations in that programmatic environmental mitigation plan when carrying out the responsibilities of the agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(10) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this subsection limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(i) THIRD-PARTY MITIGATION ARRANGEMENTS.—

(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal laws (including regulations), mitigation efforts carried out under this section may include—

(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

(i) the purchase of credits from commercial or State, regional, or local agency-sponsored mitigation banks; and

(ii) the purchase of credits from in-lieu fee mitigation programs; and

(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands.

(2) INCLUSION OF OTHER ACTIVITIES.—The banks, programs, and efforts described in paragraph (1) include any banks, programs, and efforts developed in accordance with applicable law (including regulations).

(3) TERMS AND CONDITIONS.—In carrying out natural habitat and wetlands mitigation efforts under this section, contributions to the mitigation effort may—

(A) take place concurrent with, or in advance of, the commitment of funding to a project; and

(B) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and water resources development planning processes.

(4) PREFERENCE.—At the request of the non-Federal project sponsor, preference may be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project has been approved by the applicable Federal agency.

(j) USE OF FUNDS.—The Secretary may use funds made available for preconstruction engineering and design prior to authorization of project construction to acquire interests in land necessary for meeting the mitigation requirements of this section.

* * * * * * *

TITLE X—PROJECT DEAUTHORIZATION

SEC. 1001. [33 U.S.C. 579a] (a) Any project authorized for construction by this Act shall not be authorized after the last day of the 5-year period beginning on the date of enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such project.

(b)(1) Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a list of unconstructed projects, or unconstructed separable elements of projects, which have been authorized, but have received no obligations during the 10 full fiscal years preceding the transmittal of such list. A project or separable element included in such list is not authorized after December 31, 1989, if the funds have not been ob-

ligated for construction of such project or element after the date of enactment of this Act and before December 31, 1989.

[(2) Notwithstanding section 3003 of Public Law 104–66 (31 U.S.C. 1113 note; 109 Stat. 734), every year after the transmittal of the list under paragraph (1), the Secretary shall transmit to Congress a list of projects or separable elements of projects which have been authorized, but have received no obligations during the 5 full fiscal years preceding the transmittal of such list. Upon submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located. A project or separable element included in such list is not authorized after the date which is the last date of the fiscal year following the fiscal year in which the list is so transmitted if funds have not been obligated for the planning, design, or construction of such project or element during such period.]

(2) LIST OF PROJECTS.—

(A) IN GENERAL.—Notwithstanding section 3003 of Public Law 104–66 (31 U.S.C. 1113 note; 109 Stat. 734), each year, after the submission of the list under paragraph (1), the Secretary shall submit to Congress a list of projects or separable elements of projects that have been authorized but that have received no obligations during the 5 full fiscal years preceding the submission of that list.

(B) ADDITIONAL NOTIFICATION.—On submission of the list under subparagraph (A) to Congress, the Secretary shall notify—

(i) each Senator in whose State and each Member of the House of Representatives in whose district a project (including any part of a project) on that list would be located; and

(ii) each applicable non-Federal interest associated with a project (including any part of a project) on that list.

(C) DEAUTHORIZATION.—A project or separable element included in the list under subparagraph (A) is not authorized after the last date of the fiscal year following the fiscal year in which the list is submitted to Congress, if funding has not been obligated for the planning, design, or construction of the project or element of the project during that period.

(3) MINIMUM FUNDING LIST.—At the end of each fiscal year, the Secretary shall submit to Congress a list of—

(A) projects or separable elements of projects authorized for construction for which funding has been obligated in the 5 previous fiscal years;

(B) the amount of funding obligated per fiscal year;

(C) the current phase of each project or separable element of a project; and

(D) the amount required to complete those phases.

(4) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2013, the Secretary shall compile and publish a complete

list of all uncompleted, authorized projects of the Corps of Engineers, including for each project on that list—

(i) the original budget authority for the project;

(ii) the status of the project;

(iii) the estimated date of completion of the project;

(iv) the estimated cost of completion of the project; and

(v) any amounts for the project that remain unobligated.

(B) PUBLICATION.—

(i) IN GENERAL.—The Secretary shall submit a copy of the list under subparagraph (A) to—

(I) the appropriate committees of Congress; and

(II) the Director of the Office of Management and Budget.

(ii) PUBLIC AVAILABILITY.—Not later than 30 days after providing the report to Congress under clause (i), the Secretary shall make a copy of the list available on a publicly accessible Internet site, in a manner that is downloadable, searchable, and sortable.

* * * * * * *

[33 U.S.C 2309a(d) PUBLIC LAW 104–303—OCT. 12, 1996]

SEC. 2309a. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT

(a) Determination of need— * * *

* * * * * * *

(d) Non-Federal share; limitation on maximum Federal expenditure—

The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) of this section shall be 25 percent. **[**Not more than 80 percent of the non-Federal share may be**]** *The non-Federal share may be provided* in kind, including a facility, supply, or service that is necessary to carry out the modification or measure. Not more than **[**$5,000,000**]** *$10,000,000* in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 1990

[33 U.S.C. 2321; PUBLIC LAW 110–114—NOV. 8, 2007]

* * * * * * *

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

* * * * * * *

(b) TABLE OF CONTENTS.—

TITLE III—GENERALLY APPLICABLE PROVISIONS

Sec. 314. [Operation and Maintenance of hydroelectric facilities]
Sec. 314. Operation and maintenance of navigation and hydroelectric facilities.

* * * * * * *

[SEC. 2321. OPERATION AND MAINTENANCE OF HYDROELECTRIC FACILITIES—]

SEC. 314. OPERATION AND MAINTENANCE OF NAVIGATION AND HYDROELECTRIC FACILITIES.

[Activities currently performed]

(a) IN GENERAL.—Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of *navigation or* hydroelectric power generating facilities at Corps of Engineers water resources projects are to be considered as inherently governmental functions and not commercial activities. [This section]

(b) MAJOR MAINTENANCE CONTRACTS ALLOWED.—This section; does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

(c) EXCLUSION.—This section shall not—

(1) apply to those navigation facilities that have been or are currently under contract with a non-Federal interest to perform operations and maintenance as of the date of enactment of the Water Resources Development Act of 2013; and

(2) prohibit the Secretary from contracting out future commercial activities at those navigation facilities.

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 1992

[33 U.S.C. 2326; PUBLIC LAW 110–161—DEC. 26, 2007]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1992".

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TITLE II—GENERALLY APPLICABLE PROVISIONS

* * * * * * *

SEC. 203. VOLUNTARY CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.

(a) ACCEPTANCE.— * * *

* * * * * * *

SEC. 204. REGIONAL SEDIMENT MANAGEMENT.

(a) IN GENERAL.—

(1) SEDIMENT USE.—

For sediment obtained through *or used* the construction, operation, or maintenance of an authorized Federal water resources project, the Secretary shall develop, at Federal expense, regional sediment management plans and carry out projects at locations identified in

plans developed under this section, or identified jointly by the non-Federal interest and the Secretary, for use in the construction, repair, modification, or rehabilitation of projectsassociated with Federal water resources projects for purposes listed in paragraph (3).

(2) COOPERATION.—

The Secretary shall develop plans under this subsection in cooperation with the appropriate Federal, State, regional, and local agencies.

(3) PURPOSES FOR SEDIMENT USE IN PROJECTS.—

The purposes of using sediment for the construction, repair, modification, or rehabilitation of Federal water resources projects are -

(A) to reduce storm damage to property;

(B) to protect, restore, and create aquatic and ecologically related habitats, including wetlands; and

(C) to transport and place suitable sediment *for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting State and local risk management adaptation strategies*.

* * * * * * *

(c) DETERMINATION OF PROJECT COSTS.—

(1) COSTS OF CONSTRUCTION.—

(A) IN GENERAL.—Costs associated with construction of a project under this section or identified in a regional sediment management plan shall be limited solely to construction costs that are in excess of the costs necessary to carry out the dredging for construction, operation, or maintenance of an authorized Federal water resources project in the most cost-effective way, consistent with economic, engineering, and environmental criteria.

(B) COST SHARING.—

(i) IN GENERAL.—Except as provided in **[**clause (ii)**]** *clauses (ii) and (iii)*, the non-Federal share of the construction cost of a project under this section shall be determined as provided in subsections (a) through (d) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(ii) REDUCTION IN NON-FEDERAL SHARE.—The Secretary may reduce the non-Federal share of the costs of construction of a project if the Secretary determines that, through the beneficial use of sediment at another Federal project, there will be an associated reduction or avoidance of Federal costs.

[(ii)**]** *(iii)* SPECIAL RULE.—Construction of a project under this section for one or more of the purposes of protection, restoration, or creation of aquatic and ecologically related habitat, the cost of which does not exceed $750,000 and which is located in a disadvantaged community as determined by the Secretary, may be carried out at Federal expense.

(C) TOTAL COST.—The total Federal costs associated with construction of a project under this section may not exceed **[**$5,000,000**]** *$10,000,000*.

* * * * * * *

[(d) Selection of dredged material disposal method for environmental purposes]

(d) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD FOR PURPOSES RELATED TO ENVIRONMENTAL RESTORATION OR STORM DAMAGE AND FLOOD REDUCTION.—

(1) IN GENERAL.—

In developing and carrying out a Federal water resources project involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least cost option if the Secretary determines that the incremental costs of the disposal method are reasonable [in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion.] *in relation to—*

(A) the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion; or

(B) the flood and storm damage and flood reduction benefits, including shoreline protection, protection against loss of life, and damage to improved property.

* * * * * * *

(e) STATE AND REGIONAL PLANS.—

The Secretary may—

[(1) cooperate with any State in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State;]

(1) cooperate with any State or group of States in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State or among States;

* * * * * * *

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section [$30,000,000] *$50,000,000* per fiscal year, of which not more than $5,000,000 per fiscal year may be used for the development of regional sediment management plans authorized by subsection (e) and of which not more than $3,000,000 per fiscal year may be used for construction of projects to which subsection (c)(1)(B)(ii) applies. Such funds shall remain available until expended.

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 1996

[33 U.S.C. 2330(d); PUBLIC LAW 111–85—OCT. 28, 2009]

* * * * * * *

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1996".

* * * * * * *

SEC. 206. AQUATIC ECOSYSTEM RESTORATION.

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.— * * *

* * * * * * *

(d) COST LIMITATION.—Not more than [$5,000,000] *$10,000,000* in Federal funds may be allotted under this section for a project at any single locality.

* * * * * * *

SEC. 211. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.— * * *

* * * * * * *

(e) REIMBURSEMENT.—

(1) GENERAL RULE.— * * *

* * * * * * *

(2) SPECIAL RULES.—

(A) REIMBURSEMENT OR CREDIT.— * * *

* * * * * * *

(C) STUDIES OR OTHER PROJECTS.—On the request of a non-Federal interest, in lieu of reimbursing a non-Federal interest the amount equal to the estimated Federal share of the cost of an authorized flood damage reduction project or a separable element of an authorized flood damage reduction project under this subsection that has been constructed by the non-Federal interest under this section as of the date of enactment of this Act, the Secretary may provide the non-Federal interest with a credit in that amount, which the non-Federal interest may apply to the share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies.

* * * * * * *

SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

(a) IN GENERAL.—The Secretary may engage in activities (including contracting) in support of [other Federal agencies,] *Federal departments or agencies, nongovernmental organizations,* Federal international organizations, or foreign governments to address problems of national significance to the United States.

(b) CONSULTATION.—The Secretary may engage in activities in support of international organizations *or foreign governments* only after consulting with the Department of State.

(c) USE OF CORPS' EXPERTISE.—The Secretary may use the technical and managerial expertise of the Corps of Engineers to address domestic and international problems related to water resources, infrastructure development, and environmental protection *and restoration*.

(d) FUNDING.—[There is] *(1) IN GENERAL*.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year [2008] *2014* and each fiscal year thereafter. [The Secretary]

(2) Acceptance of funds.—The Secretary may accept and expend additional funds from [other Federal agencies] *Federal departments or agencies, nongovernmental organizations*, international organizations, or foreign governments to carry out this section.

* * * * * * *

SEC. 510. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1)(1) In general.—The Secretary shall establish a [pilot program]*program* to provide environmental assistance to non-Federal interests *in the basin States described in subsection (f) and the District of Columbia* in the Chesapeake Bay watershed.

[(2) FORM.—*The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, beneficial uses of dredged material, and restoration of submerged aquatic vegetation, and other related projects that may enhance the living resources of the estuary.*]

(2) FORM.—The assistance under paragraph (1) shall be in the form of design and construction assistance for water-related resource protection and restoration projects affecting the Chesapeake Bay estuary, based on the comprehensive plan under subsection (b), including projects for—

(A) sediment and erosion control;

(B) protection of eroding shorelines;

(C) ecosystem restoration, including restoration of submerged aquatic vegetation;

(D) protection of essential public works;

(E) beneficial uses of dredged material; and

(F) other related projects that may enhance the living resources of the estuary.

[(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.]

(b) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Water Resources Development Act of 2013, the Secretary, in cooperation with State and local governmental officials and affected stakeholders, shall develop a comprehensive Chesapeake Bay restoration plan to guide the implementation of projects under subsection (a)(2).

(2) COORDINATION.—The restoration plan described in paragraph (1) shall, to the maximum extent practicable, consider and avoid duplication of any ongoing or planned actions of other Federal, State, and local agencies and nongovernmental organizations.

(3) PRIORITIZATION.—The restoration plan described in paragraph (1) shall give priority to projects eligible under subsection (a)(2) that will also improve water quality or quantity or use natural hydrological features and systems.

(4) ADMINISTRATION.—The Federal share of the costs of carrying out paragraph (1) shall be 75 percent.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agree-

ment with a non-Federal interest [to provide for design and construction of the project to be carried out with the assistance.] *for the design and construction of a project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b).*

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—

(A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a [facilities or resource protection and development plan] *resource protection and restoration plan*, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and

(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(3) PROJECTS ON FEDERAL LAND.—A project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b) that is located on Federal land shall be carried out at the expense of the Federal agency that owns the land on which the project will be a carried out.

(4) NON-FEDERAL CONTRIBUTIONS.—A Federal agency carrying out a project described in paragraph (3) may accept contributions of funds from non-Federal entities to carry out that project.

* * * * * * *

[(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with the heads of appropriate Federal agencies, including—

[(1) the Administrator of the Environmental Protection Agency;

[(2) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

[(3) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

[(4) the heads of such other Federal agencies and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.]

(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with—

(1) the heads of appropriate Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Commerce, acting through the Administrator of the National Oceanographic and Atmospheric Administration;

(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(D) the heads of such other Federal agencies as the Secretary determines to be appropriate; and

(2) agencies of a State or political subdivision of a State, including the Chesapeake Bay Commission.

[(f) PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania.]

(f) PROJECTS.—The Secretary shall establish, to the maximum extent practicable, at least 1 project under this section in—

(1) regions within the Chesapeake Bay watershed of each of the basin States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; and

(2) the District of Columbia.

* * * * * * *

[(h) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.]

[(i)] *(h) AUTHORIZATION OF APPROPRIATIONS.*.—There is authorized to be appropriated to carry out this section $10,000,000.

* * * * * * *

WATER RESOURCES DEVELOPMENT ACT OF 2000

[33 U.S.C. 2269; PUBLIC LAW 111–315—DEC. 18, 2010]

SEC. 203. TRIBAL PARTNERSHIP PROGRAM.

(a) * * *

(b) PROGRAM.—

(1) IN GENERAL.—In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may carry out water-related planning activities and study and determine the feasibility of carrying out water resources development projects that—

(A) * * *

* * * * * * *

(d) COST SHARING.—

(1) ABILITY TO PAY

(A) * * *

* * * * * * *

(B) USE OF PROCEDURES—

[The ability]

(i) IN GENERAL.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures stablished by the Secretary.

(ii) DETERMINATION.—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2013, the Secretary shall issue guidance on the procedures described in clause (i).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $5,000,000 for each of fiscal years 2002 through [2012] *2023*, of which not more than $1,000,000 may be used with respect to any 1 Indian tribe.

* * * * * * *

SEC. 213.

(a) CONSERVATION AND RECREATION MANAGEMENT—

To further training and educational opportunities [at] *about* water resources development projects under the jurisdiction of the Secretary, the Secretary may enter into cooperative agreements with non-Federal public and nonprofit entities for services relating to natural resources conservation or recreation management.

* * * * * * *

SEC. 214. FUNDING TO PROCESS PERMITS.

(a) IN GENERAL.— * * *

* * * * * * *

[*(d) PUBLIC AVAILABILITY.—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public, including on the Internet.*

[*(e) DURATION OF AUTHORITY.—The authority provided under this section shall be in effect from October 1, 2000, through December 31, 2016.*]

(d) PUBLIC AVAILABILITY.—

(1) IN GENERAL.—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public in a common format, including on the Internet, and in a manner that distinguishes final permit decisions under this section from other final actions of the Secretary.

(2) DECISION DOCUMENT.—The Secretary shall—

(A) use a standard decision document for evaluating all permits using funds accepted under this section; and

(B) make the standard decision document, along with all final permit decisions, available to the public, including on the Internet.

(3) AGREEMENTS.—The Secretary shall make all active agreements to accept funds under this section available on a single public Internet site.

(e) REPORTING.—

(1) IN GENERAL.—The Secretary shall prepare an annual report on the implementation of this section, which, at a minimum, shall include for each district of the Corps of Engineers that accepts funds under this section—

(A) a comprehensive list of any funds accepted under this section during the previous fiscal year;

(B) a comprehensive list of the permits reviewed and approved using funds accepted under this section during the previous fiscal year, including a description of the size and type of resources impacted and the mitigation required for each permit; and

(C) a description of the training offered in the previous fiscal year for employees that is funded in whole or in part with funds accepted under this section.

(2) SUBMISSION.—Not later than 90 days after the end of each fiscal year, the Secretary shall—

(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the annual report described in paragraph (1); and

(B) make each report received under subparagraph (A) available on a single publicly accessible Internet site.

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SEC. 536. LOWER COLUMBIA RIVER AND TILLAMOOK BAY ECOSYSTEM RESTORATION, OREGON AND WASHINGTON

(a) IN GENERAL.— * * *

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(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section **[**$30,000,000.**]** *$75,000,000.*

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WATER RESOURCES DEVELOPMENT ACT OF 2007

[33 U.S.C. 2348; PUBLIC LAW 110–114—NOV. 8, 2007]

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SECTION 1. [33 U.S.C. 2201 note] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.— * * *

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SEC. 2003. WRITTEN AGREEMENT FOR WATER RESOURCES PROJECTS.

(a) IN GENERAL.— * * *

* * * * * * *

(e) APPLICABILITY.—The amendments made by subsections (a), (b), and (d) only apply to partnership agreements entered into after the date of enactment of this Act; except that, at the request of a non-Federal interest for a project, the district engineer for the district in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project *, or construction of design deficiency corrections on the project,* has not been initiated as of such date of enactment for the purpose of incorporating such amendments.

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SEC. 2034. [33 U.S.C. 2343] INDEPENDENT PEER REVIEW.

(a) PROJECT STUDIES SUBJECT TO INDEPENDENT PEER REVIEW.—

(1) IN GENERAL.— * * *

* * * * * * *

(b) TIMING OF PEER REVIEW.—

(1) IN GENERAL.—The Chief of Engineers shall determine the timing of a peer review of a project study under subsection (a). In all cases, the peer review shall occur during the period beginning on the date of the signing of the feasibility cost-sharing agreement for the study and ending on the date established under subsection (e)(1)(A) for the peer review and shall be accomplished concurrent with the conducting of the project study.

(2) FACTORS TO CONSIDER.—In any case in which the Chief of Engineers has not initiated a peer review of a project study, the Chief of Engineers shall consider, at a minimum, whether to initiate a peer review at the time that—

(A) the without-project conditions are identified;

(B) the array of alternatives to be considered are identified; and

(C) the preferred alternative is identified.

(3) REASONS FOR TIMING.—If the Chief of Engineers does not initiate a peer review for a project study at a time described in paragraph (2), the Chief shall—

(A) not later than 7 days after the date on which the Chief of Engineers determines not to initiate a peer review—

(i) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of that decision; and

(ii) make publicly available, including on the Internet the reasons for not conducting the review; and

(B) include the reasons for not conducting the review in the decision document for the project study.

[(3)**]** *(4) LIMITATION ON MULTIPLE PEER REVIEW.*—Nothing in this subsection shall be construed to require the Chief of Engineers to conduct multiple peer reviews for a project study.

(c) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.— * * *

* * * * * * *

[(4) CONGRESSIONAL NOTIFICATION.—Upon identification of a project study for peer review under this section, but prior to initiation of the review, the Chief of Engineers shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the review.**]**

(4) CONGRESSIONAL AND PUBLIC NOTIFICATION.—Following the identification of a project study for peer review under this section, but prior to initiation of the review by the panel of experts, the Chief of Engineers shall, not later than 7 days after the date on which the Chief of Engineers determines to conduct a review—

(A) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the review; and

(B) make publicly available, including on the Internet, information on—

(i) the dates scheduled for beginning and ending the review;

(ii) the entity that has the contract for the review; and

(iii) the names and qualifications of the panel of experts.

* * * * * * *

(f) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY THE CHIEF OF ENGINEERS.—After receiving a report on a project study from a panel of experts under this section and before entering a final record of decision for the project, the Chief of Engineers shall consider any rec-

ommendations contained in the report and prepare a written response for any recommendations adopted or not adopted.

[(2) PUBLIC AVAILABILITY AND TRANSMITTAL TO CONGRESS.—After receiving a report on a project study from a panel of experts under this section, the Chief of Engineers shall—

[(A) make a copy of the report and any written response of the Chief of Engineers on recommendations contained in the report available to the public by electronic means, including the Internet; and

[(B) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report, together with any such written response, on the date of a final report of the Chief of Engineers or other final decision document for the project study.]

(2) PUBLIC AVAILABILITY AND SUBMISSION TO CONGRESS.—After receiving a report on a project study from a panel of experts under this section, the Chief of Engineers shall make available to the public, including on the Internet, and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) a copy of the report not later than 7 days after the date on which the report is delivered to the Chief of Engineers; and

(B) a copy of any written response of the Chief of Engineers on recommendations contained in the report not later than 3 days after the date on which the response is delivered to the Chief of Engineers.

(3) INCLUSION IN PROJECT STUDY.—A report on a project study from a panel of experts under this section and the written response of the Chief of Engineers shall be included in the final decision document for the project study.

* * * * * * *

(h) APPLICABILITY.—This section shall apply to—

(1) project studies initiated during the 2-year period preceding the date of enactment of this Act and for which the array of alternatives to be considered has not been identified; and

(2) project studies initiated during the period beginning on such date of enactment and ending [7 years] *12 years* after such date of enactment.

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SEC. 2035. [33 U.S.C. 2344] SAFETY ASSURANCE REVIEW.

(a) PROJECTS SUBJECT TO SAFETY ASSURANCE REVIEW.— * * *

* * * * * * *

(f) APPLICABILITY.—This section shall apply to any project in design or under construction on the date of enactment of this Act and to any project with respect to which design or construction is initiated during the period beginning on the date of enactment of this Act and ending 7 years after such date of enactment.

(g) NONAPPLICABILITY OF FACA.—*The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a safety assurance review conducted under this section.*.

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SEC. 2036. MITIGATION FOR FISH AND WILDLIFE AND WETLANDS LOSSES.

(a) MITIGATION FOR FISH AND WILDLIFE LOSSES.— * * *

* * * * * * *

(b) STATUS REPORT.—

(1) IN GENERAL.—Concurrent with the President's submission to Congress of the President's request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of construction of projects that require mitigation under section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283), the status of such mitigation, and the results of the consultation under subsection (d)(4)(B) of such section.

(2) PROJECTS INCLUDED.—The status report shall include the status of—

(A) all projects that are under construction as of the date of the report;

(B) all projects for which the President requests funding for the next fiscal year; and

(C) all projects that have undergone or completed construction, but have not completed the mitigation required under section 906 of the Water Resources Development Act of 1986.

(3) INFORMATION INCLUDED.—In reporting the status of all projects included in the report, the Secretary shall—

(A) use a uniform methodology for determining the status of all projects included in the report;

(B) use a methodology that describes both a qualitative and quantitative status for all projects in the report; and

(C) provide specific dates for and participants in the consultations required under section 906(d)(4)(B) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)(4)(B)).

[(3)**]** *(4)* AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the status report available to the public, including on the Internet.

* * * * * * *

SEC. 2037. REGIONAL SEDIMENT MANAGEMENT.

(b) CONFORMING REPEAL.—

(1) IN GENERAL.—Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is repealed.

(2) EXISTING PROJECTS.—The Secretary may complete any project being carried out under section 145 of the Water Resources Development Act of 1976 on the day before the date of enactment of this Act.

(c) APPLICABILITY.—The amendment made by subsection (a) shall not apply to any project authorized under this Act if a report of the Chief of Engineers for the project was completed prior to the date of enactment of this Act.

* * * * * * *

[SEC. 2045. [33 U.S.C. 2348] PROJECT STREAMLINING.

[(a) POLICY.—The benefits of water resources projects are important to the Nation's economy and environment, and recommendations to Congress regarding such projects should not be delayed due to uncoordinated or inefficient reviews or the failure to timely resolve disputes during the development of water resources projects.

[(b) SCOPE.—This section shall apply to each study initiated after the date of enactment of this Act to develop a feasibility report under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282), or a reevaluation report, for a water resources project if the Secretary determines that such study requires an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(c) WATER RESOURCES PROJECT REVIEW PROCESS.—The Secretary shall develop and implement a coordinated review process for the development of water resources projects.

[(d) COORDINATED REVIEWS.—The coordinated review process under this section may provide that all reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal, State, or local government agency or Indian tribe for the development of a water resources project described in subsection (b) will be conducted, to the maximum extent practicable, concurrently and completed within a time period established by the Secretary in cooperation with the agencies identified under subsection (e) with respect to the project.

[(e) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to the development of each water resources project, the Secretary shall identify, as soon as practicable, all Federal, State, and local government agencies and Indian tribes that may—

[(1) have jurisdiction over the project;

[(2) be required by law to conduct or issue a review, analysis, or opinion for the project; or

[(3) be required to make a determination on issuing a permit, license, or approval for the project.

[(f) STATE AUTHORITY.—If the coordinated review process is being implemented under this section by the Secretary with respect to the development of a water resources project described in subsection (b) within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—

[(1) have jurisdiction over the project;

[(2) are required to conduct or issue a review, analysis, or opinion for the project; or

[(3) are required to make a determination on issuing a permit, license, or approval for the project.

[(g) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a water resources project be-

tween the Secretary, the heads of Federal, State, and local government agencies, Indian tribes identified under subsection (e), and the non-Federal interest for the project.

[(h) EFFECT OF FAILURE TO MEET DEADLINE.—

[(1) NOTIFICATION.—If the Secretary determines that a Federal, State, or local government agency, Indian tribe, or non-Federal interest that is participating in the coordinated review process under this section with respect to the development of a water resources project has not met a deadline established under subsection (d) for the project, the Secretary shall notify, within 30 days of the date of such determination, the agency, Indian tribe, or non-Federal interest about the failure to meet the deadline.

[(2) AGENCY REPORT.—Not later than 30 days after the date of receipt of a notice under paragraph (1), the Federal, State, or local government agency, Indian tribe, or non-Federal interest involved may submit a report to the Secretary, explaining why the agency, Indian tribe, or non-Federal interest did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, or opinion or determination on issuing a permit, license, or approval.

[(3) REPORT TO CONGRESS.—Not later than 30 days after the date of receipt of a report under paragraph (2), the Secretary shall compile and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Council on Environmental Quality, describing any deadlines identified in paragraph (1), and any information provided to the Secretary by the Federal, State, or local government agency, Indian tribe, or non-Federal interest involved under paragraph (2).

[(i) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

[(1) any statutory requirement for seeking public comment;

[(2) any power, jurisdiction, or authority that a Federal, State, or local government agency, Indian tribe, or non-Federal interest has with respect to carrying out a water resources project; or

[(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 and the regulations issued by the Council on Environmental Quality to carry out such Act.]

SEC. 2045. PROJECT ACCELERATION.

(a) DEFINITIONS.—In this section:

(1) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts of water resources projects required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term 'environmental review process' means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environ-

mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a water resources project.

(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a water resources project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) LEAD AGENCY.—The term 'lead agency' means the Corps of Engineers and, if applicable, any State, local, or tribal governmental entity serving as a joint lead agency pursuant to this section.

(b) POLICY.—The benefits of water resources projects are important to the economy and environment of the United States, and recommendations to Congress regarding those projects should be accelerated by coordinated and efficient review and cooperative efforts to prevent or quickly resolve disputes during the development and implementation of those water resources projects.

(c) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures under this section apply to the development of projects initiated after the date of enactment of the Water Resources Development Act of 2013 and for which the Secretary determines that—

(A) an environmental impact statement is required; or

(B) at the discretion of the Secretary, other water resources projects for which an environmental review process document is required to be prepared.

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established under this section may be satisfied, for the development of a water resources project, a class of those projects, or a program of those projects.

(3) LIST OF WATER RESOURCES DEVELOPMENT PROJECTS.—

(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a separate list of each study that the Secretary has determined—

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

(ii) does not have adequate funding to make substantial progress toward the completion of the planning activities for the water resources project.

(B) INCLUSIONS.—The Secretary shall include for each study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the study.

(4) IMPLEMENTATION GUIDANCE.—The Secretary shall prepare, in consultation with the Council on Environmental Quality and other Federal agencies with jurisdiction over actions or resources that may be impacted by a water resources project, guidance documents that describe the processes that the Secretary will use to implement this section, in accordance with the civil works program of the Corps of Engineers and all applicable law.

(d) WATER RESOURCES PROJECT REVIEW PROCESS.—The Secretary shall develop and implement a coordinated review process for the development of water resources projects.

(e) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to the development of each water resources project, the Secretary shall identify, as soon as practicable, all Federal, State, and local government agencies and Indian tribes that may—

(1) have jurisdiction over the project;

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

(3) be required to make a determination on issuing a permit, license, or approval for the project.

(f) STATE AUTHORITY.—If the coordinated review process is being implemented under this section by the Secretary with respect to the development of a water resources project described in subsection (c) within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—

(1) have jurisdiction over the project;

(2) are required to conduct or issue a review, analysis, or opinion for the project; or

(3) are required to make a determination on issuing a permit, license, or approval for the project.

(g) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—Subject to paragraph (2), the Corps of Engineers shall be the lead Federal agency in the environmental review process for a water resources project.

(2) JOINT LEAD AGENCIES.—

(A) IN GENERAL.—At the discretion of the Secretary and subject to any applicable regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an agency other than the Corps of Engineers may serve as the joint lead agency.

(B) NON-FEDERAL INTEREST AS JOINT LEAD AGENCY.—A non-Federal interest that is a State or local governmental entity—

(i) may serve as a joint lead agency with the Corps of Engineers for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) may prepare any environmental review process document required in support of any action or approval by the Secretary if—

(I) the Corps of Engineers provides guidance in the preparation process and independently evaluates that document; and

(II) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

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

(A) the non-Federal interest complies with all design and mitigation commitments made jointly by the Secretary and the non-Federal interest in any environmental document prepared by the non-Federal interest in accordance with this subsection; and

(B) any environmental document prepared by the non-Federal interest is appropriately supplemented if changes to the water resources project become necessary.

(4) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency.

(5) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any water resources project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper and within the authority and responsibility of the lead agency to facilitate the expeditious resolution of the environmental review process for the water resources project; and

(B) to prepare or ensure that any required environmental impact statement or other environmental review document for a water resources project required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

(h) PARTICIPATING AGENCIES.—

(1) INVITATION.—

(A) IN GENERAL.—The lead agency shall identify, as early as practicable in the environmental review process for a water resources project, any other Federal or non-Federal agencies that may have an interest in that project and invite those agencies to become participating agencies in the environmental review process for the water resources project.

(B) DEADLINE.—An invitation to participate issued under subparagraph (A) shall set a deadline by which a response to the invitation shall be submitted, which may be extended by the lead agency for good cause.

(2) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a water resources project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A) has no jurisdiction or authority with respect to the water resources project;

(B) has no expertise or information relevant to the water resources project;

(C) does not intend to submit comments on the water resources project; and

(D) does not have adequate funds to participate in the water resources project.

(3) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(A) supports a proposed water resources project; or

(B) has any jurisdiction over, or special expertise with respect to evaluation of, the water resources project.

(4) CONCURRENT REVIEWS.—Each participating agency shall—

(A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would impair the ability of the Federal agency to conduct needed analysis or otherwise carry out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(i) PROGRAMMATIC COMPLIANCE.—

(1) IN GENERAL.—The Secretary shall issue guidance to allow for the use of programmatic approaches to carry out the environmental review process that—

(A) eliminates repetitive discussions of the same issues;

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

(C) establishes a formal process for coordinating with participating agencies, including the creation of a list of all data that is needed to carry out an environmental review process; and

(D) is consistent with—

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

(ii) other applicable laws.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall—

(A) as the first step in drafting guidance under that paragraph, consult with relevant Federal and State agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

(B) emphasize the importance of collaboration among relevant Federal agencies, State agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;

(C) ensure that the programmatic reviews—

(i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, or tribal agencies, or the public, and the temporal and special scales to be used to analyze those issues;

(ii) use accurate and timely information in the environmental review process, including—

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

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

(iii) describe—

(I) the relationship between programmatic analysis and future tiered analysis; and

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

(iv) are available to other relevant Federal and State agencies, Indian tribes, and the public;

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

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

(j) COORDINATED REVIEWS.—

(1) COORDINATION PLAN.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a water resources project or a category of water resources projects.

(ii) INCORPORATION.—The plan established under clause (i) shall be incorporated into the project schedule milestones set under section 905(g)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(g)(2)).

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

(A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS.—For comments by Federal and States agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless—

(i) a different deadline is established by agreement of the lead agency, the non-Federal interest, as applicable, and all participating agencies; or

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

(B) OTHER ENVIRONMENTAL REVIEW PROCESSES.—For all comment periods established by the lead agency for agency or public comments in the environmental review process other than for a draft environmental impact statement, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless—

(i) a different deadline is established by agreement of the lead agency, the non-Federal interest, and all participating agencies; or

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

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (k)(6)(B)(ii), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including regulations).

(k) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) DATA SOURCES.—The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the non-Federal interest or joint lead agency, as applicable, relevant resource agencies, and relevant Federal and State agencies to establish a schedule of deadlines to complete decisions regarding the project.

(B) DEADLINES.—

(i) IN GENERAL.—The deadlines referred to in subparagraph (A) shall be those established by the Secretary, in consultation with the non-Federal interest or joint lead agency, as applicable, and other relevant Federal and State agencies.

(ii) FACTORS FOR CONSIDERATION.—In establishing a schedule, the Secretary shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) the resources available to the non-Federal interest, joint lead agency, and other relevant Federal and State agencies, as applicable;

(III) the overall size and complexity of the project;

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

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

(iii) MODIFICATIONS.—The Secretary may—

(I) lengthen a schedule under clause (i) for good cause; and

(II) shorten a schedule only with concurrence of the affected non-Federal interest, joint lead agency, or relevant Federal and State agencies, as applicable.

(C) FAILURE TO MEET DEADLINE.—If the agencies described in subparagraph (A) cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (5) before the completion of the record of decision.

(5) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

(A) AGENCY ISSUE RESOLUTION MEETING.—

(i) IN GENERAL.—A participating agency or non-Federal interest may request an issue resolution meeting to be conducted by the Secretary.

(ii) ACTION BY SECRETARY.—The Secretary shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the non-Federal interest, as applicable, to resolve issues that could—

(I) delay completion of the environmental review process; or

(II) result in denial of any approvals required for the project under applicable laws.

(iii) DATE.—A meeting requested under this subparagraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the Secretary shall notify all relevant participating agencies of the request, including the issue to be resolved and the date for the meeting.

(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the Secretary disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

(vi) CONVENTION BY LEAD AGENCY.—The Secretary may convene an issue resolution meeting under this

subsection at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under clause (i).

(vii) EXCEPTION.—

(I) IN GENERAL.—The issue resolution and referral process under this subparagraph shall not be initiated if the applicable agency—

(aa) certifies that—

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

(BB) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or

(CC) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why there is not enough funding available to complete the review by the deadline; and

(bb) establishes a new deadline for completion of the review.

(II) INSPECTOR GENERAL.—If the applicable agency makes a certification under subclause (I)(aa)(CC), the Inspector General of the applicable agency shall conduct a financial audit to review that certification and submit a report on that certification within 90 days to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) ELEVATION OF ISSUE RESOLUTION.—

(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date on which a relevant meeting is held under subparagraph (A), the Secretary shall notify the heads of the relevant participating agencies and the non-Federal interest that an issue resolution meeting will be convened.

(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date on which the notice is issued.

(C) REFERRAL OF ISSUE RESOLUTION.—

(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

(I) IN GENERAL.—If a resolution is not achieved by not later than 30 days after the date on which an issue resolution meeting is held under subpara-

graph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

(II) MEETING.—Not later than 30 days after the date on which the Council on Environmental Quality receives a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies and the non-Federal interest.

(ii) REFERRAL TO THE PRESIDENT.—If a resolution of the issue is not achieved by not later than 30 days after the date on which an issue resolution meeting is convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

(6) FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal agency with jurisdiction over an approval required for a project under applicable Federal laws (including regulations) shall complete any required approval on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), an amount of funding equal to the amounts specified in subclause (I) or (II) shall be transferred from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law to the agency or division charged with rendering a decision regarding the application by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

(I) $20,000 for any project requiring the preparation of an environmental assessment or environmental impact statement; or

(II) $10,000 for any project requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.

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

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

(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) LIMITATIONS.—

(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

(D) NO FAULT OF AGENCY.—A transfer of funds under this paragraph shall not be made if—

(i) the applicable agency described in subparagraph (A) certifies that—

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

(II) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or

(III) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why there is not enough funding available to complete the review by the deadline; and

(ii) if the applicable agency makes a certification under clause (i)(III), the Inspector General of the applicable agency shall conduct a financial audit to review that certification and submit a report on that certification within 90 days to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

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

(F) AUDITS.—In any fiscal year in which any funds are transferred from a Federal agency pursuant to this paragraph, the Inspector General of that agency shall—

(i) conduct an audit to assess compliance with the requirements of this paragraph; and

(ii) not later than 120 days after the end of the fiscal year in which the transfer occurred, submit to the Committee on Environment and Public Works of the

Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the reasons why the transfers were levied, including allocations of resources.

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

(l) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(m) MEMORANDUM OF AGREEMENTS FOR EARLY COORDINATION.—

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

(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State agencies, and Indian tribes on environmental review and water resources project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and water resources project development decisions reflect environmental values; and

(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and non-Federal interests of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(2) TECHNICAL ASSISTANCE.—If requested at any time by a State or non-Federal interest, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or non-Federal interest in carrying out early coordination activities.

(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or non-Federal interest, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the non-Federal interest, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

(n) LIMITATIONS.—Nothing in this section preempts, supersedes, amends, modifies, or interferes with—

(1) any statutory requirement for seeking public comment;

(2) any power, jurisdiction, or authority that a Federal, State, or local government agency, Indian tribe, or non-Federal interest has with respect to carrying out a water resources project;

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the regulations issued by the Council on Environmental Quality to carry out that Act or any other Federal environmental law;

(4) the reviewability of any final Federal agency action in a court of the United States or in the court of any State;

(5) any practice of seeking, considering, or responding to public comment; or

(6) any power, jurisdiction, responsibility, or authority that a Federal, State, or local governmental agency, Indian tribe, or non-Federal interest has with respect to carrying out a water resources project or any other provision of law applicable to water resources development projects.

(o) CATEGORICAL EXCLUSIONS.—

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

(A) survey the use by the Corps of Engineers of categorical exclusions in water resources projects since 2005;

(B) publish a review of the survey that includes a description of—

(i) the types of actions categorically excluded; and

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

(C) solicit requests from other Federal agencies and non-Federal interests for new categorical exclusions.

(2) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of this subsection, if the Secretary has identified a categorical exclusion that did not exist on the day before the date of enactment of this subsection based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).

(p) REVIEW OF WATER RESOURCES PROJECT ACCELERATION REFORMS.—

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

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

(B) not later than 5 years after the date of enactment of this subsection, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(2) INSPECTOR GENERAL REPORT.—The Inspector General of the Corps of Engineers shall—

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

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(i) not later than 2 years after the date of enactment of this subsection, an initial report of the findings of the Inspector General; and

(ii) not later than 4 years after the date of enactment of this subsection, a final report of the findings.

* * * * * * *

SEC. 3109. LOWER YELLOWSTONE PROJECT, MONTANA.

[The Secretary may**]**

(a) IN GENERAL.—The Secretary may use funds appropriated to carry out the Missouri River recovery and mitigation program to assist the Bureau of Reclamation in the design and construction of the Lower Yellowstone project of the Bureau, Intake, Montana, for the purpose of ecosystem restoration.

(b) LOCAL PARTICIPATION.—In carrying out subsection (a), the Secretary shall consult with, and consider the activities being carried out by—

(1) other Federal agencies;

(2) conservation districts;

(3) the Yellowstone River Conservation District Council; and

(4) the State of Montana.

* * * * * * *

SEC. 5018. MISSOURI RIVER AND TRIBUTARIES, MITIGATION, RECOVERY, AND RESTORATION, IOWA, KANSAS, MISSOURI, MONTANA, NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA, AND WYOMING.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Missouri River Recovery Implementation Committee to be established under subsection (b)(1), shall conduct a study of the Missouri River and its tributaries to determine actions required—

(A) to mitigate losses of aquatic and terrestrial habitat;

(B) to recover federally listed species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) to restore the ecosystem to prevent further declines among other native species.

(2) FUNDING.—The study to be conducted under paragraph (1) shall be funded using amounts made available to carry out the Missouri River recovery and mitigation plan authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143).

(b) MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE.—

(1) ESTABLISHMENT.— * * *

* * * * * * *

(5) COMPENSATION; TRAVEL EXPENSES.—

(A) COMPENSATION.—Members of the Committee shall not receive compensation from the Secretary in carrying out the duties of the Committee under this section.

[(B) *TRAVEL EXPENSES.—Travel expenses incurred by a member of the Committee in carrying out the duties of the Committee under this section shall not be eligible for Federal reimbursement.***]**

(B) TRAVEL EXPENSES.—*Subject to the availability of funds, the Secretary may reimburse a member of the Committee for travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of a Federal agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in performance of services for the Committee.*

* * * * * * *

SEC. 5056. RIO GRANDE ENVIRONMENTAL MANAGEMENT PROGRAM, COLORADO, NEW MEXICO, AND TEXAS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) RIO GRANDE COMPACT.— * * *

* * * * * * *

(b) PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary shall carry out, in the Rio Grande Basin—

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

(B) implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program.

(2) REPORTS.—Not later than December 31, [2008] *2014*, and not later than December 31 of every sixth year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States, shall submit to Congress a report that—

* * * * * * *

(C) provides updates of a systemic habitat needs assessment *and an assessment of needs for other related purposes in the Rio Grande Basin, including flood damage reduction*; and

* * * * * * *

(c) STATE AND LOCAL CONSULTATION AND COOPERATIVE EFFORT.—For the purpose of ensuring the coordinated planning and implementation of the programs described in subsection (b), the Secretary shall—

(1) consult with the States, and other appropriate entities in the States, the rights and interests of which might be affected by specific program activities; and

(2) enter into [an interagency agreement with] *1 or more interagency agreements with the Secretary of State and* the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the United States Fish and Wildlife Service and any other agency or bureau of the Department of the Interior *or the U.S. Section of the International Boundary and Water Commission* for the planning, design, implementation, and evaluation of those programs.

* * * * * * *

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $15,000,000 for each of fiscal years 2008 through [2011] *2024*.

* * * * * * *

SEC. 7007. NON-FEDERAL COST SHARE.

(a) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of a study *, program,* or project under this title the cost of work carried out in the coastal Louisiana ecosystem by the non-Federal interest for the project before *, on, or after* the date of the execution of the partnership agreement for the study *, program,* or project.

(b) SOURCES OF FUNDS.—The non-Federal interest may use, and the Secretary shall accept, funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the study *, program,* or project if the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study *, program,* or project.

* * * * * * *

[(d) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this section toward the non-Federal share of the cost of a study or project under this title may be applied toward the non-Federal share of the cost of any other study or project under this title.**]**

(d) TREATMENT OF CREDIT BETWEEN PROJECTS.—The value of any land, easements, rights-of-way, relocations, and dredged material disposal areas and the costs of planning, design, and construction work provided by the non-Federal interest that exceed the non-Federal cost share for a study, program, or project under this title may be applied toward the non-Federal cost share for any other study, program, or project carried out under this title.

(e) PERIODIC MONITORING.—

(1) IN GENERAL.—To ensure that the contributions of the non-Federal interest equal the non-Federal share of the cost of a study, *program,* or project under this title during each 5-year period beginning after the date of commencement of the first study, *program,* or project under this title, the Secretary shall—

* * * * * * *

SEC. 9004. [33 U.S.C. 3303] INVENTORY AND INSPECTION OF LEVEES.

(a) LEVEE DATABASE.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall establish and maintain a database with an inventory of the Nation's levees.

(2) CONTENTS.—The database shall include—

(A) location information of all Federal levees in the Nation (including global information system information) **[**and, for non-Federal levees, such information on levee location as is provided to the Secretary by State and local governmental agencies**]** *and updated levee information provided by States, Indian tribes, Federal agencies, and other entities*;

* * * * * * *

RIVER AND HARBOR ACT OF 1960

[33 U.S.C. 577; PUBLIC LAW 86–645—JUL. 14, 1960]

(a) Allotment from appropriations for construction. That the Secretary of the Army is hereby authorized to allot from any appropriations hereafter made for rivers and harbors not to exceed **[**$35,000,000**]** *$50,000,000* for any one fiscal year for the construction of small river and harbor improvement projects not specifically authorized by Congress which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other pur-

poses, when in the opinion of the Chief of Engineers such work is advisable, if benefits are in excess of the cost.

(b) Limitation on allotment. Not more than [$7,000,000] *$10,000,000* shall be allotted for the construction of a project under this section at any single locality and the amount allotted shall be sufficient to complete the Federal participation in the project under this section.

* * * * * * *

RIVER AND HARBOR ACT OF 1968

[33 U.S.C. 426i; PUBLIC LAW 90–483—AUG. 13, 1968]

SEC. 426i. SHORE DAMAGE PREVENTION OR MITIGATION

(a) IN GENERAL.— * * *

* * * * * * *

(c) REQUIREMENT FOR SPECIFIC AUTHORIZATION.—

No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds [$5,000,000] *$10,000,000*.

* * * * * * *

FLOOD CONTROL ACT OF 1948

[33 U.S.C. 701s; PUBLIC LAW 80–858—JUN. 30, 1948]

SEC. 701s. SMALL FLOOD CONTROL PROJECTS; APPROPRIATIONS; AMOUNT LIMITATIONS FOR SINGLE LOCALITY; CONDITIONS

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed $55,000,000 for any one fiscal year, for the implementation of small structural and nonstructural projects for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than [$7,000,000] *$10,000,000* shall be allotted under this section for a project at any single locality. The provisions of local cooperation specified in section 701c of this title shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

* * * * * * *

FLOOD CONTROL ACT OF 1960

[33 U.S.C 709a; PUBLIC LAW 86–645—JUL. 14, 1960]

SEC. 709a. INFORMATION ON FLOODS AND FLOOD DAMAGE

(a) COMPILATION AND DISSEMINATION.— * * *

* * * * * * *

(d) FISCAL YEAR LIMITATION ON EXPENDITURES.—

The Secretary of the Army is authorized to expend not to exceed [$15,000,000] *$50,000,000* per fiscal year for the compilation and dissemination of information under this section.

* * * * * * *

FLOOD CONTROL ACT OF 1970

[42 U.S.C 1962d-5b(a)(4); PUBLIC LAW 110–114—NOV 8, 2007]

SEC. 1962d-5b. WRITTEN AGREEMENT REQUIREMENT FOR WATER RESOURCES PROJECTS

(a) COOPERATION OF NON-FEDERAL INTEREST.—

(1) IN GENERAL.— * * *

* * * * * * *

(4) CREDIT FOR IN-KIND CONTRIBUTIONS.—

(A) IN GENERAL.—A partnership agreement described in paragraph (1) may provide with respect to a project that the Secretary shall credit toward the non-Federal share of the cost of the project, including a project implemented without specific authorization in law *or a project under an environmental infrastructure assistance program*, the value of in-kind contributions made by the non-Federal interest, including—

* * * * * * *

(C) WORK PERFORMED BEFORE PARTNERSHIP AGREEMENT.—[In any case in which the non-Federal interest is to receive credit under subparagraph (A)(ii) for the cost of work carried out by the non-Federal interest and such work has not been carried out as of November 8, 2007, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.]

(i) CONSTRUCTION.—

(I) IN GENERAL.—In any case in which the non-Federal interest is to receive credit under subparagraph (A) for the cost of construction carried out by the non-Federal interest before execution of a partnership agreement and that construction has not been carried out as of the date of enactment of this subparagraph, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work prior to the non-Federal interest initiating construction or issuing a written notice to proceed for the construction.

(II) ELIGIBILITY.—Construction that is carried out after the execution of an agreement to carry out work described in subclause (I) and any design activities that are required for that construction, even if the design activity is carried out prior to the execution of the agreement to carry out work, shall be eligible for credit.

(ii) PLANNING.—

(I) IN GENERAL.—In any case in which the non-Federal interest is to receive credit under subpara-

graph (A) for the cost of planning carried out by the non-Federal interest before execution of a feasibility cost sharing agreement, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work prior to the non-Federal interest initiating that planning.

(II) ELIGIBILITY.—Planning that is carried out by the non-Federal interest after the execution of an agreement to carry out work described in subclause (I) shall be eligible for credit.

(D) LIMITATIONS.—Credit authorized under this paragraph for a project—

(i) shall not exceed the non-Federal share of the cost of the project;

(ii) shall not alter any other requirement that a non-Federal interest provide lands, easements, relocations,rights-of-way, or areas for disposal of dredged material for the project;

(iii) shall not alter any requirement that a non-Federal interest pay a portion of the costs of construction of the project under sections ⌊101 and 103⌋ *sections 101(a)(2) and 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)(2); 33 U.S.C. 2213(a)(1)(A))* of the Water Resources Development Act of 1986 (33 U.S.C. 2211; 33 U.S.C. 2213); and

* * * * * * *

(E) ANALYSIS OF COSTS AND BENEFITS.—In the evaluation of the costs and benefits of a project, the Secretary shall not consider construction carried out by a non-Federal interest under this subsection as part of the future without project condition.

(F) TRANSFER OF CREDIT BETWEEN SEPARABLE ELEMENTS OF A PROJECT.—Credit for in-kind contributions provided by a non-Federal interest that are in excess of the non-Federal cost share for an authorized separable element of a project may be applied toward the non-Federal cost share for a different authorized separable element of the same project.

(G) APPLICATION OF CREDIT.—To the extent that credit for in-kind contributions, as limited by subparagraph (D), and credit for required land, easements, rights-of-way, dredged material disposal areas, and relocations provided by the non-Federal interest exceed the non-Federal share of the cost of construction of a project other than a navigation project, the Secretary shall reimburse the difference to the non-Federal interest, subject to the availability of funds.

⌊(E)⌋ *(H)* APPLICABILITY.—

(i) IN GENERAL.—This paragraph shall apply to water resources projects authorized after November 16, 1986, including projectsinitiated after November 16, 1986, without specific authorization in law *, and to water resources projects authorized prior to the date of enactment of the Water Resources Development Act of*

1986 (Public Law 99–662), if correction of design deficiencies is necessary.

[(ii) LIMITATION.—In any case in which a specific provision of law provides for a non-Federal interest to receive credit toward the non-Federal share of the cost of a study for, or construction or operation and maintenance of, a water resources project, the specific provision of law shall apply instead of this paragraph.]

(ii) AUTHORIZATION IN ADDITION TO SPECIFIC CREDIT PROVISION.—In any case in which a specific provision of law authorizes credit for in-kind contributions provided by a non-Federal interest before the date of execution of a partnership agreement, the Secretary may apply the authority provided in this paragraph to allow credit for in-kind contributions provided by the non-Federal interest on or after the date of execution of the partnership agreement.

* * * * * * *

WATER SUPPLY ACT OF 1958

[43 U.S.C 390b; PUBLIC LAW 85–500—JUL. 3, 1958]

SEC. 390b. DEVELOPMENT OF WATER SUPPLIES FOR DOMESTIC, MUNICIPAL, INDUSTRIAL, AND OTHER PURPOSES

(a) Declaration of policy— * * *

* * * * * * *

[(d) Approval of Congress of modifications of reservoir projects Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include storage as provided in subsection (b) of this section which would seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed, or which would involve major structural or operational changes shall be made only upon the approval of Congress as now provided by law.]

(d) CONGRESSIONAL APPROVAL OF MODIFICATIONS OF RESERVOIR PROJECTS.—Congressional approval shall be required for any modification that provides storage for municipal or industrial water supply at a reservoir project that has been authorized, surveyed, planned, or constructed if, when considered cumulatively with all previous modifications of the project, the modification would—

(1) seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed;

(2) involve major structural or operational changes; or

(3) involve an allocation or reallocation of storage that is equal to or exceeds 5 percent of the conservation storage pool of the project.

* * * * * * *

AN ACT AUTHORIZING THE CONSTRUCTION OF CERTAIN PUBLIC WORKS ON RIVERS AND HARBORS FOR FLOOD CONTROL, AND FOR OTHER PURPOSES

* * * * * * *

[33 U.S.C. 701n(a)(1); PUBLIC LAW 95–51—JUN. 20, 1977]

SEC. 701n. EMERGENCY RESPONSE TO NATURAL DISASTERS

(a) Emergency fund—

(1) There is authorized an emergency fund to be expended in preparation for emergency response to any natural disaster, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control, or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective [structure damaged or destroyed by wind, wave, or water action of other thanan ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection] *structure or project damaged or destroyed by wind, wave, or water action of other than an ordinary nature to the design level of protection when, in the discretion of the Chief of Engineers, such repair and restoration is warranted for the adequate functioning of the structure or project for hurricane or shore protection, subject to the condition that the Chief of Engineers may include modifications to the structure or project to address major deficiencies.* The emergency fund may also be expended for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disasters. In any case in which the Chief of Engineers is otherwise performing work under this section in an area for which the Governor of the affected State has requested a determination that an emergency exists or a declaration that a major disaster exists under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the Chief of Engineers is further authorized to perform on public and private lands and waters for a period of ten days following the Governor's request any emergency work made necessary by such emergency or disaster which is essential for the preservation of life and property, including, but not limited to, channel clearance, emergency shore protection, clearance and removal of debris and wreckage endangering public health and safety, and temporary restoration of essential public facilities and services. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: Provided, That pending the appro-

priation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

* * * * * * *

TITLE I

CHAPTER IV—DEPARTMENT OF DEFENSE-CIVIL

[33 U.S.C. 569c; PUBLIC LAW 98–63]

SEC. 569c. SERVICES OF VOLUNTEERS

The United States Army Chief of Engineers may accept the services of volunteers and provide for their incidental expenses *, including expenses relating to uniforms, transportation, lodging, and the subsistence of those volunteers, without regard to the place of residence of the volunteers,* to carry out any activity of the Army Corps of Engineers except policy making or law or regulatory enforcement. *The Chief of Engineers may also provide awards of up to $100 in value to volunteers in recognition of the services of the volunteers.* Such volunteers shall not be employees of the United States Government except for the purposes of (1) chapter 171 of title 28, relating to tort claims, and (2) chapter 81 of title 5, relating to compensation for work injuries.

* * * * * * *

TITLE I—INDIAN SELF-DETERMINATION AND EDUCATION ASSIASTANCE ACT

SEC. 101. This title may be cited as the "Indian Self-Determination Act". [25 U.S.C. 450 note]

SEC. 102. [25 U.S.C. 450f] (a)(1) The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs—

(A) * * *

* * * * * * *

SEC. 106. [25 U.S.C. 450j-1] (a)(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract, without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity

or portion thereof, including supportive administrative functions that are otherwise contractable, is operated.

(2) * * *

* * * * * * *

(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

(1) * * *

* * * * * * *

(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

(13) Interest payments, the retirement of principal, the costs of issuance, and the costs of insurance or a similar credit support for a debt financing instrument, the proceeds of which are used to support a contracted construction project.

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ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

[123 STAT. 608; PUBLIC LAW 111–8—MAR. 11, 2009]

SEC. 116. The Colorado Department of Natural Resources *(or a designee of the Department)* is authorized to perform modifications of the facility (Chatfield Reservoir, Colorado), and any required mitigation which results from implementation of the project: Provided, That in carrying out the reassignment of storage space provided for in this section, theSecretary shall collaborate with the Colorado Department of Natural Resources and local interests to determine costs to be repaid for storage that reflects the limited reliability of the resources and the capability of non-Federal interests to make use of the reallocated storage space in Chatfield Reservoir, Colorado.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

[111 STAT. 1327; PUBLIC LAW 105–62—OCT. 13, 1997]

TITLE I

GREEN BROOK SUB-BASIN FLOOD CONTROL PROJECT, NEW JERSEY

[SEC. 102. No funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to construct the Oak Way detention structure or the Sky Top detention structure in Berkeley Heights, New Jersey, as part of the project for flood control, Green Brook Sub-Basin, Raritan River Basin, New Jersey, authorized by section 401(a) of the Water Re-

sources Development Act of 1986 (Public Law 99-662; 100 Stat. 4119).]

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INTERNAL REVENUE CODE OF 1986

(26 U.S.C. 9505; PUBLIC LAW 108–234—MAY. 28, 2004)

SEC. 9505. HARBOR MAINTENANCE TRUST FUND

(a) CREATION OF TRUST FUND.— * * *

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(c) EXPENDITURES FROM HARBOR MAINTENANCE TRUST FUND.—Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriation Acts, for making expenditures -

(1) to carry out section 210 of the Water Resources Development Act of 1986 ([as in effect on the date of the enactment of the Water Resources Development Act of 1996] *as in effect on the date of the enactment of the Harbor Maintenance Trust Fund Act of 2013*),

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NATIONAL DAM SAFETY PROGRAM ACT

[33 U.S.C. 467 nt); PUBLIC LAW 109–460—DEC. 22, 2006]

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Dam Safety Program Act".

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

[(1)] *(2)* BOARD.—The term "Board" means a National Dam Safety Review Board established under section 8(f).

[(2)] *(3)* DAM.—The term "dam"—

(A) means any artificial barrier that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water, that—

(i) is 25 feet or more in height from—

(I) the natural bed of the stream channel or watercourse measured at the downstream toe of the barrier; or

(II) if the barrier is not across a stream channel or watercourse, from the lowest elevation of the outside limit of the barrier;

to the maximum water storage elevation; or

(ii) has an impounding capacity for maximum storage elevation of 50 acre-feet or more; but

(B) does not include—

(i) a levee; or

(ii) a barrier described in subparagraph (A) that—

(I) is 6 feet or less in height regardless of storage capacity; or

(II) has a storage capacity at the maximum water storage elevation that is 15 acre-feet or less regardless of height;

unless the barrier, because of the location of the barrier or another physical characteristic of the barrier, is likely to pose a significant threat to human life or property if the barrier fails (as determined by the [Director] *Administrator*).

[(3) [DIRECTOR] *ADMINISTRATOR*.—The term "[Director] *Administrator*" means the [Director] *Administrator* of FEMA.]

(4) FEDERAL AGENCY.—The term "Federal agency" means a Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of a dam.

(5) FEDERAL GUIDELINES FOR DAM SAFETY.—The term "Federal Guidelines for Dam Safety" means the FEMA publication, numbered 93 and dated June 1979, that defines management practices for dam safety at all Federal agencies.

(6) FEMA.—The term "FEMA" means the Federal Emergency Management Agency.

(7) HAZARD REDUCTION.—The term "hazard reduction" means the reduction in the potential consequences to life and property of dam failure.

(8) ICODS.—The term "ICODS" means the Interagency Committee on Dam Safety established by section 7.

(9) PROGRAM.—The term "Program" means the national dam safety program established under section 8.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(11) STATE DAM SAFETY AGENCY.—The term "State dam safety agency" means a State agency that has regulatory authority over the safety of non-Federal dams.

(12) STATE DAM SAFETY PROGRAM.—The term "State dam safety program" means a State dam safety program approved and assisted under section 8(e).

(13) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 3. INSPECTION OF DAMS.

(a) IN GENERAL.—As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act, (3) dams which have been inspected within the twelve-month period immediately prior to the enactment of this Act by a State agency and which the Governor of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat

to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

(b) STATE PARTICIPATION.—On request of a State dam safety agency, with respect to any dam the failure of which would affect the State, the head of a Federal agency shall—

(1) provide information to the State dam safety agency on the construction, operation, [or maintenance]*maintenance, condition, or provisions for emergency operations* of the dam; or

(2) allow any official of the State dam safety agency to participate in the Federal inspection of the dam.

SEC. 4. INVESTIGATION REPORTS TO GOVERNORS.

As soon as practicable after inspection of a dam, the Secretary shall notify the Governor of the State in which such dam is located the results of such investigation. In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense by the owner of such dam. The Secretary shall immediately notify the Governor of any hazardous conditions found during an inspection. The Secretary shall provide advice to the Governor, upon request, relating to timely remedial measures necessary to mitigate or obviate any hazardous conditions found during an inspection.

SEC. 5. DETERMINATION OF DANGER TO HUMAN LIFE AND PROPERTY.

For the purpose of determining whether a dam (including the waters impounded by such dam) constitutes a danger to human life or property, the Secretary shall take into consideration the possibility that the dam might be endangered by overtopping, seepage, settlement, erosion, sediment, cracking, earth movement, earthquakes, failure of bulkheads, flashboard, gates on conduits, or other conditions which exist or which might occur in any area in the vicinity of the dam.

SEC. 6. NATIONAL DAM INVENTORY.

The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.

SEC. 7. INTERAGENCY COMMITTEE ON DAM SAFETY.

(a) ESTABLISHMENT.—There is established an Interagency Committee on Dam Safety—

(1) comprised of a representative of each of the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary Commission; and

(2) chaired by the [Director] *Administrator*.

(b) DUTIES.—ICODS shall encourage the establishment and maintenance of effective Federal programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.

SEC. 8. NATIONAL DAM SAFETY PROGRAM.

(a) IN GENERAL.—The [Director] *Administrator*, in consultation with ICODS and State dam safety agencies, and the Board shall establish and maintain, in accordance with this section, a coordinated national dam safety program. The Program shall—

(1) be administered by FEMA to achieve the objectives set forth in subsection (c);

(2) involve, to the extent appropriate, each Federal agency; and

(3) include—

(A) each of the components described in subsection (d);

(B) the strategic plan described in subsection (b); and

(C) assistance for State dam safety programs described in subsection (e).

(b) DUTIES.—The [Director] *Administrator* shall prepare a strategic plan—

(1) to establish goals, priorities, performance measures, and target dates toward effectively administering this Act in order to improve the safety of dams in the United States; and

(2) to the extent feasible, to establish cooperation and coordination with, and assistance to, interested governmental entities in all States.

(c) OBJECTIVES.—The objectives of the Program are to—

(1) ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction;

(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness;

(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

[(4) develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs;]

(4) develop and implement a comprehensive dam safety hazard education and public awareness program to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents;

(5) develop technical assistance materials for Federal and non-Federal dam safety programs;

(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector; and

(7) develop technical assistance materials, seminars, and guidelines to improve security for dams in the United States.

(d) COMPONENTS.—

(1) IN GENERAL.—The Program shall consist of—

(A) a Federal element and a non-Federal element; and

(B) leadership activity, technical assistance activity, and public awareness activity.

(2) ELEMENTS.—

(A) FEDERAL.—The Federal element shall incorporate the activities and practices carried out by Federal agencies under section 7 to implement the Federal Guidelines for Dam Safety.

(B) NON-FEDERAL.—The non-Federal element shall consist of—

(i) the activities and practices carried out by States, local governments, and the private sector to safely build, regulate, operate, and maintain dams; and

(ii) Federal activities that foster State efforts to develop and implement effective programs for the safety of dams.

(3) FUNCTIONAL ACTIVITIES.—

(A) LEADERSHIP.—The leadership activity shall be the responsibility of FEMA and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States.

(B) TECHNICAL ASSISTANCE.—The technical assistance activity shall consist of the transfer of knowledge and technical information among the Federal and non-Federal elements described in paragraph (2).

(C) PUBLIC AWARENESS.—The public awareness activity shall provide for the education of the public, including State and local officials, in the hazards of dam failure, methods of reducing the adverse consequences of dam failure, and related matters.

(e) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—

(1) IN GENERAL.—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs, the ⟦Director⟧ *Administrator* shall provide assistance with amounts made available under section 13 to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).

(2) CRITERIA AND BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, a State dam safety program must be working toward meeting the following criteria and budgeting requirement:

(A) CRITERIA.—A State dam safety program must be authorized by State legislation to include, at a minimum—

(i) the authority to review and approve plans and specifications to construct, enlarge, modify, remove, and abandon dams;

(ii) the authority to perform periodic inspections during dam construction to ensure compliance with approved plans and specifications;

(iii) a requirement that, on completion of dam construction, State approval must be given before operation of the dam;

(iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;

(v)(I) the authority to require or perform the inspection, at least once every 5 years, of all dams and reservoirs that would pose a significant threat to human life and property in case of failure to determine the continued safety of the dams and reservoirs; and

(II) a procedure for more detailed and frequent safety inspections;

(vi) a requirement that all inspections be performed under the supervision of a State-registered professional engineer with related experience in dam design and construction;

(vii) the authority to issue notices, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, install and monitor instrumentation, improve security, revise operating procedures, or take other actions, including breaching dams when necessary;

(viii) regulations for carrying out the legislation of the State described in this subparagraph;

(ix) provision for necessary funds—

(I) to ensure timely repairs or other changes to, or removal of, a dam in order to protect human life and property; and

(II) if the owner of the dam does not take action described in subclause (I), to take appropriate action as expeditiously as practicable;

(x) a system of emergency procedures to be used if a dam fails or if the failure of a dam is imminent; and

(xi) an identification of—

(I) each dam the failure of which could be reasonably expected to endanger human life;

(II) the maximum area that could be flooded if the dam failed; and

(III) necessary public facilities that would be affected by the flooding.

(B) BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, State appropriations must be budgeted to carry out the legislation of the State under subparagraph (A).

(3) WORK PLANS.—The [Director] *Administrator* shall enter into a agreement with each State receiving assistance under paragraph (2) to develop a work plan necessary for the State dam safety program to reach a level of program performance specified in the agreement.

(4) MAINTENANCE OF EFFORT.—Assistance may not be provided to a State under this subsection for a fiscal year unless the State enters into such agreement with the [Director] *Administrator* as the [Director] *Administrator* requires to ensure that the State will maintain the aggregate expenditures of the State from all other sources for programs to ensure dam safety for the protection of human life and property at or above a

level equal to the average annual level of such expenditures for the 2 fiscal years preceding the fiscal year.

(5) APPROVAL OF PROGRAMS.—

(A) SUBMISSION.—For a State to be eligible for assistance under this subsection, a plan for a State dam safety program shall be submitted to the [Director] *Administrator* for approval.

(B) APPROVAL.—A State dam safety program shall be deemed to be approved 120 days after the date of receipt by the [Director] *Administrator* unless the [Director] *Administrator* determines within the 120-day period that the State dam safety program fails to meet the requirements of paragraphs (1) through (3).

(C) NOTIFICATION OF DISAPPROVAL.—If the [Director] *Administrator* determines that a State dam safety program does not meet the requirements for approval, the [Director] *Administrator* shall immediately notify the State in writing and provide the reasons for the determination and the changes that are necessary for the plan to be approved.

(6) REVIEW OF STATE DAM SAFETY PROGRAMS.—Using the expertise of the Board, the [Director] *Administrator* shall periodically review State dam safety programs. If the Board finds that a State dam safety program has proven inadequate to reasonably protect human life and property and the [Director] *Administrator* concurs, the [Director] *Administrator* shall revoke approval of the State dam safety program, and withhold assistance under this subsection, until the State dam safety program again meets the requirements for approval.

(f) BOARD.—

(1) ESTABLISHMENT.—The [Director] *Administrator* shall establish an advisory board to be known as the "National Dam Safety Review Board" to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the [Director] *Administrator*on national dam safety policy.

(2) AUTHORITY.—The Board may use the expertise of Federal agencies and enter into contracts for necessary studies to carry out this section.

(3) VOTING MEMBERSHIP.—The Board shall consist of 11 voting members selected by the [Director] *Administrator*for expertise in dam safety, of whom—

(A) 1 member shall represent the Department of Agriculture;

(B) 1 member shall represent the Department of Defense;

(C) 1 member shall represent the Department of the Interior;

(D) 1 member shall represent FEMA;

(E) 1 member shall represent the Federal Energy Regulatory Commission;

(F) 5 members shall be selected by the [Director] *Administrator* from among State dam safety officials; and

(G) 1 member shall be selected by the [Director] *Administrator* to represent the private sector.

(4) NONVOTING MEMBERSHIP.—The [Director]*Administrator*, in consultation with the Board, may invite a representative of the National Laboratories of the Department of Energy and may invite representatives from Federal or State agencies*, representatives from nongovernmental organizations,* or dam safety experts, as needed, to participate in meetings of the Board.

(5) DUTIES.—

(A) IN GENERAL.—The Board shall encourage the establishment and maintenance of effective programs, policies, and guidelines to enhance dam safety for the protection of human life and property throughout the United States.

(B) COORDINATION AND INFORMATION EXCHANGE AMONG AGENCIES.—In carrying out subparagraph (A), the Board shall encourage coordination and information exchange among Federal and State dam safety agencies that share common problems and responsibilities for dam safety, including planning, design, construction, operation, emergency action planning, inspections, maintenance, regulation or licensing, technical or financial assistance, research, and data management.

(6) WORK GROUPS.—The [Director] *Administrator* may establish work groups under the Board to assist the Board in accomplishing its goals. The work groups shall consist of members of the Board and other individuals selected by the [Director].*Administrator*

(7) COMPENSATION OF MEMBERS.—

(A) FEDERAL EMPLOYEES.—Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States.

(B) OTHER MEMBERS.—Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

(8) TRAVEL EXPENSES.—

(A) REPRESENTATIVES OF FEDERAL AGENCIES.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a Federal agency shall be reimbursed of appropriations for travel expenses by his or her agency, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

(B) OTHER INDIVIDUALS.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a State agency, the member of the Board who represents the private sector, and each member of a work group created under paragraph (1) shall be reimbursed for travel expenses by FEMA, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away

from home or regular place of business of the member in performance of services for the Board.

(9) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 9. RESEARCH.

(a) IN GENERAL.—The Director, in cooperation with the Board, shall carry out a program of technical and archival research to develop and support—

(1) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection;

(2) devices for the continued monitoring of the safety of dams;

(3) development and maintenance of information resources systems needed to support managing the safety of dams; and

(4) initiatives to guide the formulation of effective public policy and advance improvements in dam safety engineering, security, and management.

(b) CONSULTATION.—The **[** Director**]** *Administrator* shall provide for State participation in research under subsection (a) and periodically advise all States and Congress of the results of the research.

SEC. 10. DAM SAFETY TRAINING.

At the request of any State that has or intends to develop a State dam safety program, the **[**Director**]** *Administrator* shall provide training for State dam safety staff and inspectors.

(33 U.S.C. 467g–1)

SEC. 11. PUBLIC AWARENESS AND OUTREACH FOR DAM SAFETY.

The Administrator, in consultation with other Federal agencies, State and local governments, dam owners, the emergency management community, the private sector, nongovernmental organizations and associations, institutions of higher education, and any other appropriate entities shall carry out a nationwide public awareness and outreach program to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents.

SEC. [11] *12* **. REPORTS.**

Not later than 90 days after the end of each odd-numbered fiscal year, the **[** Director**]** *Administrator* shall submit a report to Congress that—

(1) describes the status of the Program;

(2) describes the progress achieved by Federal agencies during the 2 preceding fiscal years in implementing the Federal Guidelines for Dam Safety;

(3) describes the progress achieved in dam safety by States participating in the Program; and

(4) includes any recommendations for legislative and other action that the **[**Director**]** *Administrator* considers necessary.

(33 U.S.C. 467h)

SEC. [12] *13.* **STATUTORY CONSTRUCTION.**

Nothing in this Act and no action or failure to act under this Act shall—

(1) create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act;

(2) relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam; or

(3) preempt any other Federal or State law.

(33 U.S.C. 467i)

SEC. [13] *14.* AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL DAM SAFETY PROGRAM.—

(1) ANNUAL AMOUNTS.—There are authorized to be appropriated to FEMA to carry out sections 7, 8, and 11 (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e)), **[**$6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000 for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011**]** *$9,200,000 for each of fiscal years 2014 through 2018*, to remain available until expended.

(2) ALLOCATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 8 shall be allocated among the States as follows:

(i) One-third among States that qualify for assistance under section 8(e).

(ii) Two-thirds among States that qualify for assistance under section 8(e), to each such State in proportion to—

(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 6; as compared to

(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 6.

(B) MAXIMUM AMOUNT OF ALLOCATION.—**[**The amount**]**

(i) In general.—The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

(ii) Fiscal year 2014 and subsequent fiscal years.—For fiscal year 2014 and each subsequent fiscal year, the amount of funds allocated to a State under this paragraph may not exceed the amount of funds committed by the State to implement dam safety activities.

(C) DETERMINATION.—The **[**Director**]***Administrator* and the Board shall determine the amount allocated to States.

(b) NATIONAL DAM INVENTORY.—There is authorized to be appropriated to carry out section 6 **[**$650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011**]** *$500,000 for each of fiscal years 2014 through 2018*.

(c) PUBLIC AWARENESS.—There is authorized to be appropriated to carry out section 11 $1,000,000 for each of fiscal years 2014 through 2018.

[(c)**]** *(d)* RESEARCH.—There is authorized to be appropriated to carry out section 9 **[**$1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011**]** *"$1,450,000 for each of fiscal years 2014 through 2018*, to remain until expended.

[(d)**]** *(e)* DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 10 **[**$550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010, and $750,000 for fiscal year 2011**]** *$750,000 for each of fiscal years 2014 through 2018*.

[(e)**]** *(f)* STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 8 through 10 **[**$700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011**]** *$1,000,000 for each of fiscal years 2014 through 2018*.

[(f)**]** *(g)* LIMITATION ON USE OF AMOUNTS.—Amounts made available under this Act may not be used to construct or repair any Federal or non-Federal dam.

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