

WATER RESOURCES DEVELOPMENT ACT OF 2016

SEPTEMBER 22, 2016.—Committed to the Whole House on the Senate of the Union  
 and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and  
 Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5303]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5303) to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Water Resources Development Act of 2016”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.  
Sec. 2. Secretary defined.

**TITLE I—GENERAL PROVISIONS**

- Sec. 101. Sense of Congress regarding Water Resources Development Acts.  
Sec. 102. Training and employment for veterans and members of Armed Forces in curation and historic preservation.  
Sec. 103. Youth service and conservation corps organizations.  
Sec. 104. Navigation safety.  
Sec. 105. Emerging harbors.  
Sec. 106. Federal breakwaters and jetties.  
Sec. 107. Donor ports and energy transfer ports.  
Sec. 108. Use of Harbor Maintenance Trust Fund to support navigation.  
Sec. 109. Remote and subsistence harbors.  
Sec. 110. Beneficial use of dredged material.  
Sec. 111. Reservoir sediment.  
Sec. 112. Contributed funds for reservoir operations.  
Sec. 113. Water supply conservation.  
Sec. 114. Interstate compacts.  
Sec. 115. Nonstructural alternatives.  
Sec. 116. Operation and maintenance of environmental protection and restoration and aquatic ecosystem restoration projects.  
Sec. 117. Estuary restoration.  
Sec. 118. Great Lakes fishery and ecosystem restoration.  
Sec. 119. Agreements.  
Sec. 120. Corps of Engineers operation of unmanned aircraft systems.  
Sec. 121. Federal dredge fleet.  
Sec. 122. Corps of Engineers assets.  
Sec. 123. Funding to process permits.  
Sec. 124. Credit in lieu of reimbursement.  
Sec. 125. Clarification of contributions during emergency events.  
Sec. 126. Study of water resources development projects by non-Federal interests.  
Sec. 127. Non-Federal construction of authorized flood damage reduction projects.  
Sec. 128. Multistate activities.  
Sec. 129. Regional participation assurance for levee safety activities.  
Sec. 130. Participation of non-Federal interests.  
Sec. 131. Indian tribes.  
Sec. 132. Dissemination of information on the annual report process.  
Sec. 133. Scope of projects.  
Sec. 134. Preliminary feasibility study activities.  
Sec. 135. Post-authorization change reports.  
Sec. 136. Maintenance dredging data.  
Sec. 137. Electronic submission and tracking of permit applications.  
Sec. 138. Data transparency.  
Sec. 139. Backlog prevention.  
Sec. 140. Quality control.  
Sec. 141. Budget development and prioritization.  
Sec. 142. Use of natural and nature-based features.  
Sec. 143. Annual report on purchase of foreign manufactured articles.  
Sec. 144. Integrated water resources planning.  
Sec. 145. Evaluation of project partnership agreements.  
Sec. 146. Additional measures at donor ports and energy transfer ports.  
Sec. 147. Arctic deep draft port development partnerships.  
Sec. 148. International outreach program.  
Sec. 149. Comprehensive study.  
Sec. 150. Alternative models for managing Inland Waterways Trust Fund.  
Sec. 151. Alternative projects to maintenance dredging.  
Sec. 152. Fish hatcheries.  
Sec. 153. Environmental banks.

**TITLE II—STUDIES**

- Sec. 201. Authorization of proposed feasibility studies.  
Sec. 202. Expedited completion of reports for certain projects.

**TITLE III—DEAUTHORIZATIONS AND RELATED PROVISIONS**

- Sec. 301. Deauthorization of inactive projects.  
Sec. 302. Valdez, Alaska.  
Sec. 303. Los Angeles County Drainage Area, Los Angeles County, California.  
Sec. 304. Sutter Basin, California.  
Sec. 305. Essex River, Massachusetts.  
Sec. 306. Port of Cascade Locks, Oregon.  
Sec. 307. Central Delaware River, Philadelphia, Pennsylvania.  
Sec. 308. Huntingdon County, Pennsylvania.  
Sec. 309. Rivercenter, Philadelphia, Pennsylvania.  
Sec. 310. Joe Pool Lake, Texas.  
Sec. 311. Salt Creek, Graham, Texas.  
Sec. 312. Texas City Ship Channel, Texas City, Texas.

**TITLE IV—WATER RESOURCES INFRASTRUCTURE**

- Sec. 401. Project authorizations.

**SEC. 2. SECRETARY DEFINED.**

In this Act, the term “Secretary” means the Secretary of the Army.

**TITLE I—GENERAL PROVISIONS****SEC. 101. SENSE OF CONGRESS REGARDING WATER RESOURCES DEVELOPMENT ACTS.**

(a) FINDINGS.—Congress finds the following:

(1) The Corps of Engineers constructs projects for the purposes of navigation, flood control, beach erosion control and shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration, and enhancement, and fish and wildlife mitigation.

(2) The Corps of Engineers is the primary Federal provider of outdoor recreation in the United States.

(3) The Corps of Engineers owns and operates more than 600 dams.

(4) The Corps of Engineers operates and maintains 12,000 miles of commercial inland navigation channels.

(5) The Corps of Engineers manages the dredging of more than 200,000,000 cubic yards of construction and maintenance dredge material annually.

(6) The Corps of Engineers maintains 926 coastal, Great Lakes, and inland harbors.

(7) The Corps of Engineers restores, creates, enhances, or preserves tens of thousands of acres of wetlands annually under the Corps’ Regulatory Program.

(8) The Corps of Engineers provides a total water supply storage capacity of 329,200,000 acre-feet in major Corps lakes.

(9) The Corps of Engineers owns and operates 24 percent of United States hydropower capacity or 3 percent of the total electric capacity of the United States.

(10) The Corps of Engineers supports Army and Air Force installations.

(11) The Corps of Engineers provides technical and construction support to more than 100 countries.

(12) The Corps of Engineers manages an Army military construction program that carried out approximately \$44,600,000,000 in construction projects (the largest construction effort since World War II) between 2006 and 2013.

(13) The Corps of Engineers researches and develops technologies to protect the environment and enhance quality of life in the United States.

(14) The legislation for authorizing Corps of Engineers projects is the Water Resources Development Act and, between 1986 and 2000, Congress typically enacted an authorization bill every 2 years.

(15) Since 2000, only 3 Water Resources Development Acts have been enacted.

(16) In 2014, the Water Resources Reform and Development Act of 2014 was enacted, which accelerated the infrastructure project delivery process, fostered fiscal responsibility, and strengthened water transportation networks to promote the competitiveness, prosperity, and economic growth of the United States.

(17) Section 1001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282c) requires typical Corps of Engineers project feasibility studies to be completed in 3 years.

(18) Section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) requires the Corps of Engineers to submit annually a Report to Congress on Future Water Resources Development, which ensures projects and activities proposed at the local, regional, and State levels are considered for authorization.

(19) Passing Water Resources Development Acts on a routine basis enables Congress to exercise oversight, ensures the Corps of Engineers maintains an appropriately sized portfolio, prevents project backlog, and keeps United States infrastructure competitive.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the missions and authorities of the Corps of Engineers are a unique function that benefits all Americans;

(2) water resources development projects are critical to maintaining economic prosperity, national security, and environmental protection;

(3) Congress has required timely delivery of project and study authorization proposals from non-Federal project sponsors and the Corps of Engineers; and

(4) Congress should consider a Water Resources Development Act at least once every Congress.

**SEC. 102. TRAINING AND EMPLOYMENT FOR VETERANS AND MEMBERS OF ARMED FORCES IN CURATION AND HISTORIC PRESERVATION.**

Using available funds, the Secretary, acting through the Chief of Engineers, shall carry out a Veterans' Curation Program to train and hire veterans and members of the Armed Forces to assist the Secretary in carrying out curation and historic preservation activities.

**SEC. 103. YOUTH SERVICE AND CONSERVATION CORPS ORGANIZATIONS.**

Section 213 of the Water Resources Development Act of 2000 (33 U.S.C. 2339) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) YOUTH SERVICE AND CONSERVATION CORPS ORGANIZATIONS.—The Secretary shall, to the maximum extent practicable, enter into cooperative agreements with qualified youth service and conservation corps organizations for services relating to projects under the jurisdiction of the Secretary and shall do so in a manner that ensures the maximum participation and opportunities for such organizations.”.

**SEC. 104. NAVIGATION SAFETY.**

The Secretary shall use section 5 of the Act of March 4, 1915 (38 Stat. 1053, chapter 142; 33 U.S.C. 562), to carry out navigation safety activities at those projects eligible for operation and maintenance under section 204(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(f)).

**SEC. 105. EMERGING HARBORS.**

Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended—

(1) in subsection (c)(3) by striking “for each of fiscal years 2015 through 2022” and inserting “for each fiscal year”; and

(2) in subsection (d)(1)(A)—

(A) in the matter preceding clause (i) by striking “For each of fiscal years 2015 through 2024” and inserting “For each fiscal year”;

(B) in clause (i) by striking “90” and inserting “Not more than 90”; and

(C) in clause (ii) by striking “10” and inserting “At least 10”.

**SEC. 106. FEDERAL BREAKWATERS AND JETTIES.**

(a) IN GENERAL.—The Secretary shall, at Federal expense, establish an inventory and conduct an assessment of the general structural condition of all Federal breakwaters and jetties protecting harbors and inland harbors within the United States.

(b) CONTENTS.—The inventory and assessment carried out under subsection (a) shall include—

(1) compiling location information for all Federal breakwaters and jetties protecting harbors and inland harbors within the United States;

(2) determining the general structural condition of each breakwater and jetty;

(3) analyzing the potential risks to navigational safety, and the impact on the periodic maintenance dredging needs of protected harbors and inland harbors, resulting from the general structural condition of each breakwater and jetty; and

(4) estimating the costs, for each breakwater and jetty, to restore or maintain the breakwater or jetty to authorized levels and the total of all such costs.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the inventory and assessment carried out under subsection (a).

**SEC. 107. DONOR PORTS AND ENERGY TRANSFER PORTS.**

Section 2106(a)(2)(B) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238c(a)(2)(B)) is amended by striking “\$15,000,000” and inserting “\$5,000,000”.

**SEC. 108. USE OF HARBOR MAINTENANCE TRUST FUND TO SUPPORT NAVIGATION.**

(a) AVAILABILITY OF AMOUNTS.—Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended—

(1) in the section heading by striking “Authorization of appropriations” and inserting “Funding for harbor navigation”;

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (b) the following:

“(c) USE OF COLLECTED FUNDS IN FISCAL YEAR 2027 AND THEREAFTER.—

“(1) USE OF FUNDS.—In addition to the amounts appropriated under subsections (a) and (b), there shall be available to the Secretary, out of the Harbor Maintenance Trust Fund, without further appropriation, for fiscal year 2027

and each fiscal year thereafter, such sums as may be necessary to carry out the purposes of subsection (a)(2).

“(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this subsection shall remain available until expended.”

(b) CONFORMING AMENDMENTS.—Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is further amended—

(1) in subsection (d)(2)(A)(i) (as redesignated by subsection (a)(2) of this section) by striking “subsection (e)” and inserting “subsection (f)”;

(2) in subsection (e)(3)(B)(i) (as redesignated by subsection (a)(2) of this section) by striking “subsection (c)(2)(A)” and inserting “subsection (d)(2)(A)”;

(3) in subsection (f)(2)(A)(ii) (as redesignated by subsection (a)(2) of this section) by striking “subsection (d)(2)” and inserting “subsection (e)(2)”.

**SEC. 109. REMOTE AND SUBSISTENCE HARBORS.**

Section 2006 of the Water Resources Development Act of 2007 (33 U.S.C. 2242) is amended—

(1) in subsection (a)(3) by inserting “in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project,” after “community”; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting “and communities that are located in the region to be served by the project and that will rely on the project” after “community”;

(B) in paragraph (4) by striking “local population” and inserting “regional population to be served by the project”; and

(C) in paragraph (5) by striking “community” and inserting “local community and communities that are located in the region to be served by the project and that will rely on the project”.

**SEC. 110. BENEFICIAL USE OF DREDGED MATERIAL.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a pilot program to carry out projects for the beneficial use of dredged material, including projects for the purposes of—

(1) reducing storm damage to property and infrastructure;

(2) promoting public safety;

(3) protecting, restoring, and creating aquatic ecosystem habitats;

(4) stabilizing stream systems and enhancing shorelines;

(5) promoting recreation; and

(6) supporting risk management adaptation strategies.

(b) PROJECT SELECTION.—In carrying out the pilot program, the Secretary shall—

(1) identify for inclusion in the pilot program and carry out 10 projects for the beneficial use of dredged material;

(2) consult with relevant State agencies in selecting projects; and

(3) select projects solely on the basis of—

(A) the environmental, economic, and social benefits of the projects, including monetary and nonmonetary benefits; and

(B) the need for a diversity of project types and geographical project locations.

(c) REGIONAL BENEFICIAL USE TEAMS.—

(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall establish regional beneficial use teams to identify and assist in the implementation of projects under the pilot program.

(2) COMPOSITION.—

(A) LEADERSHIP.—For each regional beneficial use team established under paragraph (1), the Secretary shall appoint the Commander of the relevant division of the Corps of Engineers to serve as the head of the team.

(B) MEMBERSHIP.—The membership of each regional beneficial use team shall include—

(i) representatives of relevant Corps of Engineers districts and divisions;

(ii) representatives of relevant State and local agencies; and

(iii) representatives of Federal agencies and such other entities as the Secretary determines appropriate, consistent with the purposes of this section.

(d) CONSIDERATIONS.—The Secretary shall carry out the pilot program in a manner that—

(1) maximizes the beneficial placement of dredged material from Federal and non-Federal navigation channels;

(2) incorporates, to the maximum extent practicable, 2 or more Federal navigation, flood control, storm damage reduction, or environmental restoration projects;

(3) coordinates the mobilization of dredges and related equipment, including through the use of such efficiencies in contracting and environmental permitting as can be implemented under existing laws and regulations;

(4) fosters Federal, State, and local collaboration;

(5) implements best practices to maximize the beneficial use of dredged sand and other sediments; and

(6) ensures that the use of dredged material is consistent with all applicable environmental laws.

(e) **COST SHARING.**—Projects carried out under this section shall be subject to the cost-sharing requirements applicable to projects carried out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

(f) **REPORT.**—Not later than 2 years after the date of enactment of this Act, and annually thereafter, 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 report that includes—

(1) a description of the projects selected to be carried out under the pilot program;

(2) documentation supporting each of the projects selected;

(3) the findings of regional beneficial use teams regarding project selection; and

(4) any recommendations of the Secretary or regional beneficial use teams with respect to the pilot program.

(g) **TERMINATION.**—The pilot program shall terminate after completion of the 10 projects carried out pursuant to subsection (b)(1).

(h) **EXEMPTION FROM OTHER STANDARDS.**—The projects carried out under this section shall be carried out notwithstanding the definition of the term “Federal standard” in section 335.7 of title 33, Code of Federal Regulations.

(i) **CLARIFICATION.**—Section 156(e) of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f(e)) is amended by striking “3” and inserting “6”.

**SEC. 111. RESERVOIR SEDIMENT.**

(a) **IN GENERAL.**—Section 215 of the Water Resources Development Act of 2000 (33 U.S.C. 2326c) is amended to read as follows:

**“SEC. 215. RESERVOIR SEDIMENT.**

“(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016 and after providing public notice, the Secretary shall establish, using available funds, a pilot program to accept services provided by a non-Federal interest or commercial entity for removal of sediment captured behind a dam owned or operated by the United States and under the jurisdiction of the Secretary for the purpose of restoring the authorized storage capacity of the project concerned.

“(b) **REQUIREMENTS.**—In carrying out this section, the Secretary shall—

“(1) review the services of the non-Federal interest or commercial entity to ensure that the services are consistent with the authorized purposes of the project concerned;

“(2) ensure that the non-Federal interest or commercial entity will indemnify the United States for, or has entered into an agreement approved by the Secretary to address, any adverse impact to the dam as a result of such services;

“(3) require the non-Federal interest or commercial entity, prior to initiating the services and upon completion of the services, to conduct sediment surveys to determine the pre- and post-services sediment profile and sediment quality; and

“(4) limit the number of dams for which services are accepted to 10.

“(c) **LIMITATION.**—

“(1) **IN GENERAL.**—The Secretary may not accept services under subsection (a) if the Secretary, after consultation with the Chief of Engineers, determines that accepting the services is not advantageous to the United States.

“(2) **REPORT TO CONGRESS.**—If the Secretary makes a determination under paragraph (1), the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice describing the reasoning for the determination.

“(d) **DISPOSITION OF REMOVED SEDIMENT.**—In exchange for providing services under subsection (a), a non-Federal interest or commercial entity is authorized to retain, use, recycle, sell, or otherwise dispose of any sediment removed in connection

with the services and the Corps of Engineers may not seek any compensation for the value of the sediment.

“(e) CONGRESSIONAL NOTIFICATION.—Prior to accepting services provided by a non-Federal interest or commercial entity under this section, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the acceptance of the services.

“(f) REPORT TO CONGRESS.—Upon completion of services at the 10 dams allowed under subsection (b)(4), the Secretary shall make publicly available and 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 documenting the results of the services.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2000 is amended by striking the item relating to section 215 and inserting the following:

“Sec. 215. Reservoir sediment.”.

**SEC. 112. CONTRIBUTED FUNDS FOR RESERVOIR OPERATIONS.**

Section 5 of the Act of June 22, 1936 (49 Stat. 1572, chapter 688; 33 U.S.C. 701h), is amended by inserting after “authorized purposes of the project.” the following: “*Provided further*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests, to formulate, review, or revise operational documents for any reservoir for which the Secretary is authorized to prescribe regulations for the use of storage allocated for flood risk management or navigation pursuant to section 7 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 709).”.

**SEC. 113. WATER SUPPLY CONSERVATION.**

(a) IN GENERAL.—In a State in which a drought emergency has been declared or was in effect during the 1-year period ending on the date of enactment of this Act, the Secretary is authorized—

(1) to conduct an evaluation for purposes of approving water supply conservation measures that are consistent with the authorized purposes of water resources development projects under the jurisdiction of the Secretary; and

(2) to enter into written agreements pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) with non-Federal interests to carry out the conservation measures approved by such evaluations.

(b) ELIGIBILITY.—Water supply conservation measures evaluated under subsection (a) may include the following:

(1) Storm water capture.

(2) Releases for ground water replenishment or aquifer storage and recovery.

(3) Releases to augment water supply at another Federal or non-Federal storage facility.

(4) Other conservation measures that enhance usage of a Corps of Engineers project for water supply.

(c) COSTS.—A non-Federal interest shall pay only the separable costs associated with the evaluation, implementation, operation, and maintenance of an approved water supply conservation measure, which payments may be accepted and expended by the Corps of Engineers to cover such costs.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or alter the obligations of a non-Federal interest under existing or future agreements for—

(1) water supply storage pursuant to section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b); or

(2) surplus water use pursuant to section 6 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708).

(e) LIMITATIONS.—Nothing in this section—

(1) affects, modifies, or changes the authorized purposes of a Corps of Engineers project;

(2) affects existing Corps of Engineers authorities, including its authorities with respect to navigation, flood damage reduction, and environmental protection and restoration;

(3) affects the Corps of Engineers ability to provide for temporary deviations;

(4) affects the application of a cost-share requirement under section 101, 102, or 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2212, and 2213);

(5) supersedes or modifies any written agreement between the Federal Government and a non-Federal interest that is in effect on the date of enactment of this Act;

(6) supersedes or modifies any amendment to an existing multistate water control plan, including those water control plans along the Missouri River and those water control plans in the Apalachicola-Chattahoochee-Flint and Alabama-Coosa-Tallapoosa basins;

(7) affects any water right in existence on the date of enactment of this Act;  
or

(8) preempts or affects any State water law or interstate compact governing water.

**SEC. 114. INTERSTATE COMPACTS.**

Section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b) is amended by striking subsection (f).

**SEC. 115. NONSTRUCTURAL ALTERNATIVES.**

Section 5(a)(1) of the Act of August 18, 1941 (55 Stat. 650, chapter 377; 33 U.S.C. 701n(a)(1)), is amended by striking “if requested” each place it appears and inserting “after consultation with the non-Federal sponsor and if requested and agreed to”.

**SEC. 116. OPERATION AND MAINTENANCE OF ENVIRONMENTAL PROTECTION AND RESTORATION AND AQUATIC ECOSYSTEM RESTORATION PROJECTS.**

(a) **NON-FEDERAL OBLIGATIONS.**—Notwithstanding section 103(j) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(j)), a non-Federal interest is released from any obligation to operate and maintain the nonstructural and non-mechanical components of a water resources development project carried out for the purposes of environmental protection and restoration or aquatic ecosystem restoration, including a project carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) or section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), if the Secretary determines that—

(1) the 50-year period that began on the date on which project construction was completed has concluded; or

(2) the criteria identified in the guidance issued under subsection (c) have been met with respect to the project.

(b) **FEDERAL OBLIGATIONS.**—The Secretary is not responsible for the operation or maintenance of any components of a project with respect to which a non-Federal interest is released from obligations under subsection (a).

(c) **GUIDANCE.**—In consultation with non-Federal interests, and not later than 1 year after the date of enactment of this Act, the Secretary shall issue guidance that identifies criteria for determining, using the best available science, when the purpose of a project for environmental protection and restoration or aquatic ecosystem restoration has been achieved, including criteria for determining when a project has resulted in the return of the project location to a condition where natural hydrologic and ecological functions are the predominant factors in the condition, functionality, and durability of the location.

**SEC. 117. ESTUARY RESTORATION.**

(a) **PARTICIPATION OF NON-FEDERAL INTERESTS.**—Section 104(f) of the Estuary Restoration Act of 2000 (33 U.S.C. 2903(f)) is amended by adding at the end the following:

“(3) **PROJECT AGREEMENTS.**—For a project carried out under this title, the requirements of section 103(j)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).”

(b) **EXTENSION.**—Section 109(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2908(a)) is amended by striking “2012” each place it appears and inserting “2021”.

**SEC. 118. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.**

Section 506(g) of the Water Resources Development Act of 2000 (42 U.S.C. 1962d-22(g)) is repealed.

**SEC. 119. AGREEMENTS.**

Section 2036(c) of the Water Resources Development Act of 2007 (33 U.S.C. 2317b) is repealed.

**SEC. 120. CORPS OF ENGINEERS OPERATION OF UNMANNED AIRCRAFT SYSTEMS.**

(a) **IN GENERAL.**—The Secretary shall designate an individual, within the headquarters office of the Corps of Engineers, who shall serve as the coordinator and principal approving official for developing the process and procedures by which the Corps of Engineers—

(1) operates and maintains small unmanned aircraft (as defined in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note))

systems in support of civil works and emergency response missions of the Corps of Engineers; and

(2) acquires, applies for, and receives any necessary Federal Aviation Administration authorizations for such operations and systems.

(b) **REQUIREMENTS.**—A small unmanned aircraft system acquired, operated, or maintained for carrying out the missions specified in subsection (a) shall be operated in accordance with regulations of the Federal Aviation Administration as a civil aircraft or public aircraft, at the discretion of the Secretary, and shall be exempt from regulations of the Department of Defense, including the Department of the Army, governing such system.

(c) **LIMITATION.**—A small unmanned aircraft system acquired, operated, or maintained by the Corps of Engineers is excluded from use by the Department of Defense, including the Department of the Army, for any mission of the Department of Defense other than a mission specified in subsection (a).

**SEC. 121. FEDERAL DREDGE FLEET.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the costs and benefits of expanding, reducing, or maintaining the current configuration with respect to the size and makeup of the federally owned hopper dredge fleet.

(b) **FACTORS.**—In carrying out the study, the Comptroller General shall evaluate—

(1) the current and anticipated configuration and capacity of the Federal and private hopper dredge fleet;

(2) the current and anticipated trends for the volume and type of dredge work required over the next 10 years, and the alignment of the size of the existing Federal and private hopper dredge fleet with future dredging needs;

(3) available historic data on the costs, efficiency, and time required to initiate and complete dredging work carried out by Federal and private hopper dredge fleets, respectively;

(4) whether the requirements of section 3 of the Act of August 11, 1888 (25 Stat. 423, chapter 860; 33 U.S.C. 622), have any demonstrable impacts on the factors identified in paragraphs (1) through (3), and whether such requirements are most economical and advantageous to the United States; and

(5) other factors that the Comptroller General determines are necessary to evaluate whether it is economical and advantageous to the United States to expand, reduce, or maintain the current configuration of the federally owned hopper dredge fleet.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

**SEC. 122. CORPS OF ENGINEERS ASSETS.**

Section 6002 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1349) is amended—

(1) in subsection (a) by striking “the date of enactment of this Act” and inserting “the date of enactment of the Water Resources Development Act of 2016”; and

(2) in subsection (b) by adding at the end the following:

“(6) The extent to which the property has economic, cultural, historic, or recreational significance, or impacts at the national, State, or local level.”.

**SEC. 123. FUNDING TO PROCESS PERMITS.**

Section 214(a) of the Water Resources Development Act of 2000 (33 U.S.C. 2352(a)) is amended—

(1) in paragraph (1) by adding at the end the following:

“(C) **RAILROAD CARRIER.**—The term ‘railroad carrier’ has the meaning given the term in section 20102 of title 49, United States Code.”;

(2) in paragraph (2)—

(A) by striking “or natural gas company” and inserting “, natural gas company, or railroad carrier”; and

(B) by striking “or company” and inserting “, company, or carrier”;

(3) by striking paragraph (3);

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(5) in paragraph (4) (as so redesignated) by striking “and natural gas companies” and inserting “, natural gas companies, and railroad carriers”.

**SEC. 124. CREDIT IN LIEU OF REIMBURSEMENT.**

Section 1022 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2225) is amended—

(1) in subsection (a) by striking “that has been constructed by a non-Federal interest under section 211 of the Water Resources Development Act of 1996 (33

U.S.C. 701b-13) before the date of enactment of this Act” and inserting “for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13)”; and

(2) in subsection (b) by striking “share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies” and inserting “non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest”.

**SEC. 125. CLARIFICATION OF CONTRIBUTIONS DURING EMERGENCY EVENTS.**

Section 1024(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2325a(a)) is amended by inserting after “emergency” the following: “, or that has had or may have an equipment failure (including a failure caused by a lack of or deferred maintenance).”.

**SEC. 126. STUDY OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.**

Section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) is amended by adding at the end the following:

“(e) TECHNICAL ASSISTANCE.—At the request of a non-Federal interest, the Secretary may provide to the non-Federal interest technical assistance relating to any aspect of a feasibility study if the non-Federal interest contracts with the Secretary to pay all costs of providing such technical assistance.”.

**SEC. 127. NON-FEDERAL CONSTRUCTION OF AUTHORIZED FLOOD DAMAGE REDUCTION PROJECTS.**

Section 204(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(d)) is amended by adding at the end the following:

“(5) DISCRETE SEGMENTS.—

“(A) IN GENERAL.—The Secretary may authorize credit or reimbursement under this subsection for a discrete segment of a flood damage reduction project, or separable element thereof, before final completion of the project or separable element if—

“(i) except as provided in clause (ii), the Secretary determines that the discrete segment satisfies the requirements of paragraphs (1) through (4) in the same manner as the project or separable element; and

“(ii) notwithstanding paragraph (1)(A)(ii), the Secretary determines, before the approval of the plans under paragraph (1)(A)(i), that the discrete segment is technically feasible and environmentally acceptable.

“(B) DETERMINATION.—Credit or reimbursement may not be made available to a non-Federal interest pursuant to this paragraph until the Secretary determines that—

“(i) the construction of the discrete segment for which credit or reimbursement is requested is complete; and

“(ii) the construction is consistent with the authorization of the applicable flood damage reduction project, or separable element thereof, and the plans approved under paragraph (1)(A)(i).

“(C) WRITTEN AGREEMENT.—

“(i) IN GENERAL.—As part of the written agreement required under paragraph (1)(A)(iii), a non-Federal interest to be eligible for credit or reimbursement under this paragraph shall—

“(I) identify any discrete segment that the non-Federal interest may carry out; and

“(II) agree to the completion of the flood damage reduction project, or separable element thereof, with respect to which the discrete segment is a part and establish a timeframe for such completion.

“(ii) REMITTANCE.—If a non-Federal interest fails to complete a flood damage reduction project, or separable element thereof, that it agreed to complete under clause (i)(II), the non-Federal interest shall remit any reimbursements received under this paragraph for a discrete segment of such project or separable element.

“(D) DISCRETE SEGMENT DEFINED.—In this paragraph, the term ‘discrete segment’ means a physical portion of a flood damage reduction project, or separable element thereof—

“(i) described by a non-Federal interest in a written agreement required under paragraph (1)(A)(iii); and

“(ii) that the non-Federal interest can operate and maintain, independently and without creating a hazard, in advance of final comple-

tion of the flood damage reduction project, or separable element thereof.”.

**SEC. 128. MULTISTATE ACTIVITIES.**

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-16) is amended—

- (1) in subsection (a)(1)—
  - (A) by striking “or other non-Federal interest” and inserting “, group of States, or non-Federal interest”;
  - (B) by inserting “or group of States” after “working with a State”; and
  - (C) by inserting “or group of States” after “boundaries of such State”; and
- (2) in subsection (c)(1) by adding at the end the following: “The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).”.

**SEC. 129. REGIONAL PARTICIPATION ASSURANCE FOR LEVEE SAFETY ACTIVITIES.**

(a) NATIONAL LEVEE SAFETY PROGRAM.—Section 9002 of the Water Resources Development Act of 2007 (33 U.S.C. 3301) is amended—

- (1) in paragraph (11) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;
- (2) by redesignating paragraphs (12) through (16) as paragraphs (13) through (17), respectively; and
- (3) by inserting after paragraph (11) the following:
 

“(12) REGIONAL DISTRICT.—The term ‘regional district’ means a subdivision of a State government, or a subdivision of multiple State governments, that is authorized to acquire, construct, operate, and maintain projects for the purpose of flood damage reduction.”.

(b) INVENTORY AND INSPECTION OF LEVEES.—Section 9004 of the Water Resources Development Act of 2007 (33 U.S.C. 3303) is amended—

- (1) in subsection (a)—
  - (A) in paragraph (1) by striking “one year after the date of enactment of this Act” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”;
  - (B) in paragraph (2)(A) by striking “States, Indian tribes, Federal agencies, and other entities” and inserting “States, regional districts, Indian tribes, Federal agencies, and other entities”; and
  - (C) in paragraph (3)—
    - (i) in the heading for subparagraph (A) by striking “FEDERAL, STATE, AND LOCAL” and inserting “FEDERAL, STATE, REGIONAL, TRIBAL, AND LOCAL”; and
    - (ii) in subparagraph (A) by striking “Federal, State, and local” and inserting “Federal, State, regional, tribal, and local”; and

(2) in subsection (c)—

- (A) in paragraph (4)—
  - (i) in the paragraph heading by striking “STATE AND TRIBAL” and inserting “STATE, REGIONAL, AND TRIBAL”; and
  - (ii) by striking “State or Indian tribe” each place it appears and inserting “State, regional district, or Indian tribe”; and
- (B) in paragraph (5)—
  - (i) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and
  - (ii) by striking “chief executive of the tribal government” and inserting “chief executive of the regional district or tribal government”.

(c) LEVEE SAFETY INITIATIVE.—Section 9005 of the Water Resources Development Act of 2007 (33 U.S.C. 3303a) is amended—

- (1) in subsection (c)—
  - (A) in paragraph (1)—
    - (i) in the matter preceding subparagraph (A)—
      - (I) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
      - (II) by striking “State, local, and tribal governments and organizations” and inserting “State, regional, local, and tribal governments and organizations”; and
    - (ii) in subparagraph (A) by striking “Federal, State, tribal, and local agencies” and inserting “Federal, State, regional, local, and tribal agencies”;
  - (B) in paragraph (3)—

- (i) in subparagraph (A) by striking “State, local, and tribal governments” and inserting “State, regional, local, and tribal governments”; and
- (ii) in subparagraph (B) by inserting “, regional, or tribal” after “State” each place it appears; and
- (C) in paragraph (5)(A) by striking “States, non-Federal interests, and other appropriate stakeholders” and inserting “States, regional districts, Indian tribes, non-Federal interests, and other appropriate stakeholders”;
- (2) in subsection (e)(1) in the matter preceding subparagraph (A) by striking “States, communities, and levee owners” and inserting “States, regional districts, Indian tribes, communities, and levee owners”;
- (3) in subsection (g)—
  - (A) in the subsection heading by striking “STATE AND TRIBAL” and inserting “STATE, REGIONAL, AND TRIBAL”;
  - (B) in paragraph (1)—
    - (i) in subparagraph (A)—
      - (I) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
      - (II) by striking “State or tribal” and inserting “State, regional, or tribal”; and
    - (ii) in subparagraph (B)—
      - (I) by striking “State and Indian tribe” and inserting “State, regional district, and Indian tribe”; and
      - (II) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and
  - (C) in paragraph (2)—
    - (i) in the paragraph heading by striking “STATES” and inserting “STATES, REGIONAL DISTRICTS, AND INDIAN TRIBES”;
    - (ii) in subparagraph (A) by striking “States and Indian tribes” and inserting “States, regional districts, and Indian tribes”;
    - (iii) in subparagraph (B)—
      - (I) in the matter preceding clause (i) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;
      - (II) in clause (ii) by striking “levees within the State” and inserting “levees within the State or regional district”; and
      - (III) in clause (iii) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;
    - (iv) in subparagraph (C)(ii) in the matter preceding subclause (I) by striking “State or tribal” and inserting “State, regional, or tribal”; and
    - (v) in subparagraph (E)—
      - (I) by striking “States and Indian tribes” each place it appears and inserting “States, regional districts, and Indian tribes”;
      - (II) in clause (ii)(II)—
        - (aa) in the matter preceding item (aa) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;
        - (bb) in item (aa) by striking “miles of levees in the State” and inserting “miles of levees in the State or regional district”; and
        - (cc) in item (bb) by striking “miles of levees in all States” and inserting “miles of levees in all States and regional districts”; and
      - (III) in clause (iii)—
        - (aa) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and
        - (bb) by striking “State or tribal” and inserting “State, regional, or tribal”; and
- (4) in subsection (h)—
  - (A) in paragraph (1) by striking “States, Indian tribes, and local governments” and inserting “States, regional districts, Indian tribes, and local governments”;
  - (B) in paragraph (2)—
    - (i) in the matter preceding subparagraph (A) by striking “State, Indian tribe, or local government” and inserting “State, regional district, Indian tribe, or local government”; and
    - (ii) in subparagraph (E) in the matter preceding clause (i) by striking “State or tribal” and inserting “State, regional, or tribal”;
  - (C) in paragraph (3)—

- (i) in subparagraph (A) by striking “State, Indian tribe, or local government” and inserting “State, regional district, Indian tribe, or local government”; and
  - (ii) in subparagraph (D) by striking “180 days after the date of enactment of this subsection” and inserting “180 days after the date of enactment of the Water Resources Development Act of 2016”; and
  - (D) in paragraph (4)(A)(i) by striking “State or tribal” and inserting “State, regional, or tribal”.
- (d) REPORTS.—Section 9006 of the Water Resources Development Act of 2007 (33 U.S.C. 3303b) is amended—
- (1) in subsection (a)(1)—
    - (A) in the matter preceding subparagraph (A) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
    - (B) in subparagraph (B) by striking “State and tribal” and inserting “State, regional, and tribal”;
  - (2) in subsection (c)—
    - (A) in the matter preceding paragraph (1)—
      - (i) by striking “2 years after the date of enactment of this subsection” and inserting “2 years after the date of enactment of the Water Resources Development Act of 2016”; and
      - (ii) by striking “State, tribal, and local” and inserting “State, regional, tribal, and local”;
    - (B) in paragraph (2) by striking “State and tribal” and inserting “State, regional, and tribal”; and
    - (C) in paragraph (4) by striking “State and local” and inserting “State, regional, tribal, and local”; and
  - (3) in subsection (d)—
    - (A) in the matter preceding paragraph (1) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
    - (B) in paragraph (2) by striking “State or tribal” and inserting “State, regional, or tribal”.

**SEC. 130. PARTICIPATION OF NON-FEDERAL INTERESTS.**

Section 221(b)(1) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)(1)) is amended by inserting “and, as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), a Native village, Regional Corporation, and Village Corporation” after “Indian tribe”.

**SEC. 131. INDIAN TRIBES.**

Section 1156 of the Water Resources Development Act of 1986 (33 U.S.C. 2310) is amended—

- (1) in the section heading by inserting “AND INDIAN TRIBES” after “TERRITORIES”; and
- (2) in subsection (a)—
  - (A) by striking “projects in American” and inserting “projects—
  - “(1) in American”;
  - (B) by striking the period at the end and inserting “; and”; and
  - (C) by adding at the end the following:
    - “(2) for a federally recognized Indian tribe.”.

**SEC. 132. DISSEMINATION OF INFORMATION ON THE ANNUAL REPORT PROCESS.**

(a) FINDINGS.—Congress finds the following:

- (1) Congress plays a central role in identifying, prioritizing, and authorizing vital water resources infrastructure activities throughout the United States.
- (2) The Water Resources Reform and Development Act of 2014 (Public Law 113–121) established a new and transparent process to review and prioritize the water resources development activities of the Corps of Engineers with strong congressional oversight.
- (3) Section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) requires the Secretary to develop and submit to Congress each year a Report to Congress on Future Water Resources Development and, as part of the annual report process, to—
  - (A) publish a notice in the Federal Register that requests from non-Federal interests proposed feasibility studies and proposed modifications to authorized water resources development projects and feasibility studies for inclusion in the report; and

(B) review the proposals submitted and include in the report those proposed feasibility studies and proposed modifications that meet the criteria for inclusion established under section 7001.

(4) Congress will use the information provided in the annual Report to Congress on Future Water Resources Development to determine authorization needs and priorities for purposes of water resources development legislation.

(5) To ensure that Congress can gain a thorough understanding of the water resources development needs and priorities of the United States, it is important that the Secretary take sufficient steps to ensure that non-Federal interests are made aware of the new annual report process, including the need for non-Federal interests to submit proposals during the Secretary's annual request for proposals in order for such proposals to be eligible for consideration by Congress.

(b) **DISSEMINATION OF PROCESS INFORMATION.**—The Secretary shall develop, support, and implement education and awareness efforts for non-Federal interests with respect to the annual Report to Congress on Future Water Resources Development required under section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d), including efforts to—

(1) develop and disseminate technical assistance materials, seminars, and guidance on the annual process as it relates to non-Federal interests;

(2) provide written notice to previous and potential non-Federal interests and local elected officials on the annual process and on opportunities to address local water resources challenges through the missions and authorities of the Corps of Engineers;

(3) issue guidance for non-Federal interests to assist such interests in developing proposals for water resources development projects that satisfy the requirements of section 7001; and

(4) provide, at the request of a non-Federal interest, assistance with researching and identifying existing project authorizations and Corps of Engineers decision documents.

**SEC. 133. SCOPE OF PROJECTS.**

Section 7001(f) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d(f)) is amended by adding at the end the following:

“(5) **WATER RESOURCES DEVELOPMENT PROJECT.**—The term ‘water resources development project’ includes a project under an environmental infrastructure assistance program.”.

**SEC. 134. PRELIMINARY FEASIBILITY STUDY ACTIVITIES.**

At the request of a non-Federal interest with respect to a proposed water resources development project, the Secretary shall meet with the non-Federal interest, prior to initiating a feasibility study relating to the proposed project, to review a preliminary analysis of the Federal interest in the proposed project and the costs, benefits, and environmental impacts of the proposed project, including an estimate of the costs of preparing a feasibility report.

**SEC. 135. POST-AUTHORIZATION CHANGE REPORTS.**

(a) **IN GENERAL.**—The completion of a post-authorization change report prepared by the Corps of Engineers for a water resources development project—

(1) may not be delayed as a result of consideration being given to changes in policy or priority with respect to project consideration; and

(2) shall be submitted, upon completion, to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **COMPLETION REVIEW.**—With respect to a post-authorization change report subject to review by the Secretary, the Secretary shall, not later than 120 days after the date of completion of such report—

(1) review the report; and

(2) provide to Congress any recommendations of the Secretary regarding modification of the applicable water resources development project.

(c) **PRIOR REPORTS.**—Not later than 120 days after the date of enactment of this Act, with respect to any post-authorization change report that was completed prior to the date of enactment of this Act and is subject to a review by the Secretary that has yet to be completed, the Secretary shall complete review of, and provide recommendations to Congress with respect to, the report.

(d) **POST-AUTHORIZATION CHANGE REPORT INCLUSIONS.**—In this section, the term “post-authorization change report” includes—

(1) a general reevaluation report;

(2) a limited reevaluation report; and

(3) any other report that recommends the modification of an authorized water resources development project.

**SEC. 136. MAINTENANCE DREDGING DATA.**

(a) **IN GENERAL.**—The Secretary shall establish, maintain, and make publicly available a database on maintenance dredging carried out by the Secretary, which shall include information on maintenance dredging carried out by Federal and non-Federal vessels.

(b) **SCOPE.**—The Secretary shall include in the database maintained under subsection (a), for each maintenance dredging project and contract, data on—

- (1) the volume of dredged material removed;
- (2) the initial cost estimate of the Corps of Engineers;
- (3) the total cost;
- (4) the party and vessel carrying out the work; and
- (5) the number of private contractor bids received and the bid amounts, including bids that did not win the final contract award.

**SEC. 137. ELECTRONIC SUBMISSION AND TRACKING OF PERMIT APPLICATIONS.**

(a) **IN GENERAL.**—Section 2040 of the Water Resources Development Act of 2007 (33 U.S.C. 2345) is amended to read as follows:

**“SEC. 2040. ELECTRONIC SUBMISSION AND TRACKING OF PERMIT APPLICATIONS.**

**“(a) DEVELOPMENT OF ELECTRONIC SYSTEM.—**

**“(1) IN GENERAL.—**The Secretary shall research, develop, and implement an electronic system to allow the electronic preparation and submission of applications for permits and requests for jurisdictional determinations under the jurisdiction of the Secretary.

**“(2) INCLUSION.—**The electronic system required under paragraph (1) shall address—

- “(A) applications for standard individual permits;**
- “(B) applications for letters of permission;**
- “(C) joint applications with States for State and Federal permits;**
- “(D) applications for emergency permits;**
- “(E) applications or requests for jurisdictional determinations; and**
- “(F) preconstruction notification submissions, when required for a nationwide or other general permit.**

**“(3) IMPROVING EXISTING DATA SYSTEMS.—**The Secretary shall seek to incorporate the electronic system required under paragraph (1) into existing systems and databases of the Corps of Engineers to the maximum extent practicable.

**“(4) PROTECTION OF INFORMATION.—**The electronic system required under paragraph (1) shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is otherwise prohibited by law.

**“(b) SYSTEM REQUIREMENTS.—**The electronic system required under subsection (a) shall—

- “(1) enable an applicant or requester to prepare electronically an application for a permit or request;**
- “(2) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, the completed application form or request;**
- “(3) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, data and other information in support of the permit application or request;**
- “(4) provide an online interactive guide to provide assistance to an applicant or requester at any time while filling out the permit application or request; and**
- “(5) enable an applicant or requester (or a designated agent) to track the status of a permit application or request in a manner that will—**

**“(A) allow the applicant or requester to determine whether the application is pending or final and the disposition of the request;**

**“(B) allow the applicant or requester to research previously submitted permit applications and requests within a given geographic area and the results of such applications or requests; and**

**“(C) allow identification and display of the location of the activities subject to a permit or request through a map-based interface.**

**“(c) DOCUMENTATION.—**All permit decisions and jurisdictional determinations made by the Secretary shall be in writing and include documentation supporting the basis for the decision or determination. The Secretary shall prescribe means for documenting all decisions or determinations to be made by the Secretary.

**“(d) RECORD OF DETERMINATIONS.—**

**“(1) IN GENERAL.—**The Secretary shall maintain, for a minimum of 5 years, a record of all permit decisions and jurisdictional determinations made by the

Secretary, including documentation supporting the basis of the decisions and determinations.

“(2) ARCHIVING OF INFORMATION.—The Secretary shall explore and implement an appropriate mechanism for archiving records of permit decisions and jurisdictional determinations, including documentation supporting the basis of the decisions and determinations, after the 5-year maintenance period described in paragraph (1).

“(e) AVAILABILITY OF DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary shall make the records of all permit decisions and jurisdictional determinations made by the Secretary available to the public for review and reproduction.

“(2) PROTECTION OF INFORMATION.—The Secretary shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is prohibited by law, which may be excluded from disclosure.

“(f) DEADLINE FOR ELECTRONIC SYSTEM IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary shall develop and implement, to the maximum extent practicable, the electronic system required under subsection (a) not later than 2 years after the date of enactment of the Water Resources Development Act of 2016.

“(2) REPORT ON ELECTRONIC SYSTEM IMPLEMENTATION.—Not later than 180 days after the expiration of the deadline under paragraph (1), 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 describing the measures implemented and barriers faced in carrying out this section.

“(g) APPLICABILITY.—The requirements described in subsections (c), (d), and (e) shall apply to permit applications and requests for jurisdictional determinations submitted to the Secretary after the date of enactment of the Water Resources Development Act of 2016.

“(h) LIMITATION.—This section shall not preclude the submission to the Secretary, acting through the Chief of Engineers, of a physical copy of a permit application or a request for a jurisdictional determination.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2007 is amended by striking the item relating to section 2040 and inserting the following:

“Sec. 2040. Electronic submission and tracking of permit applications.”.

**SEC. 138. DATA TRANSPARENCY.**

Section 2017 of the Water Resources Development Act of 2007 (33 U.S.C. 2342) is amended to read as follows:

**“SEC. 2017. ACCESS TO WATER RESOURCE DATA.**

“(a) IN GENERAL.—Using available funds, the Secretary shall make publicly available, including on the Internet, all data in the custody of the Corps of Engineers on—

“(1) the planning, design, construction, operation, and maintenance of water resources development projects; and

“(2) water quality and water management of projects owned, operated, or managed by the Corps of Engineers.

“(b) LIMITATION.—Nothing in this section may be construed to compel or authorize the disclosure of data or other information determined by the Secretary to be confidential information, privileged information, law enforcement information, national security information, infrastructure security information, personal information, or information the disclosure of which is otherwise prohibited by law.

“(c) TIMING.—The Secretary shall ensure that data is made publicly available under subsection (a) as quickly as practicable after the data is generated by the Corps of Engineers.

“(d) PARTNERSHIPS.—In carrying out this section, the Secretary may develop partnerships, including through cooperative agreements, with State, tribal, and local governments and other Federal agencies.”.

**SEC. 139. BACKLOG PREVENTION.**

(a) PROJECT DEAUTHORIZATION.—

(1) IN GENERAL.—A water resources development project, or separable element of such a project, authorized for construction by this Act shall not be authorized after the last day of the 7-year period beginning on the date of enactment of this Act unless funds have been obligated for construction of such project during that period.

(2) IDENTIFICATION OF PROJECTS.—Not later than 60 days after the expiration of the 7-year period referred to in paragraph (1), 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 report that identifies the projects deauthorized under paragraph (1).

(b) REPORT TO CONGRESS.—Not later than 60 days after the expiration of the 12-year period beginning on the date of enactment of this Act, 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, and make available to the public, a report that contains—

(1) a list of any water resources development projects authorized by this Act for which construction has not been completed during that period;

(2) a description of the reasons the projects were not completed;

(3) a schedule for the completion of the projects based on expected levels of appropriations; and

(4) a 5-year and 10-year projection of construction backlog and any recommendations to Congress regarding how to mitigate current problems and the backlog.

**SEC. 140. QUALITY CONTROL.**

(a) IN GENERAL.—Paragraph (a) of the first section of the Act of December 22, 1944 (58 Stat. 888, chapter 665; 33 U.S.C. 701–1(a)), is amended by inserting “and shall be made publicly available” before the period at the end.

(b) PROJECT ADMINISTRATION.—Section 2041(b)(1) of the Water Resources Development Act of 2007 (33 U.S.C. 2346(b)(1)) is amended by inserting “final post-authorization change report,” after “final reevaluation report,”.

**SEC. 141. BUDGET DEVELOPMENT AND PRIORITIZATION.**

(a) IN GENERAL.—In conjunction with the President’s budget submission to Congress with respect to fiscal year 2018 under section 1105(a) of title 31, United States Code, and biennially thereafter in conjunction with the President’s budget submission, the Secretary shall submit to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that describes—

(1) the metrics used in developing the civil works budget for the applicable fiscal year;

(2) the metrics used in developing each business line in the civil works budget; and

(3) how projects are prioritized in the applicable budget submission, including how the Secretary determines those projects for which construction initiation is recommended.

(b) NOTIFICATION.—

(1) REQUIREMENT.—If the Secretary proposes a covered revised budget estimate, the Secretary shall notify, in writing, each Member of Congress representing a congressional district affected by the study, project, or activity subject to the revised estimate.

(2) COVERED REVISED BUDGET ESTIMATE DEFINED.—In this subsection, the term “covered revised budget estimate” means a budget estimate for a water resources development study, project, or activity that differs from the estimate most recently specified for that study, project, or activity in a budget of the President submitted under section 1105(a) of title 31, United States Code.

**SEC. 142. USE OF NATURAL AND NATURE-BASED FEATURES.**

(a) REPORT.—Not later than February 1, 2017, and biennially thereafter, 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 use of natural and nature-based features in water resources development projects, including flood risk reduction, coastal resiliency, and ecosystem restoration projects.

(b) CONTENTS.—The report shall include, at a minimum, the following:

(1) An assessment of the observed and potential impacts of the use of natural and nature-based features on the cost and effectiveness of water resources development projects and any co-benefits resulting from the use of such features.

(2) A description of any statutory, fiscal, or regulatory barrier to the appropriate consideration and use of natural and nature-based features in carrying out water resources development projects.

**SEC. 143. ANNUAL REPORT ON PURCHASE OF FOREIGN MANUFACTURED ARTICLES.**

Section 213(a) of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4831) is amended by adding at the end the following:

“(4) ANNUAL REPORT ON PURCHASE OF FOREIGN MANUFACTURED ARTICLES.—

“(A) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, the Secretary shall submit to Congress a report on the amount of acquisitions in such fiscal year made by the Corps of Engineers for civil works projects from entities that manufactured the articles, materials, or supplies outside of the United States.

“(B) CONTENTS.—The report required under subparagraph (A) shall indicate, for each acquisition—

“(i) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States; and

“(ii) a summary of the total procurement funds spent on goods manufactured in the United States and the total procurement funds spent on goods manufactured outside of the United States.

“(C) PUBLIC AVAILABILITY.—Not later than 30 days after the submission of a report under subparagraph (A), the Secretary shall make such report publicly available on the agency’s Web site.”.

**SEC. 144. INTEGRATED WATER RESOURCES PLANNING.**

In carrying out a feasibility study for a water resources development project, the Secretary shall coordinate with communities in the watershed covered by such study to determine if a local or regional water management plan exists or is under development for the purposes of stormwater management, water quality improvement, aquifer recharge, or water reuse. If such a local or regional water management plan exists for the watershed, the Secretary shall, in cooperation with the non-Federal sponsor for the plan and affected local public entities, avoid adversely affecting the purposes of the plan and, where feasible, incorporate the purposes of the plan into the Secretary’s feasibility study.

**SEC. 145. EVALUATION OF PROJECT PARTNERSHIP AGREEMENTS.**

To the maximum extent practicable, the Secretary shall prioritize and complete the activities required of the Secretary under section 1013 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1218).

**SEC. 146. ADDITIONAL MEASURES AT DONOR PORTS AND ENERGY TRANSFER PORTS.**

Section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238c) is amended—

(1) in subsection (a)(4)(A) by striking “Code of Federal Regulation” and inserting “Code of Federal Regulations”; and

(2) in subsection (f)—

(A) in paragraph (1) by striking “2018” and inserting “2020”; and

(B) in paragraph (3)—

(i) by striking “2015 through 2018” and inserting “2016 through 2020”; and

(ii) by striking “2019 through 2022” and inserting “2021 through 2025”.

**SEC. 147. ARCTIC DEEP DRAFT PORT DEVELOPMENT PARTNERSHIPS.**

Section 2105 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2243) is amended—

(1) by striking “(25 U.S.C. 450b))” each place it appears and inserting “(25 U.S.C. 450b) and Native villages, Regional Corporations, and Village Corporations (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602))”; and

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

“(d) CONSIDERATION OF NATIONAL SECURITY INTERESTS.—In carrying out a study of the feasibility of an Arctic deep draft port, the Secretary shall consult with the Secretary of Homeland Security and the Secretary of Defense to identify national security benefits associated with the Arctic deep draft port.”.

**SEC. 148. INTERNATIONAL OUTREACH PROGRAM.**

Section 401(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2329(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The Secretary may engage in activities to inform the United States of technological innovations abroad that could significantly improve water resources development in the United States.

“(2) INCLUSIONS.—Activities under paragraph (1) may include—

“(A) development, monitoring, assessment, and dissemination of information about foreign water resources projects that could significantly improve water resources development in the United States;

“(B) research, development, training, and other forms of technology transfer and exchange; and

“(C) offering technical services that cannot be readily obtained in the private sector to be incorporated into water resources projects if the costs for assistance will be recovered under the terms of each project.”.

**SEC. 149. COMPREHENSIVE STUDY.**

(a) **IN GENERAL.**—The Secretary shall conduct a comprehensive study on the flood risks for vulnerable coastal populations in areas within the boundaries of the South Atlantic Division of the Corps of Engineers.

(b) **INCLUSIONS.**—In carrying out the study, the Secretary shall identify—

(1) activities that warrant additional analysis by the Corps of Engineers; and

(2) institutional and other barriers to providing protection to the vulnerable coastal populations.

(c) **COORDINATION.**—The Secretary shall conduct the study in coordination with appropriate Federal agencies and State, local, and tribal entities to ensure consistency with related plans.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$6,000,000 to carry out this section.

**SEC. 150. ALTERNATIVE MODELS FOR MANAGING INLAND WATERWAYS TRUST FUND.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study to analyze alternative models for managing the Inland Waterways Trust Fund, including the management of—

(1) project schedules for projects receiving assistance from the fund; and

(2) expenditures from the fund.

(b) **CONTENTS.**—In conducting the study, the Comptroller General shall examine, at a minimum, the costs and benefits of transferring management of the fund to a not-for-profit corporation or government-owned corporation.

(c) **CONSIDERATIONS.**—In assessing costs and benefits under subsection (b), the Comptroller General shall consider, among other factors—

(1) the benefits to the taxpayer;

(2) the impact on project delivery; and

(3) the impact on jobs.

(d) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

**SEC. 151. ALTERNATIVE PROJECTS TO MAINTENANCE DREDGING.**

The Secretary may enter into agreements to assume the operation and maintenance costs of an alternative project to maintenance dredging for a channel if the alternative project would lower the overall costs of maintaining the channel.

**SEC. 152. FISH HATCHERIES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary may operate a fish hatchery for the purpose of restoring a population of fish species located in the region surrounding the fish hatchery that is listed as a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or a similar State law.

(b) **COSTS.**—A non-Federal entity, a Federal agency other than the Department of Defense, or a group of non-Federal entities or such Federal agencies shall be responsible for 100 percent of the costs associated with managing a fish hatchery for the purpose described in subsection (a) that are not authorized as of the date of enactment of this Act for the fish hatchery.

**SEC. 153. ENVIRONMENTAL BANKS.**

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this Act, the Chairperson of the Gulf Coast Ecosystem Restoration Council, with the concurrence of two-thirds of the Council, shall issue such regulations as are necessary for the establishment of procedures and processes for the use, maintenance, and oversight of environmental banks for purposes of mitigating adverse environmental impacts sustained by construction or other activities as required by law or regulation.

(b) **REQUIREMENTS.**—The regulations issued pursuant to subsection (a) shall—

(1) set forth procedures for certification of environmental banks, including criteria for adoption of an environmental banking instrument;

(2) provide a mechanism for the transfer of environmental credits;

(3) provide for priority certification to environmental banks that enhance the resilience of coastal resources to inundation and coastal erosion, including the restoration of resources within the scope of a project authorized for construction;

(4) ensure certification is given only to banks with secured adequate financial assurance and appropriate legally enforceable protection for restored lands or resources;

(5) stipulate conditions under which cross-crediting of environmental services may occur and provide standards for the conversion of such crediting;

(6) establish performance criteria for environmental banks;

(7) establish criteria for the operation and monitoring of environmental banks; and

(8) establish a framework whereby the purchase of credit from an environmental bank may be used to offset or satisfy past, current, or future adverse environmental impacts or liability under law to wetlands, water, wildlife, or other natural resources.

(c) CONSIDERATION.—In developing the regulations required under subsection (a), the Chairperson shall take into consideration habitat equivalency analysis.

(d) MODIFICATIONS.—The Chairperson may modify or update the regulations issued pursuant to this section, subject to appropriate consultation and public participation, provided that two-thirds of the Gulf Coast Ecosystem Restoration Council approves the modification or update.

(e) DEFINITION OF ENVIRONMENTAL BANK.—In this section, the term “environmental bank” means a project, project increment, or projects for purposes of restoring, creating, enhancing, or preserving natural resources in a designated site to provide for credits to offset adverse environmental impacts.

(f) SAVINGS CLAUSE.—Nothing in this section—

(1) affects the requirements of section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283); or

(2) affects the obligations or requirements of any Federal environmental law.

## TITLE II—STUDIES

### SEC. 201. AUTHORIZATION OF PROPOSED FEASIBILITY STUDIES.

The Secretary is authorized to conduct a feasibility study for the following projects for water resources development and conservation and other purposes, as identified in the reports titled “Report to Congress on Future Water Resources Development” submitted to Congress on January 29, 2015, and January 29, 2016, respectively, pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress:

(1) OUACHITA-BLACK RIVERS, ARKANSAS AND LOUISIANA.—Project for navigation, Ouachita-Black Rivers, Arkansas and Louisiana.

(2) CACHE CREEK SETTLING BASIN, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Cache Creek Settling Basin, California.

(3) COYOTE VALLEY DAM, CALIFORNIA.—Project for flood damage reduction, environmental restoration, and water supply, Coyote Valley Dam, California.

(4) DEL ROSA CHANNEL, CITY OF SAN BERNARDINO, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Del Rosa Channel, city of San Bernardino, California.

(5) MERCED COUNTY STREAMS, CALIFORNIA.—Project for flood damage reduction, Merced County Streams, California.

(6) MISSION-ZANJA CHANNEL, CITIES OF SAN BERNARDINO AND REDLANDS, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Mission-Zanja Channel, cities of San Bernardino and Redlands, California.

(7) SOBOBA INDIAN RESERVATION, CALIFORNIA.—Project for flood damage reduction, Soboba Indian Reservation, California.

(8) INDIAN RIVER INLET, DELAWARE.—Project for hurricane and storm damage reduction, Indian River Inlet, Delaware.

(9) LEWES BEACH, DELAWARE.—Project for hurricane and storm damage reduction, Lewes Beach, Delaware.

(10) MISPELLION COMPLEX, KENT AND SUSSEX COUNTIES, DELAWARE.—Project for hurricane and storm damage reduction, Mispillion Complex, Kent and Sussex Counties, Delaware.

(11) DAYTONA BEACH, FLORIDA.—Project for flood damage reduction, Daytona Beach, Florida.

(12) BRUNSWICK HARBOR, GEORGIA.—Project for navigation, Brunswick Harbor, Georgia.

(13) DUBUQUE, IOWA.—Project for flood damage reduction, Dubuque, Iowa.

(14) ST. TAMMANY PARISH, LOUISIANA.—Project for flood damage reduction and ecosystem restoration, St. Tammany Parish, Louisiana.

(15) CATTARAUGUS CREEK, NEW YORK.—Project for flood damage reduction, Cattaraugus Creek, New York.

(16) CAYUGA INLET, ITHACA, NEW YORK.—Project for navigation and flood damage reduction, Cayuga Inlet, Ithaca, New York.

(17) DELAWARE RIVER BASIN, NEW YORK, NEW JERSEY, PENNSYLVANIA, AND DELAWARE.—Projects for flood control, Delaware River Basin, New York, New Jersey, Pennsylvania, and Delaware, authorized by section 408 of the Act of July 24, 1946 (60 Stat. 644, chapter 596), and section 203 of the Flood Control Act of 1962 (76 Stat. 1182), to review operations of the projects to enhance opportunities for ecosystem restoration and water supply.

(18) SILVER CREEK, HANOVER, NEW YORK.—Project for flood damage reduction and ecosystem restoration, Silver Creek, Hanover, New York.

(19) TULSA AND WEST TULSA LEVEES, TULSA, OKLAHOMA.—Project for flood damage reduction, Tulsa and West Tulsa Levees, Tulsa, Oklahoma.

(20) STONYCREEK AND LITTLE CONEMAUGH RIVERS, PENNSYLVANIA.—Project for flood damage reduction and recreation, Stonycreek and Little Conemaugh Rivers, Pennsylvania.

(21) TIOGA-HAMMOND LAKE, PENNSYLVANIA.—Project for ecosystem restoration, Tioga-Hammond Lake, Pennsylvania.

(22) BRAZOS RIVER, FORT BEND COUNTY, TEXAS.—Project for flood damage reduction in the vicinity of the Brazos River, Fort Bend County, Texas.

(23) CHACON CREEK, CITY OF LAREDO, TEXAS.—Project for flood damage reduction, ecosystem restoration, and recreation, Chacon Creek, city of Laredo, Texas.

(24) CORPUS CHRISTI SHIP CHANNEL, TEXAS.—Project for navigation, Corpus Christi Ship Channel, Texas.

(25) CITY OF EL PASO, TEXAS.—Project for flood damage reduction, city of El Paso, Texas.

(26) GULF INTRACOASTAL WATERWAY, BRAZORIA AND MATAGORDA COUNTIES, TEXAS.—Project for navigation and hurricane and storm damage reduction, Gulf Intracoastal Waterway, Brazoria and Matagorda Counties, Texas.

(27) PORT OF BAY CITY, TEXAS.—Project for navigation, Port of Bay City, Texas.

(28) CHINCOTEAGUE ISLAND, VIRGINIA.—Project for hurricane and storm damage reduction, navigation, and ecosystem restoration, Chincoteague Island, Virginia.

(29) BURLEY CREEK WATERSHED, KITSAP COUNTY, WASHINGTON.—Project for flood damage reduction and ecosystem restoration, Burley Creek Watershed, Kitsap County, Washington.

**SEC. 202. EXPEDITED COMPLETION OF REPORTS FOR CERTAIN PROJECTS.**

(a) FEASIBILITY REPORTS.—The Secretary shall expedite the completion of a feasibility study for each of the following projects, and if the Secretary determines that the project is justified in a completed report, may proceed directly to preconstruction planning, engineering, and design of the project:

(1) Project for flood risk management, Little Colorado River at Winslow, Navajo County, Arizona.

(2) Project for flood risk management, Lower San Joaquin River, California. In carrying out the feasibility study for the project, the Secretary shall include Reclamation District 17 as part of the study.

(3) Project for flood risk management and ecosystem restoration, Sacramento River Flood Control System, California.

(4) Project for hurricane and storm damage risk reduction, Ft. Pierce, Florida.

(5) Project for flood risk management, Des Moines and Raccoon Rivers, Iowa.

(6) Project for navigation, Mississippi River Ship Channel, Louisiana.

(7) Project for flood risk management, North Branch Ecorse Creek, Wayne County, Michigan.

(8) Project for flood risk management, Rahway River Basin (Upper Basin), New Jersey.

(9) Project for navigation, Upper Ohio River, Pennsylvania.

(b) POST-AUTHORIZATION CHANGE REPORTS.—The Secretary shall expedite completion of a post-authorization change report for each of the following projects:

(1) Project for flood risk management, Swope Park Industrial Area, Kansas City, Missouri.

(2) Project for hurricane and storm damage risk reduction, New Hanover County, North Carolina.

## TITLE III—DEAUTHORIZATIONS AND RELATED PROVISIONS

### SEC. 301. DEAUTHORIZATION OF INACTIVE PROJECTS.

- (a) **PURPOSES.**—The purposes of this section are—
- (1) to identify \$5,000,000,000 in water resources development projects authorized by Congress that are no longer viable for construction due to—
    - (A) a lack of local support;
    - (B) a lack of available Federal or non-Federal resources; or
    - (C) an authorizing purpose that is no longer relevant or feasible;
  - (2) to create an expedited and definitive process for Congress to deauthorize water resources development projects that are no longer viable for construction; and
  - (3) to allow the continued authorization of water resources development projects that are viable for construction.
- (b) **INTERIM DEAUTHORIZATION LIST.**—
- (1) **IN GENERAL.**—The Secretary shall develop an interim deauthorization list that identifies—
    - (A) each water resources development project, or separable element of a project, authorized for construction before November 8, 2007, for which—
      - (i) planning, design, or construction was not initiated before the date of enactment of this Act; or
      - (ii) planning, design, or construction was initiated before the date of enactment of this Act, but for which no funds, Federal or non-Federal, were obligated for planning, design, or construction of the project or separable element of the project during the current fiscal year or any of the 6 preceding fiscal years; and
    - (B) each project or separable element identified and included on a list to Congress for deauthorization pursuant to section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)).
  - (2) **PUBLIC COMMENT AND CONSULTATION.**—
    - (A) **IN GENERAL.**—The Secretary shall solicit comments from the public and the Governors of each applicable State on the interim deauthorization list developed under paragraph (1).
    - (B) **COMMENT PERIOD.**—The public comment period shall be 90 days.
  - (3) **SUBMISSION TO CONGRESS; PUBLICATION.**—Not later than 90 days after the date of the close of the comment period under paragraph (2), the Secretary shall—
    - (A) submit a revised interim deauthorization list 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) publish the revised interim deauthorization list in the Federal Register.
- (c) **FINAL DEAUTHORIZATION LIST.**—
- (1) **IN GENERAL.**—The Secretary shall develop a final deauthorization list of water resources development projects, or separable elements of projects, from the revised interim deauthorization list described in subsection (b)(3).
  - (2) **DEAUTHORIZATION AMOUNT.**—
    - (A) **PROPOSED FINAL LIST.**—The Secretary shall prepare a proposed final deauthorization list of projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least \$5,000,000,000.
    - (B) **DETERMINATION OF FEDERAL COST TO COMPLETE.**—For purposes of subparagraph (A), the Federal cost to complete shall take into account any allowances authorized by section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), as applied to the most recent project schedule and cost estimate.
  - (3) **IDENTIFICATION OF PROJECTS.**—
    - (A) **SEQUENCING OF PROJECTS.**—
      - (i) **IN GENERAL.**—The Secretary shall identify projects and separable elements of projects for inclusion on the proposed final deauthorization list according to the order in which the projects and separable elements of the projects were authorized, beginning with the earliest authorized projects and separable elements of projects and ending with the latest project or separable element of a project necessary to meet the aggregate amount under paragraph (2).

- (ii) **FACTORS TO CONSIDER.**—The Secretary may identify projects and separable elements of projects in an order other than that established by clause (i) if the Secretary determines, on a case-by-case basis, that a project or separable element of a project is critical for interests of the United States, based on the possible impact of the project or separable element of the project on public health and safety, the national economy, or the environment.
- (iii) **CONSIDERATION OF PUBLIC COMMENTS.**—In making determinations under clause (ii), the Secretary shall consider any comments received under subsection (b)(3).
- (B) **APPENDIX.**—The Secretary shall include as part of the proposed final deauthorization list an appendix that—
- (i) identifies each project or separable element of a project on the interim deauthorization list developed under subsection (b) that is not included on the proposed final deauthorization list; and
  - (ii) describes the reasons why the project or separable element is not included on the proposed final list.
- (4) **PUBLIC COMMENT AND CONSULTATION.**—
- (A) **IN GENERAL.**—The Secretary shall solicit comments from the public and the Governor of each applicable State on the proposed final deauthorization list and appendix developed under paragraphs (2) and (3).
- (B) **COMMENT PERIOD.**—The public comment period shall be 90 days.
- (5) **SUBMISSION OF FINAL LIST TO CONGRESS; PUBLICATION.**—Not later than 120 days after the date of the close of the comment period under paragraph (4), the Secretary shall—
- (A) submit a final deauthorization list and an appendix to the final deauthorization list in 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; and
  - (B) publish the final deauthorization list and the appendix to the final deauthorization list in the Federal Register.
- (d) **DEAUTHORIZATION; CONGRESSIONAL REVIEW.**—
- (1) **IN GENERAL.**—After the expiration of the 180-day period beginning on the date of submission of the final deauthorization list and appendix under subsection (c), a project or separable element of a project identified in the final deauthorization list is hereby deauthorized, unless Congress passes a joint resolution disapproving the final deauthorization list prior to the end of such period.
  - (2) **NON-FEDERAL CONTRIBUTIONS.**—
    - (A) **IN GENERAL.**—A project or separable element of a project identified in the final deauthorization list under subsection (c) shall not be deauthorized under this subsection if, before the expiration of the 180-day period referred to in paragraph (1), the non-Federal interest for the project or separable element of the project provides sufficient funds to complete the project or separable element of the project.
    - (B) **TREATMENT OF PROJECTS.**—Notwithstanding subparagraph (A), each project and separable element of a project identified in the final deauthorization list shall be treated as deauthorized for purposes of the aggregate deauthorization amount specified in subsection (c)(2).
  - (3) **PROJECTS IDENTIFIED IN APPENDIX.**—A project or separable element of a project identified in the appendix to the final deauthorization list shall remain subject to future deauthorization by Congress.
- (e) **SPECIAL RULE FOR PROJECTS RECEIVING FUNDS FOR POST-AUTHORIZATION STUDY.**—A project or separable element of a project may not be identified on the interim deauthorization list developed under subsection (b), or the final deauthorization list developed under subsection (c), if the project or separable element received funding for a post-authorization study during the current fiscal year or any of the 6 preceding fiscal years.
- (f) **GENERAL PROVISIONS.**—
- (1) **DEFINITIONS.**—In this section, the following definitions apply:
    - (A) **POST-AUTHORIZATION STUDY.**—The term “post-authorization study” means—
      - (i) a feasibility report developed under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282);
      - (ii) a feasibility study, as defined in section 105(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(d)); or
      - (iii) a review conducted under section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a), including an initial appraisal that—
        - (I) demonstrates a Federal interest; and

(II) requires additional analysis for the project or separable element.

(B) WATER RESOURCES DEVELOPMENT PROJECT.—The term “water resources development project” includes an environmental infrastructure assistance project or program of the Corps of Engineers.

(2) TREATMENT OF PROJECT MODIFICATIONS.—For purposes of this section, if an authorized water resources development project or separable element of the project has been modified by an Act of Congress, the date of the authorization of the project or separable element shall be deemed to be the date of the most recent such modification.

**SEC. 302. VALDEZ, ALASKA.**

(a) IN GENERAL.—Subject to subsection (b), the portion of the project for navigation, Valdez, Alaska, identified as Tract G, Harbor Subdivision, shall not be subject to navigational servitude beginning on the date of enactment of this Act.

(b) ENTRY BY FEDERAL GOVERNMENT.—The Federal Government may enter upon the property referred to in subsection (a) to carry out any required operation and maintenance of the general navigation features of the project referred to in subsection (a).

**SEC. 303. LOS ANGELES COUNTY DRAINAGE AREA, LOS ANGELES COUNTY, CALIFORNIA.**

(a) IN GENERAL.—The Secretary shall—

(1) prioritize the updating of the Water Control Manuals for control structures in the Los Angeles County Drainage Area, Los Angeles County, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (Public Law 101–640; 104 Stat. 4611); and

(2) integrate and incorporate into the project seasonal operations for water conservation and water supply.

(b) PARTICIPATION.—The update referred to in subsection (a) shall be done in coordination with all appropriate Federal agencies, elected officials, and members of the public.

**SEC. 304. SUTTER BASIN, CALIFORNIA.**

(a) IN GENERAL.—The separable element constituting the locally preferred plan increment reflected in the report of the Chief of Engineers dated March 12, 2014, and authorized for construction in item 8 of the table contained in section 7002(2) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1366) is no longer authorized beginning on the date of enactment of this Act.

(b) SAVINGS PROVISIONS.—The deauthorization under subsection (a) does not affect—

(1) the national economic development plan separable element reflected in the report of the Chief of Engineers dated March 12, 2014, and authorized for construction in item 8 of the table contained in section 7002(2) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1366); or

(2) previous authorizations providing for the Sacramento River and major and minor tributaries project, including—

(A) section 2 of the Act of March 1, 1917 (39 Stat. 949, chapter 144);

(B) section 12 of the Act of December 22, 1944 (58 Stat. 900, chapter 665);

(C) section 204 of the Flood Control Act of 1950 (64 Stat. 177, chapter 188); and

(D) any other Acts relating to the authorization for the Sacramento River and major and minor tributaries project along the Feather River right bank between levee stationing 1483+33 and levee stationing 2368+00.

**SEC. 305. ESSEX RIVER, MASSACHUSETTS.**

(a) DEAUTHORIZATION.—The portions of the project for navigation, Essex River, Massachusetts, authorized by the Act of July 13, 1892 (27 Stat. 88, chapter 158), and modified by the Act of March 3, 1899 (30 Stat. 1121, chapter 425), and the Act of March 2, 1907 (34 Stat. 1073, chapter 2509), that do not lie within the areas described in subsection (b) are no longer authorized beginning on the date of enactment of this Act.

(b) DESCRIPTION OF PROJECT AREAS.—The areas described in this subsection are as follows: Beginning at a point N3056139.82 E851780.21, thence southwesterly about 156.88 feet to a point N3055997.75 E851713.67; thence southwesterly about 64.59 feet to a point N3055959.37 E851661.72; thence southwesterly about 145.14 feet to a point N3055887.10 E851535.85; thence southwesterly about 204.91 feet to a point N3055855.12 E851333.45; thence northwesterly about 423.50 feet to a point N3055976.70 E850927.78; thence northwesterly about 58.77 feet to a point N3056002.99 E850875.21; thence northwesterly about 240.57 feet to a point

N3056232.82	E850804.14;	thence	northwesterly	about	203.60	feet	to	a	point
N3056435.41	E850783.93;	thence	northwesterly	about	78.63	feet	to	a	point
N3056499.63	E850738.56;	thence	northwesterly	about	60.00	feet	to	a	point
N3056526.30	E850684.81;	thence	southwesterly	about	85.56	feet	to	a	point
N3056523.33	E850599.31;	thence	southwesterly	about	36.20	feet	to	a	point
N3056512.37	E850564.81;	thence	southwesterly	about	80.10	feet	to	a	point
N3056467.08	E850498.74;	thence	southwesterly	about	169.05	feet	to	a	point
N3056334.36	E850394.03;	thence	northwesterly	about	48.52	feet	to	a	point
N3056354.38	E850349.83;	thence	northeasterly	about	83.71	feet	to	a	point
N3056436.35	E850366.84;	thence	northeasterly	about	212.38	feet	to	a	point
N3056548.70	E850547.07;	thence	northeasterly	about	47.60	feet	to	a	point
N3056563.12	E850592.43;	thence	northeasterly	about	101.16	feet	to	a	point
N3056566.62	E850693.53;	thence	southeasterly	about	80.22	feet	to	a	point
N3056530.97	E850765.40;	thence	southeasterly	about	99.29	feet	to	a	point
N3056449.88	E850822.69;	thence	southeasterly	about	210.12	feet	to	a	point
N3056240.79	E850843.54;	thence	southeasterly	about	219.46	feet	to	a	point
N3056031.13	E850908.38;	thence	southeasterly	about	38.23	feet	to	a	point
N3056014.02	E850942.57;	thence	southeasterly	about	410.93	feet	to	a	point
N3055896.06	E851336.21;	thence	northeasterly	about	188.43	feet	to	a	point
N3055925.46	E851522.33;	thence	northeasterly	about	135.47	feet	to	a	point
N3055992.91	E851639.80;	thence	northeasterly	about	52.15	feet	to	a	point
N3056023.90	E851681.75;	thence	northeasterly	about	91.57	feet	to	a	point
N3056106.82	E851720.59.								

**SEC. 306. PORT OF CASCADE LOCKS, OREGON.**

(a) EXTINGUISHMENT OF PORTIONS OF EXISTING FLOWAGE EASEMENT.—With respect to the properties described in subsection (b), beginning on the date of enactment of this Act, the flowage easements described in subsection (c) are extinguished above elevation 82.2 feet (NGVD29), the ordinary high water line.

(b) AFFECTED PROPERTIES.—The properties described in this subsection, as recorded in Hood River County, Oregon, are as follows:

(1) Lots 3, 4, 5, and 7 of the “Port of Cascade Locks Business Park” subdivision, Instrument Number 2014–00436.

(2) Parcels 1, 2, and 3 of Hood River County Partition, Plat Number 2008–25P.

(c) FLOWAGE EASEMENTS.—The flowage easements described in this subsection are identified as Tracts 302E–1 and 304E–1 on the easement deeds recorded as instruments in Hood River County, Oregon, and described as follows:

(1) A flowage easement dated October 3, 1936, recorded December 1, 1936, book 25, page 531 (Records of Hood River County, Oregon), in favor of the United States (302E–1–Perpetual Flowage Easement from 10/5/37, 10/5/36, and 10/3/36; previously acquired as Tracts OH–36 and OH–41 and a portion of Tract OH–47).

(2) A flowage easement dated October 5, 1936, recorded October 17, 1936, book 25, page 476 (Records of Hood River County, Oregon), in favor of the United States, affecting that portion below the 94-foot contour line above main sea level (304 E1–Perpetual Flowage Easement from 8/10/37 and 10/3/36; previously acquired as Tract OH–042 and a portion of Tract OH–47).

(d) FEDERAL LIABILITIES; CULTURAL, ENVIRONMENTAL, AND OTHER REGULATORY REVIEWS.—

(1) FEDERAL LIABILITY.—The United States shall not be liable for any injury caused by the extinguishment of an easement under this section.

(2) CULTURAL AND ENVIRONMENTAL REGULATORY ACTIONS.—Nothing in this section establishes any cultural or environmental regulation relating to the properties described in subsection (b).

(e) EFFECT ON OTHER RIGHTS.—Nothing in this section affects any remaining right or interest of the Corps of Engineers in the properties described in subsection (b).

**SEC. 307. CENTRAL DELAWARE RIVER, PHILADELPHIA, PENNSYLVANIA.**

(a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to subsection (c), unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that there are substantive objections, those portions of the Delaware River, bounded by the former bulkhead and pierhead lines that were established by the Secretary of War and successors and described as follows, are declared to be nonnavigable waters of the United States:

(1) Piers 70 South through 38 South, encompassing an area bounded by the southern line of Moore Street extended to the northern line of Catherine Street extended, including the following piers: Piers 70, 68, 67, 64, 61–63, 60, 57, 55, 53, 48, 46, 40, and 38.

(2) Piers 24 North through 72 North, encompassing an area bounded by the southern line of Callowhill Street extended to the northern line of East Fletcher Street extended, including the following piers: Piers 24, 25, 27–35, 35.5, 36, 37, 38, 39, 49, 51–52, 53–57, 58–65, 66, 67, 69, 70–72, and Rivercenter.

(b) PUBLIC INTEREST DETERMINATION.—The Secretary shall make the public interest determination under subsection (a) separately for each proposed project to be undertaken within the boundaries described in subsection (a), using reasonable discretion, not later than 150 days after the date of submission of appropriate plans for the proposed project.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) that are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina and recreation facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**SEC. 308. HUNTINGDON COUNTY, PENNSYLVANIA.**

(a) IN GENERAL.—The Secretary shall—

(1) prioritize the updating of the Master Plan for the Juniata River and tributaries project, Huntingdon County, Pennsylvania, authorized by section 203 of the Flood Control Act of 1962 (Public Law 87–874; 76 Stat. 1182); and

(2) ensure that alternatives for additional recreation access and development at the project are fully assessed, evaluated, and incorporated as a part of the update.

(b) PARTICIPATION.—The update referred to in subsection (a) shall be done in coordination with all appropriate Federal agencies, elected officials, and members of the public.

**SEC. 309. RIVERCENTER, PHILADELPHIA, PENNSYLVANIA.**

Section 38(c) of the Water Resources Development Act of 1988 (33 U.S.C. 59j–1(c)) is amended—

(1) by striking “(except 30 years from such date of enactment, in the case of the area or any part thereof described in subsection (a)(5))”; and

(2) by adding at the end the following: “Notwithstanding the preceding sentence, the declaration of nonnavigability for the area described in subsection (a)(5), or any part thereof, shall not expire.”

**SEC. 310. JOE POOL LAKE, TEXAS.**

The Secretary shall accept from the Trinity River Authority of Texas, if received by September 30, 2016, \$31,233,401 as payment in full of amounts owed to the United States, including any accrued interest, for the approximately 61,747.1 acre-feet of water supply storage space in Joe Pool Lake, Texas (previously known as Lakeview Lake), for which payment has not commenced under Article 5.a. (relating to project investment costs) of contract number DACW63–76–C–0106, as of the date of enactment of this Act.

**SEC. 311. SALT CREEK, GRAHAM, TEXAS.**

(a) IN GENERAL.—The project for flood control, environmental restoration, and recreation, Salt Creek, Graham, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 278), is no longer authorized as a Federal project beginning on the date of enactment of this Act.

(b) CERTAIN PROJECT-RELATED CLAIMS.—The non-Federal interest for the project shall hold and save the United States harmless from any claim that has arisen, or that may arise, in connection with the project.

(c) TRANSFER.—The Secretary is authorized to transfer any land acquired by the Federal Government for the project on behalf of the non-Federal interest that remains in Federal ownership on or after the date of enactment of this Act to the non-Federal interest.

(d) REVERSION.—If the Secretary determines that land transferred under subsection (c) ceases to be owned by the public, all right, title, and interest in and to the land and improvements thereon shall revert, at the discretion of the Secretary, to the United States.

**SEC. 312. TEXAS CITY SHIP CHANNEL, TEXAS CITY, TEXAS.**

(a) IN GENERAL.—The portion of the Texas City Ship Channel, Texas City, Texas, described in subsection (b) shall not be subject to navigational servitude beginning on the date of enactment of this Act.

(b) DESCRIPTION.—The portion of the Texas City Ship Channel described in this subsection is a tract or parcel containing 393.53 acres (17,142,111 square feet) of land situated in the City of Texas City Survey, Abstract Number 681, and State of Texas Submerged Lands Tracts 98A and 99A, Galveston County, Texas, said 393.53 acre tract being more particularly described as follows:

(1) Beginning at the intersection of an edge of fill along Galveston Bay with the most northerly east survey line of said City of Texas City Survey, Abstract No. 681, the same being a called 375.75 acre tract patented by the State of Texas to the City of Texas City and recorded in Volume 1941, Page 750 of the Galveston County Deed Records (G.C.D.R.), from which a found U.S. Army Corps of Engineers Brass Cap stamped "R 4-3" set in the top of the Texas City Dike along the east side of Bay Street bears North  $56^{\circ} 14' 32''$  West, a distance of 6,045.31 feet and from which a found U.S. Army Corps of Engineers Brass Cap stamped "R 4-2" set in the top of the Texas City Dike along the east side of Bay Street bears North  $49^{\circ} 13' 20''$  West, a distance of 6,693.64 feet.

(2) Thence, over and across said State Tracts 98A and 99A and along the edge of fill along said Galveston Bay, the following eight (8) courses and distances:

(A) South  $75^{\circ} 49' 13''$  East, a distance of 298.08 feet to an angle point of the tract herein described.

(B) South  $81^{\circ} 16' 26''$  East, a distance of 170.58 feet to an angle point of the tract herein described.

(C) South  $79^{\circ} 20' 31''$  East, a distance of 802.34 feet to an angle point of the tract herein described.

(D) South  $75^{\circ} 57' 32''$  East, a distance of 869.68 feet to a point for the beginning of a non-tangent curve to the right.

(E) Easterly along said non-tangent curve to the right having a radius of 736.80 feet, a central angle of  $24^{\circ} 55' 59''$ , a chord of South  $68^{\circ} 47' 35''$  East - 318.10 feet, and an arc length of 320.63 feet to a point for the beginning of a non-tangent curve to the left.

(F) Easterly along said non-tangent curve to the left having a radius of 373.30 feet, a central angle of  $31^{\circ} 57' 42''$ , a chord of South  $66^{\circ} 10' 42''$  East - 205.55 feet, and an arc length of 208.24 feet to a point for the beginning of a non-tangent curve to the right.

(G) Easterly along said non-tangent curve to the right having a radius of 15,450.89 feet, a central angle of  $02^{\circ} 04' 10''$ , a chord of South  $81^{\circ} 56' 20''$  East - 558.04 feet, and an arc length of 558.07 feet to a point for the beginning of a compound curve to the right and the northeasterly corner of the tract herein described.

(H) Southerly along said compound curve to the right and the easterly line of the tract herein described, having a radius of 1,425.00 feet, a central angle of  $133^{\circ} 08' 00''$ , a chord of South  $14^{\circ} 20' 15''$  East - 2,614.94 feet, and an arc length of 3,311.15 feet to a point on a line lying 125.00 feet northerly of and parallel with the centerline of an existing levee for the southeasterly corner of the tract herein described.

(3) Thence, continuing over and across said State Tracts 98A and 99A and along lines lying 125.00 feet northerly of, parallel, and concentric with the centerline of said existing levee, the following twelve (12) courses and distances:

(A) North  $78^{\circ} 01' 58''$  West, a distance of 840.90 feet to an angle point of the tract herein described.

(B) North  $76^{\circ} 58' 35''$  West, a distance of 976.66 feet to an angle point of the tract herein described.

(C) North  $76^{\circ} 44' 33''$  West, a distance of 1,757.03 feet to a point for the beginning of a tangent curve to the left.

(D) Southwesterly, along said tangent curve to the left having a radius of 185.00 feet, a central angle of  $82^{\circ} 27' 32''$ , a chord of South  $62^{\circ} 01' 41''$  West - 243.86 feet, and an arc length of 266.25 feet to a point for the beginning of a compound curve to the left.

(E) Southerly, along said compound curve to the left having a radius of 4,535.58 feet, a central angle of  $11^{\circ} 06' 58''$ , a chord of South  $15^{\circ} 14' 26''$  West - 878.59 feet, and an arc length of 879.97 feet to an angle point of the tract herein described.

(F) South  $64^{\circ} 37' 11''$  West, a distance of 146.03 feet to an angle point of the tract herein described.

(G) South  $67^{\circ} 08' 21''$  West, a distance of 194.42 feet to an angle point of the tract herein described.

(H) North  $34^{\circ} 48' 22''$  West, a distance of 789.69 feet to an angle point of the tract herein described.

(I) South  $42^{\circ} 47' 10''$  West, a distance of 161.01 feet to an angle point of the tract herein described.

(J) South  $42^{\circ} 47' 10''$  West, a distance of 144.66 feet to a point for the beginning of a tangent curve to the right.

(K) Westerly, along said tangent curve to the right having a radius of 310.00 feet, a central angle of  $59^{\circ} 50' 28''$ , a chord of South  $72^{\circ} 42' 24''$  West – 309.26 feet, and an arc length of 323.77 feet to an angle point of the tract herein described.

(L) North  $77^{\circ} 22' 21''$  West, a distance of 591.41 feet to the intersection of said parallel line with the edge of fill adjacent to the easterly edge of the Texas City Turning Basin for the southwesterly corner of the tract herein described, from which a found U.S. Army Corps of Engineers Brass Cap stamped “SWAN 2” set in the top of a concrete column set flush in the ground along the north bank of Swan Lake bears South  $20^{\circ} 51' 58''$  West, a distance of 4,862.67 feet.

(4) Thence, over and across said City of Texas City Survey and along the edge of fill adjacent to the easterly edge of said Texas City Turning Basin, the following eighteen (18) courses and distances:

(A) North  $01^{\circ} 34' 19''$  East, a distance of 57.40 feet to an angle point of the tract herein described.

(B) North  $05^{\circ} 02' 13''$  West, a distance of 161.85 feet to an angle point of the tract herein described.

(C) North  $06^{\circ} 01' 56''$  East, a distance of 297.75 feet to an angle point of the tract herein described.

(D) North  $06^{\circ} 18' 07''$  West, a distance of 71.33 feet to an angle point of the tract herein described.

(E) North  $07^{\circ} 21' 09''$  West, a distance of 122.45 feet to an angle point of the tract herein described.

(F) North  $26^{\circ} 41' 15''$  West, a distance of 46.02 feet to an angle point of the tract herein described.

(G) North  $01^{\circ} 31' 59''$  West, a distance of 219.78 feet to an angle point of the tract herein described.

(H) North  $15^{\circ} 54' 07''$  West, a distance of 104.89 feet to an angle point of the tract herein described.

(I) North  $04^{\circ} 00' 34''$  East, a distance of 72.94 feet to an angle point of the tract herein described.

(J) North  $06^{\circ} 46' 38''$  West, a distance of 78.89 feet to an angle point of the tract herein described.

(K) North  $12^{\circ} 07' 59''$  West, a distance of 182.79 feet to an angle point of the tract herein described.

(L) North  $20^{\circ} 50' 47''$  West, a distance of 105.74 feet to an angle point of the tract herein described.

(M) North  $02^{\circ} 02' 04''$  West, a distance of 184.50 feet to an angle point of the tract herein described.

(N) North  $08^{\circ} 07' 11''$  East, a distance of 102.23 feet to an angle point of the tract herein described.

(O) North  $08^{\circ} 16' 00''$  West, a distance of 213.45 feet to an angle point of the tract herein described.

(P) North  $03^{\circ} 15' 16''$  West, a distance of 336.45 feet to a point for the beginning of a non-tangent curve to the left.

(Q) Northerly along said non-tangent curve to the left having a radius of 896.08 feet, a central angle of  $14^{\circ} 00' 05''$ , a chord of North  $09^{\circ} 36' 03''$  West – 218.43 feet, and an arc length of 218.97 feet to a point for the beginning of a non-tangent curve to the right.

(R) Northerly along said non-tangent curve to the right having a radius of 483.33 feet, a central angle of  $19^{\circ} 13' 34''$ , a chord of North  $13^{\circ} 52' 03''$  East – 161.43 feet, and an arc length of 162.18 feet to a point for the northwesterly corner of the tract herein described.

(5) Thence, continuing over and across said City of Texas City Survey, and along the edge of fill along said Galveston Bay, the following fifteen (15) courses and distances:

(A) North  $30^{\circ} 45' 02''$  East, a distance of 189.03 feet to an angle point of the tract herein described.

(B) North  $34^{\circ} 20' 49''$  East, a distance of 174.16 feet to a point for the beginning of a non-tangent curve to the right.

(C) Northeasterly along said non-tangent curve to the right having a radius of 202.01 feet, a central angle of  $25^{\circ} 53' 37''$ , a chord of North  $33^{\circ} 14' 58''$  East – 90.52 feet, and an arc length of 91.29 feet to a point for the beginning of a non-tangent curve to the left.

(D) Northeasterly along said non-tangent curve to the left having a radius of 463.30 feet, a central angle of  $23^{\circ} 23' 57''$ , a chord of North  $48^{\circ} 02' 53''$

East – 187.90 feet, and an arc length of 189.21 feet to a point for the beginning of a non-tangent curve to the right.

(E) Northeasterly along said non-tangent curve to the right having a radius of 768.99 feet, a central angle of 16° 24' 19", a chord of North 43° 01' 40" East – 219.43 feet, and an arc length of 220.18 feet to an angle point of the tract herein described.

(F) North 38° 56' 50" East, a distance of 126.41 feet to an angle point of the tract herein described.

(G) North 42° 59' 50" East, a distance of 128.28 feet to a point for the beginning of a non-tangent curve to the right.

(H) Northerly along said non-tangent curve to the right having a radius of 151.96 feet, a central angle of 68° 36' 31", a chord of North 57° 59' 42" East – 171.29 feet, and an arc length of 181.96 feet to a point for the most northerly corner of the tract herein described.

(I) South 77° 14' 49" East, a distance of 131.60 feet to an angle point of the tract herein described.

(J) South 84° 44' 18" East, a distance of 86.58 feet to an angle point of the tract herein described.

(K) South 58° 14' 45" East, a distance of 69.62 feet to an angle point of the tract herein described.

(L) South 49° 44' 51" East, a distance of 149.00 feet to an angle point of the tract herein described.

(M) South 44° 47' 21" East, a distance of 353.77 feet to a point for the beginning of a non-tangent curve to the left.

(N) Easterly along said non-tangent curve to the left having a radius of 253.99 feet, a central angle of 98° 53' 23", a chord of South 83° 28' 51" East – 385.96 feet, and an arc length of 438.38 feet to an angle point of the tract herein described.

(O) South 75° 49' 13" East, a distance of 321.52 feet to the point of beginning and containing 393.53 acres (17,142,111 square feet) of land.

## TITLE IV—WATER RESOURCES INFRASTRUCTURE

### SEC. 401. PROJECT AUTHORIZATIONS.

The following projects for water resources development and conservation and other purposes, as identified in the reports titled "Report to Congress on Future Water Resources Development" submitted to Congress on January 29, 2015, and January 29, 2016, respectively, pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress, are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) NAVIGATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. TX	Brazos Island Harbor	Nov. 3, 2014	Federal: \$116,116,000 Non-Federal: \$88,471,000 Total: \$204,587,000
2. LA	Calcasieu Lock	Dec. 2, 2014	Total: \$16,700,000 (to be derived ½ from the general fund of the Treasury and ½ from the Inland Waterways Trust Fund)
3. NH, ME	Portsmouth Harbor and Piscataqua River	Feb. 8, 2015	Federal: \$15,580,000 Non-Federal: \$5,190,000 Total: \$20,770,000
4. FL	Port Everglades	Jun. 25, 2015	Federal: \$220,200,000 Non-Federal: \$102,500,000 Total: \$322,700,000

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engineers</b>	<b>D. Estimated Costs</b>
5. AK	Little Diomed Harbor	Aug. 10, 2015	Federal: \$26,015,000 Non-Federal: \$2,945,000 Total: \$28,960,000
6. SC	Charleston Harbor	Sep. 8, 2015	Federal: \$224,300,000 Non-Federal: \$269,000,000 Total: \$493,300,000
7. AK	Craig Harbor	March 16, 2016	Federal: \$29,062,000 Non-Federal: \$3,255,000 Total: \$32,317,000.

## (2) FLOOD RISK MANAGEMENT.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engineers</b>	<b>D. Estimated Costs</b>
1. TX	Leon Creek Watershed	Jun. 30, 2014	Federal: \$18,314,000 Non-Federal: \$9,861,000 Total: \$28,175,000
2. MO, KS	Armourdale and Central Industrial District Levee Units, Missouri River and Tributaries at Kansas Citys	Jan. 27, 2015	Federal: \$207,036,000 Non-Federal: \$111,481,000 Total: \$318,517,000
3. KS	City of Manhattan	Apr. 30, 2015	Federal: \$15,440,100 Non-Federal: \$8,313,900 Total: \$23,754,000
4. TN	Mill Creek	Oct. 16, 2015	Federal: \$17,759,000 Non-Federal: \$10,745,000 Total: \$28,504,000
5. KS	Upper Turkey Creek Basin	Dec. 22, 2015	Federal: \$24,584,000 Non-Federal: \$13,238,000 Total: \$37,822,000
6. NC	Princeville	Feb. 23, 2016	Federal: \$14,001,000 Non-Federal: \$7,539,000 Total: \$21,540,000
7. CA	American River Common Features	Apr. 26, 2016	Federal: \$876,478,000 Non-Federal: \$689,272,000 Total: \$1,565,750,000
8. CA	West Sacramento	Apr. 26, 2016	Federal: \$776,517,000 Non-Federal: \$414,011,000 Total: \$1,190,528,000.

## (3) HURRICANE AND STORM DAMAGE RISK REDUCTION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Initial Costs and Estimated Renourishment Costs
1. SC	Colleton County	Sep. 5, 2014	Initial Federal: \$13,733,850 Initial Non-Federal: \$7,395,150 Initial Total: \$21,129,000 Renourishment Federal: \$16,371,000 Renourishment Non-Federal: \$16,371,000 Renourishment Total: \$32,742,000
2. FL	Flagler County	Dec. 23, 2014	Initial Federal: \$9,218,300 Initial Non-Federal: \$4,963,700 Initial Total: \$14,182,000 Renourishment Federal: \$15,390,000 Renourishment Non-Federal: \$15,390,000 Renourishment Total: \$30,780,000
3. NC	Carteret County	Dec. 23, 2014	Initial Federal: \$24,263,000 Initial Non-Federal: \$13,064,000 Initial Total: \$37,327,000 Renourishment Federal: \$114,728,000 Renourishment Non-Federal: \$114,728,000 Renourishment Total: \$229,456,000
4. NJ	Hereford Inlet to Cape May Inlet, Cape May County	Jan. 23, 2015	Initial Federal: \$14,040,000 Initial Non-Federal: \$7,560,000 Initial Total: \$21,600,000 Renourishment Federal: \$41,215,000 Renourishment Non-Federal: \$41,215,000 Renourishment Total: \$82,430,000
5. LA	West Shore Lake Pontchartrain	Jun. 12, 2015	Federal: \$466,760,000 Non-Federal: \$251,330,000 Total: \$718,090,000
6. CA	San Diego County	Apr. 26, 2016	Initial Federal: \$20,166,000 Initial Non-Federal: \$10,858,000 Initial Total: \$31,024,000 Renourishment Federal: \$68,215,000 Renourishment Non-Federal: \$68,215,000 Renourishment Total: \$136,430,000.

## (4) ECOSYSTEM RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. FL	Central Everglades	Dec. 23, 2014	Federal: \$976,375,000 Non-Federal: \$974,625,000 Total: \$1,951,000,000
2. WA	Skokomish River	Dec. 14, 2015	Federal: \$12,782,000 Non-Federal: \$6,882,000 Total: \$19,664,000.

## (5) FLOOD RISK MANAGEMENT AND ECOSYSTEM RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. IL, WI	Upper Des Plaines River and Tributaries	Jun. 8, 2015	Federal: \$199,393,000 Non-Federal: \$107,694,000 Total: \$307,087,000.

## (6) FLOOD RISK MANAGEMENT, ECOSYSTEM RESTORATION, AND RECREATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. CA	South San Francisco Bay Shoreline	Dec. 18, 2015	Federal: \$69,521,000 Non-Federal: \$104,379,000 Total: \$173,900,000.

## (7) ECOSYSTEM RESTORATION AND RECREATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. OR	Willamette River	Dec. 14, 2015	Federal: \$19,143,000 Non-Federal: \$10,631,000 Total: \$29,774,000
2. CA	Los Angeles River	Dec. 18, 2015	Federal: \$375,773,000 Non-Federal: \$980,835,000 Total: \$1,356,608,000.

## (8) DEAUTHORIZATIONS, MODIFICATIONS, AND OTHER PROJECTS.—

A. State	B. Name	C. Date of Decision Document	D. Estimated Costs
1. TX	Upper Trinity River	May 21, 2008	Federal: \$526,500,000 Non-Federal: \$283,500,000 Total: \$810,000,000
2. KY	Green River Locks and Dams 3, 4, 5, 6 and Barren River Lock and Dam 1 Disposition	Apr. 30, 2015	Federal: \$0 Non-Federal: \$0 Total: \$0
3. KS	Turkey Creek Basin	May 13, 2016	Federal: \$97,067,750 Non-Federal: \$55,465,250 Total: \$152,533,000
4. KY	Ohio River Shoreline	May 13, 2016	Federal: \$20,309,900 Non-Federal: \$10,936,100 Total: \$31,246,000.
5. MO	Blue River Basin	May 13, 2016	Federal: \$34,860,000 Non-Federal: \$11,620,000 Total: \$46,480,000

#### PURPOSE OF LEGISLATION

H.R. 5303 authorizes the United States Army Corps of Engineers (Corps) to carry out water resources development activities for the Nation, usually through cost-sharing partnerships with non-federal sponsors. Activities include navigation, flood damage reduction, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery. H.R. 5303 also reforms the Corps planning process, promotes timely project delivery, empowers non-federal project sponsors, and strengthens congressional oversight.

#### BACKGROUND AND NEED FOR LEGISLATION

America is blessed with an unparalleled network of natural harbors and rivers. The ports, channels, locks, dams, and other infrastructure that support our maritime and waterways transportation system and provide flood protection for our homes and businesses are vitally important to a healthy national economy and job growth. Ensuring a sound infrastructure network is a shared responsibility, with a federal and state role recognized by our Founding Fathers. The Water Resources Development Act (WRDA) of 2016 promotes our Nation's competitiveness, prosperity, and economic growth by upholding the seminal federal responsibility to maintain a strong transportation infrastructure and ensure the efficient flow of domestic and international commerce, and to protect the lives and livelihoods of the American people in a sustainable manner. Through WRDA, Congress authorizes the key missions of the Corps, including developing, maintaining, and supporting the Nation's economically vital waterway infrastructure and supporting effective and targeted flood protection and environmental restoration needs. WRDA also provides Congress the opportunity to make much needed policy reforms, strengthen oversight, promote efficient, effective, and transparent project development and implementation, and open the door to innovation and stronger partnerships that will improve infrastructure development. Water resources legislation should be enacted every two years to provide oversight of and policy direction to the Administration and the Corps.

#### HEARINGS

On February 24, 2016, the Subcommittee on Water Resources and Environment held a hearing on "A Review of United States Army Corps of Engineers Reports to Congress on Future Water Resources Development and Chief's Reports."

On May 17, 2016, the Subcommittee on Water Resources and Environment held a hearing on "A Review of Recently Completed United States Army Corps of Engineers Chief's Reports."

#### LEGISLATIVE HISTORY AND CONSIDERATION

On May 23, 2016, House Committee on Transportation and Infrastructure Chairman Bill Shuster, Ranking Member Peter DeFazio, Subcommittee on Water Resources and Environment Chairman Bob Gibbs, and Ranking Member Grace Napolitano introduced H.R. 5303, the Water Resources Development Act of 2016.

On May 25, 2016, the Committee on Transportation and Infrastructure met in open session and ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

An amendment was offered in Committee by Chairman Shuster, which was adopted by voice vote, making several technical and conforming changes to the bill.

An amendment was offered in Committee by Representative Corrine Brown, which was withdrawn. The amendment would have struck Section 113 of the introduced bill, related to interstate compacts.

An amendment was offered in Committee by Representative Don Young, which was adopted by voice vote, that would direct the Corps to consult with the Department of Homeland Security and the Department of Defense to identify national security benefits associated with the development of Arctic deep draft ports. The amendment was adopted by voice vote.

An amendment was offered in Committee by Representative Eddie Bernice Johnson, which was withdrawn. The amendment would have authorized lead or other drinking water contaminant abatement as eligible activities under Section 219 of the 1992 Water Resources Development Act.

An amendment was offered in Committee by Representative John J. Duncan, which was withdrawn. The amendment would have modified the cost-share threshold for major rehabilitation projects on any inland navigation project from \$20 million to \$35 million.

An amendment was offered in Committee by Representative Michael Capuano, which was withdrawn. The amendment would modify the cost share for coastal navigation construction projects that are proposed to be deeper than 45 feet.

An amendment was offered in Committee by Representative Duncan Hunter, which was adopted by voice vote. The amendment clarifies the scope of the Corps of International Outreach Program.

An amendment was offered in Committee by Representative Donna Edwards, which was withdrawn. The amendment would have reauthorized the Clean Water State Revolving Fund and invested \$20 billion over five years in wastewater infrastructure.

An amendment was offered in Committee by Representative John Garamendi, which was withdrawn. The amendment would have included three regional restoration programs related to Lake Tahoe, the Great Lakes, and Long Island Sound in the bill.

An amendment was offered in Committee by Representative Daniel Webster, which was adopted by voice vote. The amendment authorizes a comprehensive study to address the flood risks of coastal communities within the boundaries of the South Atlantic Division of the Corps.

An amendment was offered in Committee by Representative Lois Frankel, which was withdrawn. The amendment would have amended current law to provide local communities the option to seek foreign sand sources for shore protection projects.

An amendment was offered in Committee by Representative Reid Ribble, which was withdrawn. The amendment would have required the Corps review natural and nature-based features in all water resources development projects.

An amendment was offered in Committee by Representative Corrine Brown, which was withdrawn. The amendment would have modified the budget criteria related to Corps construction projects.

An amendment was offered in Committee by Representative Brian Babin, which was withdrawn. The amendment would have directed the Secretary of the Army to give preference to strategic seaports in determining priorities for budgetary consideration.

An amendment was offered in Committee by Representative Garret Graves, which was adopted by voice vote. The amendment establishes an environmental bank to offset past, current, and future environmental impacts through the Gulf Coast Ecosystem Restoration Council.

An amendment was offered in Committee by Representative Mimi Walters, which was withdrawn. The amendment would have required that environmental infrastructure projects be treated as traditional Corps water resources development projects.

An amendment was offered in Committee by Representative Jared Huffman, which was adopted by voice vote. The amendment clarifies the authorities of the Corps related to fish hatcheries.

An amendment was offered in Committee by Representative Elizabeth Esty, which was withdrawn. The amendment would have directed a study to assess the performance of innovative materials.

An amendment was offered in Committee by Representative Elizabeth Esty, which was withdrawn. The amendment would have required the study related to the Northeast Coastal Region Ecosystem Restoration project be carried out at federal expense.

An amendment was offered in Committee by Representative Rodney Davis, which was adopted by voice vote. The amendment requires a Government Accountability Office review of alternative models for managing the Inland Waterways Trust Fund.

An amendment was offered in Committee by Representative Lois Frankel, which was adopted by voice vote. The amendment enables the Corps to enter into agreements with non-federal interests to reduce costs related to maintenance dredging.

An amendment was offered in Committee by Representative Lois Frankel, which was withdrawn. The amendment would have waived compensatory mitigation requirements for local project sponsors under certain conditions.

An amendment was offered in Committee by Representative Jared Huffman, which was withdrawn. The amendment would have authorized a pilot program to revise the water operations manuals of 15 Corps-constructed or operated reservoir projects in drought disaster areas based on best available science.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 5303, or ordering the bill reported. A motion to order H.R. 5303, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 5303, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 22, 2016.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5303, the Water Resources Development Act of 2016.

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

Sincerely,

MARK P. HADLEY  
(For Keith Hall, *Director*).

Enclosure.

*H.R. 5303—Water Resources Development Act of 2016*

Summary: H.R. 5303 would authorize the U.S. Army Corps of Engineers (Corps) to construct projects to mitigate storm and hurricane damage, to improve navigation and flood management, and to restore estuaries. CBO estimates, that implementing this legislation would cost about \$970 million over the next five years and \$3.1 billion over the 2017–2026 period, assuming appropriation of the authorized and necessary amounts.

Because enacting H.R. 5303 would not affect direct spending or revenues over the 2017–2026 period, pay-as-you-go procedures do not apply.

CBO estimates that enacting the bill would increase net direct spending and on-budget deficits by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2027. The legislation would increase direct spending, beginning in fiscal year 2027, by authorizing the Corps to spend amounts in the Harbor Maintenance Trust Fund without further appropriation.

H.R. 5303 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 5303 are shown in the table below. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017–2021	2017–2026
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Water Resources Infrastructure:												
Estimated Authorization Level .....	62	92	190	230	284	329	419	481	489	534	857	3,109
Estimated Outlays .....	25	55	113	169	220	270	332	396	436	474	582	2,490
Policy Provisions and Studies:												
Estimated Authorization Level .....	50	36	88	90	37	36	37	31	32	32	300	468
Estimated Outlays .....	27	37	54	72	60	49	41	32	30	31	250	434
Estuary Restoration:												
Estimated Authorization Level .....	35	36	37	38	38	0	0	0	0	0	184	184
Estimated Outlays .....	14	25	31	35	36	21	10	4	0	0	140	175
Total Costs												
Estimated Authorization Level .....	146	163	314	357	359	365	456	512	521	566	1,341	3,761
Estimated Outlays .....	66	117	198	276	316	340	383	432	466	505	972	3,098

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

Basis of estimate: For this estimate, CBO assumes that H.R. 5303 will be enacted before the end of calendar year 2016 and that the authorized and necessary amounts will be appropriated for each fiscal year. Estimates of amounts necessary to implement the bill are based on information from the Corps; estimated outlays are based on historical spending patterns for similar projects and programs. Major components of the estimated costs are described below.

CBO estimates that H.R. 5303 would authorize appropriations totaling about \$3.8 billion over the 2017–2026 period for water infrastructure projects and studies administered by the Corps. We estimate that implementing those provisions would cost \$3.1 billion over the 2017–2026 period.

#### *Water resources infrastructure*

CBO estimates that implementing title IV would cost about \$2.5 billion over the 2017–2026 period, assuming appropriation of the amounts estimated to be necessary and accounting for anticipated inflation. This title would authorize the Corps to construct 27 new projects and would modify the existing authorization of four projects; those projects would aim to improve the nation's navigation system, strengthen flood-risk management, and restore the environment. Based on information from the Corps, CBO estimates that the total cost to complete those projects would be \$10.5 billion. H.R. 5303 would authorize the appropriation of \$5.7 billion to cover the federal share of those costs and nonfederal entities would be re-

sponsible for the remaining costs, totaling an estimated \$4.8 billion.

To estimate how funds appropriated for those projects would be spent, CBO used information from the Corps for each project about when construction would begin, how long it would take to complete, and what funding would be necessary to complete it over the anticipated construction period. CBO also analyzed the historical spending patterns of similar projects. Because of the size and complexity of some large Corps projects, they can take several years to commence and more than ten years to complete. CBO estimates that the federal share of the projects and modifications authorized by this title would require the appropriation of about \$3.1 billion over the 2017–2026 period; the remainder of the federal share to complete the projects would be needed after 2026.

The estimated cost of the five largest projects authorized by H.R. 5303 totals \$6.9 billion; the federal share would total about \$3.5 billion. Those projects and their estimated federal cost are:

- The Central Everglades Planning Project to restore the Everglades in central and southern Florida (\$1 billion);
- The American River Watershed Common Features project to reduce the risk of flood along the American and Sacramento Rivers near Sacramento, California (\$880 million);
- The West Sacramento project to reduce the risk of flood in the City of West Sacramento, California (\$780 million);
- The West Shore Lake Pontchartrain project to reduce the risk of hurricane and storm damages in St. Charles, St. John the Baptist, and St. James Parishes in Louisiana (\$480 million); and
- The Los Angeles River Ecosystem Restoration project to restore ecosystems along the Los Angeles River in Los Angeles County, California (\$380 million).

Assuming appropriation of the necessary amounts, CBO estimates that spending on those five projects would total about \$1.1 billion and would be incurred over the 2017–2026 period. CBO estimates that construction spending for the other 22 projects and 4 modifications authorized by the bill would total about \$1.4 billion over the next 10 years.

#### *Studies and other provisions*

Based on a review of information provided by the Corps, CBO estimates that implementing the provisions described below would cost \$434 million over the 2017–2026 period, assuming appropriation of the necessary amounts. Those provisions (and their federal costs) would:

- Authorize the Corps to conduct about 30 feasibility studies for projects to reduce risks stemming from floods and hurricanes, to restore ecosystems, and to improve navigation (\$50 million);
- Direct the Corps to maintain the width and depth of certain commercial harbors at the same dimensions as they were originally constructed by the Corps (\$100 million);
- Authorize projects to restore fisheries and ecosystems on the Great Lakes (\$100 million);

- Require the Corps to report to the Congress about the volume and types of foreign materials purchased each year for civil works projects (\$106 million); and
- Direct the Corps to develop beneficial uses for dredge material, remove sediment from certain reservoirs, waive certain cost-share requirements for projects and studies for Indian Tribes, and maintain a database on the condition of federal breakwaters and jetties (\$78 million).

#### *Estuary restoration*

H.R. 5303 would authorize the annual appropriation for five years of \$35 million for the Estuary Habitat Restoration program and additional amounts necessary to account for cost increases caused by inflation. CBO estimates the appropriation of those amounts would cost \$175 million over the 2017–2026 period.

Increase in long-term net direct spending and deficits: CBO estimates that enacting the bill would increase net direct spending and on-budget deficits by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2027.

Under the bill, balances in the Harbor Maintenance Trust Fund (HMTF) would become available to the Corps, without further appropriation, beginning in fiscal year 2027. CBO estimates that the balance in the HMTF that would be available to spend in 2027 would be about \$20 billion. In recent years the annual appropriation from the HMTF has been about \$1 billion.

Intergovernmental and private-sector impact: H.R. 5303 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would benefit from greater flexibility provided in the bill to administer and finance infrastructure projects supported by the Corps. Any costs to those entities under agreements with the Corps, including matching contributions, would be incurred voluntarily.

Previous CBO estimate: On June 27, 2016, CBO transmitted a cost estimate for S. 2848 as ordered reported by the Senate Committee on Environment and Public Works on April 28, 2016. S. 2848 authorized the Corps to construct water resources infrastructure projects that are also authorized in H.R. 5305. For projects common to both pieces of legislation, CBO's estimated costs are the same.

Estimate prepared by: Federal spending: Aurora Swanson; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

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

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to authorize the key missions of the Corps, including developing, maintaining, and supporting the Nation's economically vital waterway infrastructure and supporting effective and targeted flood protection and environmental restoration needs. Additionally, H.R. 5303 is intended to accelerate the project delivery process, promote fiscal responsibility, and strengthen our water transportation networks to promote competitiveness,

prosperity, and economic growth. Finally, WRDA will make major reforms to increase transparency, accountability, and congressional oversight in reviewing and prioritizing future water resources development activities.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 5303, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULEMAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that enacting H.R. 5303, as amended, does not specifically direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5303, as reported, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

#### SECTION-BY-SECTION ANALYSIS OF LEGISLATION

##### *Section 1. Short title; table of contents*

This section designates the short title of this bill as the “Water Resources Development Act of 2016”.

##### *Section 2. Definition of Secretary*

This section defines the term “Secretary” as the Secretary of the Army

#### TITLE I—GENERAL PROVISIONS

##### *Section 101. Sense of Congress regarding Water Resources Development Acts*

This Sense of Congress emphasizes the unique functions and missions carried out by the Corps and re-affirms that Water Resources Development Acts should be considered by Congress every two years.

##### *Section 102. Training and employment for veterans and members of Armed Forces in curation and historic preservation*

This section directs the Corps to carry out a Veterans’ Curation Program to train and hire veterans and members of the armed forces to assist the Corps in carrying out curation and historic preservation activities.

##### *Section 103. Youth service and conservation corps organizations*

This section directs the Corps to enter into cooperative agreements with youth service and conservation corps organizations for services related to projects under the jurisdiction of the Corps.

##### *Section 104. Navigation safety*

This section directs the Corps to use the existing operation and maintenance authorities to carry out navigation safety activities at those projects eligible for operation and maintenance under Section 204(f) of the Water Resources Development Act of 1986. The Committee is becoming exceedingly concerned that the Corps is requiring non-federal project sponsors to obtain construction authority to carry out bend easing activities that have traditionally been carried out using existing operation and maintenance authorities. This section clarifies the Corps’ authority to use operation and maintenance authority for bend easing activities.

##### *Section 105. Emerging harbors*

This section amends the Water Resources Development Act of 1986 to clarify the distribution of priority funds between high-use and moderate-use harbor projects and emerging harbor projects.

##### *Section 106. Federal breakwaters and jetties*

This section directs the Corps to compile and report to Congress with an inventory of all federal breakwaters and jetties protecting harbors and inland harbors, including information on location, the general structural condition of each breakwater or jetty, potential

risks to navigational safety, the impact of the periodic maintenance dredging needs of protected harbors and inland harbors, and the costs to restore or maintain each breakwater or jetty.

*Section 107. Donor ports and energy transfer ports*

This section amends Section 2106(a)(2)(B) of the Water Resources Reform and Development Act of 2014 to amend a portion of the definition of a donor port to be a port at which the total amount of harbor maintenance taxes collected comprise not less than \$5,000,000 annually of the total funding of the Harbor Maintenance Trust Fund.

*Section 108. Use of Harbor Maintenance Trust Fund to support navigation*

This section amends the Water Resources Development Act of 1986 to allow the Corps to use the funds available in the Harbor Maintenance Trust Fund to carry out eligible operations and maintenance costs assigned to commercial navigation of harbors and inland harbors within the United States, beginning in fiscal year 2027.

*Section 109. Remote and subsistence harbors*

This section amends the Water Resources Development Act of 2007 to direct the Corps to give consideration to regions that rely on remote and subsistence harbors when conducting a study of harbor and navigation improvements.

*Section 110. Beneficial use of dredged material*

This section directs the Corps to establish a pilot program to carry out projects for the beneficial reuse of dredged material. The program will consist of 10 geographically diverse pilot projects and will be carried out with the help of regional beneficial reuse teams put together by the Corps, made up of federal, state, and other appropriate stakeholders. The purpose of this pilot program is to identify and select projects to maximize the beneficial reuse of dredged material based solely on the environmental, economic, and social benefits of the project, including monetary and nonmonetary benefits, notwithstanding the current practices of the Corps. The program will be terminated upon completion of the 10 selected projects. Additionally, the Corps is encouraged to look at innovative dredged material disposal along not just the Nation's coastal areas, but inland regions such as the Great Lakes.

*Section 111. Reservoir sediment*

This section amends the Water Resources Development Act of 2000 to direct the Corps to establish a pilot program to accept services provided by a non-federal interest or commercial entity to remove sediment captured behind a dam that is owned, operated, or under the jurisdiction of the Corps for the purposes of restoring the authorized storage capacity. A maximum of 10 dam sites shall be included in the established pilot program. The non-federal interest or commercial entity may retain, use, recycle, sell, or otherwise dispose of any sediment removed in connection with the services being provided through the pilot program.

*Section 112. Contributed funds for reservoir operations*

This section amends Section 5 of the Act of June 22, 1936 to allow the Corps to receive and expend funds from non-federal interests to formulate, review, or revise reservoir operations manuals at projects not owned by the Corps.

*Section 113. Water supply conservation*

This section authorizes the Corps to enter into agreements with non-federal sponsors to carry out water supply conservation measures in states affected by drought. The water supply conservation measures must be consistent with the authorized purposes of Corps water resources development projects.

*Section 114. Interstate compacts*

This section amends Section 301 of the Water Supply Act of 1958 to strike subsection (f), a Sense of Congress related to interstate compacts.

*Section 115. Nonstructural alternatives*

This section amends the Public Law 84–99 emergency response authorities to require the Corps to consult with the non-federal sponsor on the availability of nonstructural alternatives to the repair or restoration of flood control works, and require the agreement of the non-federal sponsor before their implementation.

*Section 116. Operation and maintenance of environmental protection and restoration and aquatic ecosystem restoration projects*

This section releases a non-federal interest from any obligation to operate and maintain the non-structural and non-mechanical components of a water resources development project carried out for the purposes of environmental protection and restoration or aquatic ecosystem restoration if the Corps determines that the 50-year period following completion of construction has concluded or that the criteria identified by the guidance in this section have been met. The Corps is further instructed to issue guidance that identifies criteria for determining when the purpose of a project for environmental protection and restoration or aquatic ecosystem restoration has been achieved.

*Section 117. Estuary restoration*

This section amends the Estuary Restoration Act of 2000 to allow nongovernmental organizations to be considered “non-federal interests” in order to enter into binding agreements with the Corps to indemnify the Corps during the construction of a proposed project. This section also amends the Estuary Restoration Act of 2000 to authorize the program for fiscal year 2017 through fiscal year 2021.

*Section 118. Great Lakes fishery and ecosystem restoration*

This section amends the Water Resources Development Act of 2000 to modify the Great Lakes Fishery and Ecosystem Restoration program to ensure consistency with the Great Lakes Restoration Initiative and other federal programs.

*Section 119. Agreements*

This section amends the Water Resources Development Act of 2007 by repealing Section 2036(c) to ensure that the Corps has alternative methods available for compensatory mitigation activities.

*Section 120. Corps operation of unmanned aircraft systems*

This section instructs the Corps to designate a coordinator and principal approving official for the use of drones in support of civil works and emergency response missions. This section requires that drones used by the Corps be operated in accordance with Federal Aviation Administration regulation. Drones acquired, operated, or maintained by the Corps are not to be used for any Department of Defense mission other than in support of civil works and emergency response of the Corps.

*Section 121. Federal dredge fleet*

This section directs the Comptroller General to study the costs and benefits of expanding, reducing, or maintaining the current configuration of the federally owned hopper dredge fleet.

*Section 122. Corps assets*

This section amends Section 6002(b) of the Water Resources Reform and Development Act of 2014 to require the Corps, in its inventory and review of properties to consider the extent to which a property has economic, cultural, historic, or recreational significance, or impacts at the national, state, or local level to determine if the property is necessary to carry out the missions of the Corps.

*Section 123. Funding to process permits*

This section amends Section 214 of the Water Resources Development Act of 2000 to include railroad carriers as eligible to contribute funds to the Corps to expedite the evaluation of a permit, under the jurisdiction of the Department of the Army, related to a project or activity for public purpose. This section also makes permanent the program for natural gas companies and railroad carriers.

*Section 124. Credit in lieu of reimbursement*

This section amends Section 1022 of the Water Resources Reform and Development Act of 2014 by clarifying that projects specifically authorized under section 211 of the Water Resources Development Act of 1996 for which a written agreement for construction was finalized on or before December 31, 2014, are eligible for credit in lieu of reimbursement for non-federal project sponsors.

*Section 125. Clarification of contributions during emergency events*

This section amends Section 1024 of the Water Resources Reform and Development Act of 2014 to allow the Corps to accept contributed materials and services for the purpose of repairing, restoring, or replacing a water resources development project that has had a failure of equipment.

*Section 126. Study of Water Resources Development projects by non-federal interests*

This section amends the Water Resources Development Act of 1986 to allow the Secretary of the Army-Civil Works to provide technical assistance to a non-federal interest. Currently, when carrying out a study under Section 203 authority, the Assistant Secretary of the Army may not have the opportunity to review or participate in a proposed study until late in the process. This provision is intended to facilitate the ability of the Assistant Secretary of the Army's office to provide technical assistance for feasibility studies for non-federal interests to ensure an integrated process. The Committee is aware that private sector engineering firms are currently engaged both by the Corps and by other public and private entities to perform this service for water resource and other infrastructure projects. The Committee does not intend this section to change the current process for carrying out architect-engineer design work, either by the private or public sector.

*Section 127. Non-Federal construction of authorized flood damage reduction projects*

This section amends the Water Resources Development Act of 1986 to authorize credit or reimbursement for a discrete segment of a flood damage reduction project, or a separable element of the project, once the Secretary determines that construction of the discrete segment is complete and consistent with current law and the project authorization. Discrete segment is defined in this section as a physical portion of a flood damage reduction project and can be operated and maintained independently and without creating a hazard prior to completion of the project as a whole. Additionally, it is the intent of this section that a discrete segment need not be economically justified.

*Section 128. Multistate activities*

This section amends the Planning Assistance to States program authorized under Section 22 of the Water Resources Development Act of 1974 to include groups of states as eligible to work with the Corps in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins located within the boundaries of such states. This provides states the option to work jointly on water resources issues that affect more than one state, such as creating comprehensive regional water conservation plans.

*Section 129. Regional participation assurance for levee safety activities*

This section amends the levee safety provisions in the Water Resources Development Act of 2007 to ensure regional districts are active participants and adequately consulted in carrying out the National Levee Safety Program.

*Section 130. Participation of non-Federal interests*

This section amends Section 221 of the Flood Control Act of 1970 to authorize Alaska Native Corporations to participate as non-federal, cost-share partners on Corps projects.

*Section 131. Indian tribes*

This section amends the Water Resources Development Act of 1986 to direct the Corps to waive local cost-sharing requirements up to \$455,000 for all studies and projects for federally recognized Indian tribes.

*Section 132. Dissemination of information on the annual report process*

This section directs the Corps to develop and support education and awareness efforts to ensure that potential non-federal interests and locally elected officials are informed of the new annual Report to Congress on Future Water Resources Development process established under Section 7001 of the Water Resources Reform and Development Act of 2014.

*Section 133. Scope of projects*

This section amends Section 7001(f) of the Water Resources Reform and Development Act of 2014 to include within the term “water resources development project,” a project under an environmental infrastructure assistance program.

*Section 134. Preliminary feasibility study activities*

This section directs the Corps to meet with a non-federal interest, at the non-federal interest’s request, for the purpose of a scoping meeting prior to the initiation of a feasibility study for the non-federal interest’s proposed water resources development project. The purpose of the meeting is to review any preliminary analysis of the costs, benefits, and environmental impacts of the proposed project and provide an estimate of the costs of preparing the feasibility report.

*Section 135. Post-authorization change reports*

This section directs the Corps to furnish post-authorization change reports to Congress upon completion, instead of after Administration review. Administration review is instructed to happen within 120 days after completion of the report and prompt review is directed for any post-authorization change report that is completed but pending Administration review prior to the date of enactment of this Act. Like Reports of the Chief of Engineers, which are required to be submitted to Congress upon completion, the Committee is interested in reviewing the Corps’ technical analysis of any proposed post-authorization change for a project, and not the policy and practice of the Office of Management and Budget.

*Section 136. Maintenance dredging data*

This section directs the Corps to establish a publicly available database of maintenance dredging carried out by federal and non-federal vessels. The information included in the database shall include the volume of dredged material removed, the total cost of the project, the party and vessel carrying out the work, the number of private contractor bids received, and the initial cost estimate for each project.

*Section 137. Electronic submission and tracking of permit applications*

This section amends the Water Resources Development Act of 2007 to direct the Corps to research, develop, and implement an electronic system to allow the electronic preparation and submission of applications for permits and requests for jurisdictional determinations under the jurisdiction of the Corps. All permit decisions and jurisdictional determinations should be available for a minimum of five years. This electronic system should be developed and implemented within two years after the date of enactment.

*Section 138. Data transparency*

This section amends the Water Resources Development Act of 2007 to instruct the Corps to make publically available, including on the Internet, all data on the planning, design, construction, operation, and maintenance of water resources development projects and on water quality and water management of projects owned, operated, or managed by the Corps. None of the data or information disclosed pursuant to this section shall include confidential, privileged, law enforcement, national security, infrastructure security, or personal information, or information the disclosure of which is prohibited by law.

*Section 139. Backlog prevention*

This section terminates the authorization for any project or separable element of a project authorized for construction by this Act after seven years unless construction has been initiated. At the end of the seven-year period, the Corps must submit to Congress a report that identifies the projects deauthorized by this section. After the expiration of a 12-year period, the Corps shall submit to Congress a report that identifies any projects for which construction has been initiated but not completed, describes the reasons the projects were not completed, and provides a schedule for the completion of the projects based on expected levels of appropriations.

*Section 140. Quality control*

This section amends the Flood Control Act of 1944 to require that transmittal letters and any accompanying attachments for each final study, statement, report, and record of decision be made publicly available in addition to being printed as House or Senate documents. Additionally, the Corps is directed to provide to Congress a copy of each final study, statement, report, and record of decision prepared by the Corps. The Committee remains concerned about the quality of documents provided to the Committee, and want to ensure printing costs are kept to a minimum. Too often, the Corps submits final reports and documents to Congress that contain substantive and technical errors. The Committee also notes that the Corps has failed to implement section 2041(a) of the Water Resources Development Act of 2007 that requires the Corps to develop a unique tracking number for individual Corps projects. This provision was included to avoid confusion in the identification of projects, or separable elements of projects, and the Corps is directed to implement that provision of Water Resources Development Act of 2007.

*Section 141. Budget development and prioritization*

This section directs the Corps to biennially submit to Congress a report in conjunction with the President's budget that describes the budgeting metrics used in developing the Civil Works Budget for the fiscal year, explains the metrics used for each business line, and demonstrates how projects are prioritized.

*Section 142. Use of natural and nature-based features*

This section directs the Corps to submit a report to Congress every two years on the use of natural and nature-based features in water resources development projects, including flood risk reduction, coastal resiliency, and aquatic ecosystem restoration projects.

*Section 143. Annual report on purchase of foreign manufactured articles*

This section amends the Water Resources Development Act of 1992 to direct the Corps to submit a report to Congress at the conclusion of each fiscal year on the dollar value of any articles, materials, or supplies that were manufactured outside of the United States and purchased by the Corps for civil works projects during the fiscal year.

*Section 144. Integrated water resources planning*

This section directs the Corps to work with communities covered by a proposed water resources development project to coordinate the feasibility study with any existing local or regional water management plan.

*Section 145. Evaluation of project partnership agreements*

This section instructs the Corps to prioritize and complete the activities directed in Section 1013 of the Water Resources Reform and Development Act of 2014. The Committee remains concerned about the pace of implementation guidance issued related to the Water Resources Reform and Development Act of 2014. At the time of the Full Committee markup of the Water Resources Development Act of 2016, more than 30% of the implementation guidance for the Water Resources Reform and Development Act of 2014 has yet to be issued.

*Section 146. Additional measures at donor ports and energy transfer ports*

This section amends the Section 2106 of the Water Resources Reform and Development Act of 2014 to adjust the sunset date for the authorization of appropriations for donor ports and energy transfer ports.

*Section 147. Arctic deep draft port development partnerships*

This section amends the Water Resources Reform and Development Act of 2014 to direct the Corps to consult with Department of Homeland Security and the Department of Defense to identify national security benefits associated with the development of Arctic deep draft ports.

*Section 148. International outreach program*

This section amends the Water Resources Development Act of 1992 to allow the Corps to engage in activities to inform the United States of technological innovations from abroad that could significantly improve water resources development in the United States. Technology transfer has long been a part of the Corps programs. For instance, after the North Sea floods of 1953, Dutch engineers sought the expertise from the Corps in constructing the Delta Works in the Netherlands. Countries like Israel have a long track record of successful planning, design, and construction of desalination technologies. The Corps should enter into international technology transfer agreements where appropriate.

*Section 149. Comprehensive study*

This section directs the Corps to study the flood risks for vulnerable coastal populations in areas within the boundaries of the South Atlantic Division.

*Section 150. Alternative models for managing inland waterways trust fund*

This section directs the Comptroller General to conduct a study to analyze alternative models for managing the Inland Waterways Trust Fund.

*Section 151. Alternative projects to maintenance dredging*

This section allows the Corps to assume the operation and maintenance costs of alternative projects to maintenance dredging for a channel if the alternative project would lower the overall costs of maintaining the channel.

*Section 152. Fish hatcheries*

This section allows the Corps to operate fish hatcheries in order to restore the threatened or endangered populations of fish species in the region serviced by the fish hatcheries.

*Section 153. Environmental banks*

This section directs the Gulf Coast Ecosystem Restoration Council, established pursuant to subtitle F of Public Law 112–141, to issue regulations to establish environmental banks for the purpose of mitigating environmental impacts caused by construction or other development activities.

## TITLE II—STUDIES

*Section 201. Authorization of proposed feasibility studies*

This section authorizes the Corps to conduct feasibility studies for 29 projects for water resources development and conservation and other purposes. These projects that the Corps is authorized to study were submitted to Congress in a Report to Congress on Future Water Resources Development pursuant to Section 7001 of the Water Resources Reform and Development Act of 2014, or otherwise reviewed by Congress. Each of the projects has as its primary purpose, one of the following: navigation, hurricane and storm damage reduction, flood damage reduction, or ecosystem restoration.

*Section 202. Expedited completion of reports for certain projects*

This section directs the Corps to expedite the completion of eight feasibility studies currently underway. Upon completion of the study, if the Corps determines that the project is justified, the Corps may proceed directly to preconstruction planning, engineering, and design. This section also directs the Corps to expedite the completion of post-authorization change reports for two projects that are currently underway.

TITLE III—DEAUTHORIZATIONS AND RELATED PROVISIONS

*Section 301. Deauthorization of inactive projects*

This section establishes a process that will lead to the deauthorization of \$5 billion in previously authorized, yet inactive projects. This section requires the Corps to submit a list of inactive projects to Congress that were authorized for construction prior to November 8, 2007, have not begun planning, design, or construction, or, if projects have begun planning, design, or construction, they have not received any funds, federal or non-federal, in the past six years. The Corps shall identify projects beginning from the oldest authorization to the newest until the target deauthorization is met. After a 180-day period of congressional review, the projects on the list are automatically deauthorized.

*Section 302. Valdez, Alaska*

This section exempts Tract G, Harbor Subdivision, a project for navigation in Valdez, Alaska, from navigational servitude beginning on the date of enactment of this Act. The federal government may enter the property to perform required operation and maintenance of the general navigation features.

*Section 303. Los Angeles County drainage area, Los Angeles County, California*

This section directs the Corps to update the Water Control Manuals for control structures in the Los Angeles County Drainage Area and to integrate and incorporate into the project seasonal operations for water conservation and water supply.

*Section 304. Sutter Basin, California*

This section deauthorizes the separable element constituting the locally preferred plan increment reflected in the report of the Chief of Engineers, dated March 12, 2014, and authorized for construction in item 8 of the table contained in Section 7002(2) of the Water Resources Reform and Development Act of 2014.

*Section 305. Essex River, Massachusetts*

This section deauthorizes portions of the Essex River, Massachusetts navigation project authorized by the Act of July 13, 1892, as amended.

*Section 306. Port of Cascade Locks, Oregon*

This section extinguishes two identified flowage easements above the ordinary high water line in Hood River County, Oregon.

*Section 307. Central Delaware River, Philadelphia, Pennsylvania*

This section declares a portion of the Delaware River in Philadelphia, Pennsylvania to be nonnavigable waters of the United States. The declaration only applies to the sections of the River that are or will be bulkheaded and filled or otherwise occupied by permanent structures.

*Section 308. Huntingdon County, Pennsylvania*

This section directs the Corps to prioritize the updating of the Master Plan for the Juniata River and tributaries project, Huntingdon County, Pennsylvania. As a part of the update, the Corps shall assess, evaluate, and incorporate any alternatives for additional recreation access and development.

*Section 309. Rivercenter, Philadelphia, Pennsylvania*

This section amends the Water Resources Development Act of 1988 to make permanent the declaration of nonnavigability for portions of Rivercenter, Philadelphia, Pennsylvania.

*Section 310. Joe Pool Lake, Texas*

This section directs the Corps to accept payment from the Trinity River Authority of Texas related to water supply storage in Joe Pool Lake, Texas.

*Section 311. Salt Creek, Graham, Texas*

This section deauthorizes the project for flood control, environmental restoration, and recreation, Salt Creek, Graham, Texas, previously authorized by Section 101(a)(30) of the Water Resources Development Act of 1999. The Corps may transfer any land acquired by the federal government for the project on behalf of the non-federal interest that remains in federal ownership on or after the date of enactment of this Act to the non-federal interest.

*Section 312. Texas City Ship Channel, Texas City, Texas*

This section exempts a portion of the Texas City Ship Channel in Texas City, Texas from navigational servitude.

TITLE IV—WATER RESOURCES INFRASTRUCTURE

*Section 401. Project authorizations*

This section authorizes 27 water resources projects that have completed technical review by the Corps and are recommended by the Chief of Engineers. The projects are authorized to be carried out in accordance with the plan, and subject to the conditions, described in the Chief's Reports. Each of the projects has as its primary purpose, one of the following: navigation, flood risk management, hurricane and storm damage risk reduction, or ecosystem restoration. This section also authorizes five project modifications for previously authorized projects.

ADDITIONAL MATTERS

Congress has been conferring its authority to the Corps since the 1820's when the agency was given the mission to provide for navigation improvements to the Ohio and Mississippi Rivers. Throughout much of the Nation's history, this has proven to be a wise deci-

sion by Congress. However, in recent years, the Corps and the Office of Management and Budget (OMB) have found new and innovative approaches to rejecting, disqualifying, or otherwise stifling investment in worthwhile and beneficial water resources development projects.

One of those unique methods is by utilizing an arbitrary and limiting “new start” policy. By unilaterally restricting budgetary consideration of critical water resources investment, the Administration is needlessly delaying initiation of many Congressionally authorized projects. While the Committee recognizes the importance of project completion, Members of Congress have been consistently approaching the Committee about this “new start” policy, even offering amendments that spoke to this issue during consideration of this legislation.

For instance, it has come to the attention of the Committee that the Corps and OMB are inflicting this “new start” policy on separable elements of projects that have already been initiated. Abandoned, or partially completed construction projects are of benefit to no one, and the Corps and OMB should provide flexibility and consideration for its non-federal cost-share partners in determining its “new start” criteria.

The Committee is aware of numerous concerns related to the Corps’ implementation of Section 14 of the Rivers and Harbors Act of 1899 (commonly called a “408 certification”, since this law is codified in 33 U.S.C. § 408). Non-federal entities seeking to modify federal water resources projects are often required to obtain a 408 certification from the Corps prior to initiating the modification; however, the Committee believes that this process can be improved upon. For example, the Committee has heard concerns expressed on the length of time to receive this certification. Section 1007 of Water Resources Reform and Development Act of 2014 requires the Secretary to establish benchmark goals for completing section 408 certifications in a timely manner. This is one of several provisions of Water Resources Reform and Development Act of 2014 that the Corps has failed to implement. Further, the Committee is concerned that, in recent updates of its engineering circulars or guidance related to the 408 certification process, the Corps has failed to recognize these benchmark goals to improve the pace of 408 certification review.

The Committee has also heard concerns from non-federal entities on the scope of activities covered by the 408 certification process, or that the Corps may suggest a proposed modification (requiring 408 certification) will not be acceptable prior to a non-federal entity completing its application for a 408 certification. While the unique circumstances of these concerns may be fact-specific to individual projects or applications, they are consistent with an overall frustration expressed by non-federal entities with the 408 certification process. The Committee believes that Corps should redouble its efforts to ensure that necessary certifications under this authority are carried out in an expeditious and transparent manner, consistent with federal law, and that Corps regulatory personnel are provided with sufficient federal resources to carry out this authority.

The Committee remains concerned with the pace of issuance of required implementation guidance related to the Water Resources

Reform and Development Act of 2014. At the time of Committee consideration of H.R. 5303, less than 70 percent of the implementation guidance had been issued, almost two years after enactment. Further, in specific cases, the guidance that was issued failed to provide a framework for implementation of the enacted language. For instance, in issuing the implementation guidance for requirements under section 5014 of Title V of the Water Resources Reform and Development Act of 2014 related to Public Private Partnerships, the Corps provided guidance that essentially stated only when funds were provided to the Corps to carry out the law, would further implementation guidance be issued. The Corps is encouraged to re-issue this implementation guidance prior to receiving funding for these programs so Congress may get a better sense of how taxpayer funds will be invested, how proposals for public-private partnerships will be considered by the Corps, and how these partnerships will be incorporated into future budget policy.

Additionally, the Committee has heard from many non-federal project sponsors and their associated representatives related to coordination and consultation on implementation guidance. In many instances, expertise on water resources development projects lies outside the Washington, D.C. Beltway. The Corps should adopt an open process to gather input and initiate a dialogue with those non-federal sponsors who have a stake in how programs and activities are carried out. Hosting one-way communications through Webinars and other non-participatory forums jeopardizes the necessary modifications and adjustments to the Corps programs and activities that were authorized in the Water Resources Reform and Development Act of 2014. The Corps should work to ensure all non-federal project sponsor voices are heard and incorporate those considerations and Congressional intent into final implementation guidance.

Section 3022 of the Water Resources Reform and Development Act of 2014 directed the Secretary to encourage, to the maximum extent practicable, the use of durable and sustainable materials and resilient construction techniques that allow a water resources project to resist hazards due to a major disaster and to continue to serve its primary function post event. In carrying out this section, the Secretary should ensure that each of the materials and practices will increase performance reliability in anticipated use, reduce the risk of failure during extreme events, maintain a project's primary function during changing conditions, and help to support specific community recovery goals for water resources projects.

Section 7001 of the Water Resources Reform and Development Act of 2014 requires the Corps to annually publish a notice in the Federal Register requesting proposals from non-federal interests for project authorizations, studies, and modifications to existing Corps projects. Further, it requires the Secretary to submit to Congress and make publicly available a "Report to Congress on Future Water Resources Development" (Annual Report) of those activities that are related to the missions of the Corps and require specific authorization by law.

Additionally, this section requires the Secretary to certify the proposals included in the annual report meet the criteria established by Congress in this section. The section requires that information be provided about each proposal that is in the Annual Re-

port submitted to the Congress. This information is meant to help the Congress set priorities regarding which potential studies, projects, and modifications will receive authorizations. The Secretary is expected to make use of information that is readily available and is not expected to begin a detailed and time-consuming analysis for additional information.

The Committee would like to remind the Corps that the Annual Report is intended to reflect a broad spectrum of activities for Congress, not the Administration, to consider in authorizing future water resources projects. The job of the Corps under Section 7001 is primarily an administrative one. That is, the Corps is to collect proposals, screen them against the five criteria in the law, and simply report the findings.

The contents of the first Annual Report did not meet this Committee's expectations, not only in terms of the number of proposals submitted by non-federal project sponsors, but also how the Administration used this process as a way to promote their priorities, and not those of the non-federal project sponsors. The Administration has many tools available to provide their priorities to Congress, but the Annual Report is not one of those tools.

However, after an immense amount of oversight work by the Committee and with the Corps playing the role of a willing partner, the second Annual Report was much improved. Many of the projects submitted in the second Annual Report are proposed to be authorized in this legislation. The Committee expects the Corps to further refine the process required under section 7001 of the Water Resources Reform and Development Act and eagerly anticipates another improved Annual Report in 2017.

The Committee continues to encourage the Corps to prioritize investment in preconstruction engineering and design (PED) of measures authorized in title VIII of the Water Resources and Development Act of 2007 related to navigation and ecosystem improvements on the Upper Mississippi River and Illinois Waterway. Timely completion of PED and proceeding to construction will advance America's competitiveness, as well as the readiness of the improved locks and a more functional ecosystem.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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, and existing law in which no change is proposed is shown in roman):

### **WATER RESOURCES DEVELOPMENT ACT OF 2000**

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

(a) **SHORT TITLE.**—This Act may be cited as the“Water Resources Development Act of 2000”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

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TITLE II—GENERAL PROVISIONS

\* \* \* \* \*  
 [Sec. 215. Dredged material marketing and recycling.]  
 Sec. 215. Reservoir sediment.  
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**TITLE II—GENERAL PROVISIONS**

\* \* \* \* \*

**SEC. 213. ASSISTANCE PROGRAMS.**

(a) CONSERVATION AND RECREATION MANAGEMENT.—To further training and educational opportunities 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.

(b) RURAL COMMUNITY ASSISTANCE.—In carrying out studies and projects under the jurisdiction of the Secretary, the Secretary may enter into cooperative agreements with multistate regional private nonprofit rural community assistance entities for services, including water resource assessment, community participation, planning, development, and management activities.

(c) *YOUTH SERVICE AND CONSERVATION CORPS ORGANIZATIONS.*—The Secretary shall, to the maximum extent practicable, enter into cooperative agreements with qualified youth service and conservation corps organizations for services relating to projects under the jurisdiction of the Secretary and shall do so in a manner that ensures the maximum participation and opportunities for such organizations.

[(c)] (d) COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under this section shall not be considered to be, or treated as being, a cooperative agreement to which chapter 63 of title 31, United States Code, applies.

**SEC. 214. FUNDING TO PROCESS PERMITS.**

(a) FUNDING TO PROCESS PERMITS.—

(1) DEFINITIONS.—In this subsection:

(A) NATURAL GAS COMPANY.—The term “natural gas company” has the meaning given the term in section 1262 of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451), except that the term also includes a person engaged in the transportation of natural gas in intrastate commerce.

(B) PUBLIC-UTILITY COMPANY.—The term “public-utility company” has the meaning given the term in section 1262 of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451).

(C) RAILROAD CARRIER.—The term “railroad carrier” has the meaning given the term in section 20102 of title 49, United States Code.

(2) PERMIT PROCESSING.—The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity or a public-utility company [or natural gas company], *natural gas company*, or *railroad carrier* to expedite the evaluation of a permit of that entity [or company], *company*,

or carrier related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.

[(3) LIMITATION FOR PUBLIC-UTILITY AND NATURAL GAS COMPANIES.—The authority provided under paragraph (2) to a public-utility company or natural gas company shall expire on the date that is 7 years after the date of enactment of this paragraph.]

[(4)] (3) EFFECT ON OTHER ENTITIES.—To the maximum extent practicable, the Secretary shall ensure that expediting the evaluation of a permit through the use of funds accepted and expended under this section does not adversely affect the timeline for evaluation (in the Corps district in which the project or activity is located) of permits under the jurisdiction of the Department of the Army of other entities that have not contributed funds under this section.

[(5)] (4) GAO STUDY.—Not later than 4 years after the date of enactment of this paragraph, the Comptroller General of the United States shall carry out a study of the implementation by the Secretary of the authority provided under paragraph (2) to public-utility companies [and natural gas companies], *natural gas companies, and railroad carriers*.

(b) EFFECT ON PERMITTING.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.

(2) IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out using funds accepted under this section shall—

(A) be reviewed by—

(i) the District Commander, or the Commander's designee, of the Corps District in which the project or activity is located; or

(ii) the Commander of the Corps Division in which the District is located if the evaluation of the permit is initially conducted by the District Commander; and

(B) utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.

(c) LIMITATION ON USE OF FUNDS.—None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A).

(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. 215. DREDGED MATERIAL MARKETING AND RECYCLING.**

**[(a) DREDGED MATERIAL MARKETING.—**

**[(1) IN GENERAL.—**Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to allow the direct marketing of dredged material to public agencies and private entities.

**[(2) LIMITATIONS.—**The Secretary shall not establish the program under paragraph (1) unless the Secretary determines that the program is in the interest of the United States and is economically justified, equitable, and environmentally acceptable.

**[(3) REGIONAL RESPONSIBILITY.—**The program described in paragraph (1) may authorize each of the 8 division offices of the Corps of Engineers to market to public agencies and private entities any dredged material from projects under the jurisdiction of the regional office. Any revenues generated from any sale of dredged material to such entities shall be deposited in the United States Treasury.

**[(4) REPORTS.—**Not later than 180 days after the date of enactment of this Act, and annually thereafter for a period of 4 years, the Secretary shall transmit to Congress a report on the program established under paragraph (1).

【(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for each fiscal year.

【(b) DREDGED MATERIAL RECYCLING.—

【(1) PILOT PROGRAM.—The Secretary shall conduct a pilot program to provide incentives for the removal of dredged material from confined disposal facilities associated with Corps of Engineer navigation projects for the purpose of recycling the dredged material and extending the life of the confined disposal facilities.

【(2) REPORT.—Not later than 90 days after the date of completion of the pilot program, the Secretary shall transmit to Congress a report on the results of the program.

【(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000, except that not to exceed \$1,000,000 may be expended with respect to any project.】

**SEC. 215. RESERVOIR SEDIMENT.**

(a) *IN GENERAL.*—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016 and after providing public notice, the Secretary shall establish, using available funds, a pilot program to accept services provided by a non-Federal interest or commercial entity for removal of sediment captured behind a dam owned or operated by the United States and under the jurisdiction of the Secretary for the purpose of restoring the authorized storage capacity of the project concerned.

(b) *REQUIREMENTS.*—In carrying out this section, the Secretary shall—

(1) review the services of the non-Federal interest or commercial entity to ensure that the services are consistent with the authorized purposes of the project concerned;

(2) ensure that the non-Federal interest or commercial entity will indemnify the United States for, or has entered into an agreement approved by the Secretary to address, any adverse impact to the dam as a result of such services;

(3) require the non-Federal interest or commercial entity, prior to initiating the services and upon completion of the services, to conduct sediment surveys to determine the pre- and post-services sediment profile and sediment quality; and

(4) limit the number of dams for which services are accepted to 10.

(c) *LIMITATION.*—

(1) *IN GENERAL.*—The Secretary may not accept services under subsection (a) if the Secretary, after consultation with the Chief of Engineers, determines that accepting the services is not advantageous to the United States.

(2) *REPORT TO CONGRESS.*—If the Secretary makes a determination under paragraph (1), the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice describing the reasoning for the determination.

(d) *DISPOSITION OF REMOVED SEDIMENT.*—In exchange for providing services under subsection (a), a non-Federal interest or commercial entity is authorized to retain, use, recycle, sell, or otherwise

*dispose of any sediment removed in connection with the services and the Corps of Engineers may not seek any compensation for the value of the sediment.*

*(e) CONGRESSIONAL NOTIFICATION.—Prior to accepting services provided by a non-Federal interest or commercial entity under this section, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the acceptance of the services.*

*(f) REPORT TO CONGRESS.—Upon completion of services at the 10 dams allowed under subsection (b)(4), the Secretary shall make publicly available and 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 documenting the results of the services.*

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**SEC. 506. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.**

(a) FINDINGS.—Congress finds that—

- (1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;
- (2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and
- (3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) GREAT LAKE.—

(A) IN GENERAL.—The term “Great Lake” means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) INCLUSIONS.—The term “Great Lake” includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) GREAT LAKES COMMISSION.—The term “Great Lakes Commission” means the Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) GREAT LAKES FISHERY COMMISSION.—The term “Great Lakes Fishery Commission” has the meaning given the term “Commission” in section 2 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 931).

(4) GREAT LAKES STATE.—The term “Great Lakes State” means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(c) GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.—

(1) SUPPORT PLAN.—

(A) IN GENERAL.—Not later than 1 year after December 11, 2000, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) USE OF EXISTING DOCUMENTS.—To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on December 11, 2000, such as lakewide management plans and remedial action plans.

(C) COOPERATION.—The Secretary shall develop the plan in cooperation with—

- (i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and
- (ii) other affected interests.

(2) RECONNAISSANCE STUDIES.—Before planning, designing, or constructing a project under paragraph (3), the Secretary shall carry out a reconnaissance study—

- (A) to identify methods of restoring the fishery, ecosystem, and beneficial uses of the Great Lakes; and
- (B) to determine whether planning of a project under paragraph (3) should proceed.

(3) PROJECTS.—The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(4) EVALUATION PROGRAM.—

(A) IN GENERAL.—The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (3) in meeting fishery and ecosystem restoration goals.

(B) STUDIES.—Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(d) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) RELATIONSHIP TO OTHER GREAT LAKES ACTIVITIES.—No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) COST SHARING.—

(1) DEVELOPMENT OF PLAN.—The Federal share of the cost of development of the plan under subsection (c)(1) of this section shall be 65 percent.

(2) PROJECT PLANNING, DESIGN, CONSTRUCTION, AND EVALUATION.—Except for reconnaissance studies, the Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (3) or (4) of subsection (c) of this section shall be 65 percent.

(3) NON-FEDERAL SHARE.—

(A) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out a project under subsection (c)(3).

(B) FORM.—The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) NON-FEDERAL INTERESTS.—In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

[(g) AUTHORIZATION OF APPROPRIATIONS.—

[(1) DEVELOPMENT OF PLAN.—There is authorized to be appropriated for development of the plan under subsection (c)(1) of this section \$300,000.

[(2) OTHER ACTIVITIES.—There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (c) of this section \$100,000,000.]

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**WATER RESOURCES DEVELOPMENT ACT OF 1986**

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**TITLE II—HARBOR DEVELOPMENT**

\* \* \* \* \*

**SEC. 203. STUDY OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.**

(a) SUBMISSION TO SECRETARY.—

(1) IN GENERAL.—A non-Federal interest may undertake a feasibility study of a proposed water resources development project and submit the study to the Secretary.

(2) GUIDELINES.—To assist non-Federal interests, the Secretary, as soon as practicable, shall issue guidelines for feasibility studies of water resources development projects to provide sufficient information for the formulation of the studies.

(b) REVIEW BY SECRETARY.—The Secretary shall review each feasibility study received under subsection (a)(1) for the purpose of determining whether or not the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water resources development projects.

(c) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study of a project under subsection (a)(1), 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 report that describes—

(1) the results of the Secretary's review of the study under subsection (b), including a determination of whether the project is feasible;

(2) any recommendations the Secretary may have concerning the plan or design of the project; and

(3) any conditions the Secretary may require for construction of the project.

(d) CREDIT.—If a project for which a feasibility study has been submitted under subsection (a)(1) is authorized by a Federal law enacted after the date of the submission to Congress under subsection (c), the Secretary shall credit toward the non-Federal share of the cost of construction of the project an amount equal to the

portion of the cost of developing the study that would have been the responsibility of the United States if the study had been developed by the Secretary.

(e) *TECHNICAL ASSISTANCE.*—*At the request of a non-Federal interest, the Secretary may provide to the non-Federal interest technical assistance relating to any aspect of a feasibility study if the non-Federal interest contracts with the Secretary to pay all costs of providing such technical assistance.*

**SEC. 204. CONSTRUCTION OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.**

(a) **WATER RESOURCES DEVELOPMENT PROJECT DEFINED.**—In this section, the term “water resources development project” means a project recommendation that results from—

- (1) a feasibility report, as such term is defined in section 7001(f) of the Water Resources Reform and Development Act of 2014;
- (2) a completed feasibility study developed under section 203;
- or
- (3) a final feasibility study for water resources development and conservation and other purposes that is specifically authorized by Congress to be carried out by the Secretary.

(b) **AUTHORITY.**—

(1) **IN GENERAL.**—A non-Federal interest may carry out a water resources development project, or separable element thereof—

- (A) in accordance with a plan approved by the Secretary for the project or separable element; and
- (B) subject to any conditions that the Secretary may require, including any conditions specified under section 203(c)(3).

(2) **CONDITIONS.**—Before carrying out a water resources development project, or separable element thereof, under this section, a non-Federal interest shall—

- (A) obtain any permit or approval required in connection with the project or separable element under Federal or State law; and
- (B) ensure that a final environmental impact statement or environmental assessment, as appropriate, for the project or separable element has been filed.

(c) **STUDIES AND ENGINEERING.**—When requested by an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (b), and provide technical assistance in obtaining all necessary permits for the construction, if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies, engineering, or technical assistance in the period during which the studies and engineering are being conducted.

(d) **CREDIT OR REIMBURSEMENT.**—

(1) **GENERAL RULE.**—Subject to paragraph (3), a project or separable element of a project carried out by a non-Federal interest under this section shall be eligible for credit or reimbursement for the Federal share of work carried out on a project or separable element of a project if—

- (A) before initiation of construction of the project or separable element—
- (i) the Secretary approves the plans for construction of the project or separable element of the project by the non-Federal interest;
  - (ii) the Secretary determines, before approval of the plans, that the project or separable element of the project is feasible; and
  - (iii) the non-Federal interest enters into a written agreement with the Secretary under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), including an agreement to pay the non-Federal share, if any, of the cost of operation and maintenance of the project; and
- (B) the Secretary determines that all Federal laws and regulations applicable to the construction of a water resources development project, and any conditions identified under subsection (b)(1)(B), were complied with by the non-Federal interest during construction of the project or separable element of the project.
- (2) APPLICATION OF CREDIT.—The Secretary may apply credit toward—
- (A) the non-Federal share of authorized separable elements of the same project; or
  - (B) subject to the requirements of this section and section 1020 of the Water Resources Reform and Development Act of 2014, at the request of the non-Federal interest, the non-Federal share of a different water resources development project.
- (3) REQUIREMENTS.—The Secretary may only apply credit or provide reimbursement under paragraph (1) if—
- (A) Congress has authorized construction of the project or separable element of the project; and
  - (B) the Secretary certifies that the project has been constructed in accordance with—
    - (i) all applicable permits or approvals; and
    - (ii) this section.
- (4) MONITORING.—The Secretary shall regularly monitor and audit any water resources development project, or separable element of a water resources development project, constructed by a non-Federal interest under this section to ensure that—
- (A) the construction is carried out in compliance with the requirements of this section; and
  - (B) the costs of the construction are reasonable.
- (5) DISCRETE SEGMENTS.—
- (A) *IN GENERAL.*—*The Secretary may authorize credit or reimbursement under this subsection for a discrete segment of a flood damage reduction project, or separable element thereof, before final completion of the project or separable element if—*
    - (i) *except as provided in clause (ii), the Secretary determines that the discrete segment satisfies the requirements of paragraphs (1) through (4) in the same manner as the project or separable element; and*

(ii) notwithstanding paragraph (1)(A)(i), the Secretary determines, before the approval of the plans under paragraph (1)(A)(i), that the discrete segment is technically feasible and environmentally acceptable.

(B) DETERMINATION.—Credit or reimbursement may not be made available to a non-Federal interest pursuant to this paragraph until the Secretary determines that—

- (i) the construction of the discrete segment for which credit or reimbursement is requested is complete; and
- (ii) the construction is consistent with the authorization of the applicable flood damage reduction project, or separable element thereof, and the plans approved under paragraph (1)(A)(i).

(C) WRITTEN AGREEMENT.—

(i) IN GENERAL.—As part of the written agreement required under paragraph (1)(A)(iii), a non-Federal interest to be eligible for credit or reimbursement under this paragraph shall—

(I) identify any discrete segment that the non-Federal interest may carry out; and

(II) agree to the completion of the flood damage reduction project, or separable element thereof, with respect to which the discrete segment is a part and establish a timeframe for such completion.

(ii) REMITTANCE.—If a non-Federal interest fails to complete a flood damage reduction project, or separable element thereof, that it agreed to complete under clause (i)(II), the non-Federal interest shall remit any reimbursements received under this paragraph for a discrete segment of such project or separable element.

(D) DISCRETE SEGMENT DEFINED.—In this paragraph, the term “discrete segment” means a physical portion of a flood damage reduction project, or separable element thereof—

(i) described by a non-Federal interest in a written agreement required under paragraph (1)(A)(iii); and

(ii) that the non-Federal interest can operate and maintain, independently and without creating a hazard, in advance of final completion of the flood damage reduction project, or separable element thereof.

(e) NOTIFICATION OF COMMITTEES.—If a non-Federal interest notifies the Secretary that the non-Federal interest intends to carry out a project, or separable element thereof, under this section, the Secretary shall provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives concerning the intent of the non-Federal interest.

(f) OPERATION AND MAINTENANCE.—Whenever a non-Federal interest carries out improvements to a federally authorized harbor or inland harbor, the Secretary shall be responsible for operation and maintenance in accordance with section 101(b) if—

(1) before construction of the improvements—

(A) the Secretary determines that the improvements are feasible and consistent with the purposes of this title; and

- (B) the Secretary and the non-Federal interest execute a written agreement relating to operation and maintenance of the improvements;
- (2) the Secretary certifies that the project or separable element of the project is constructed in accordance with applicable permits and appropriate engineering and design standards; and
- (3) the Secretary does not find that the project or separable element is no longer feasible.

\* \* \* \* \*

**SEC. 210. [AUTHORIZATION OF APPROPRIATIONS] FUNDING FOR HARBOR NAVIGATION.**

(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 payments from the Harbor Maintenance Trust Fund under this section.

(c) USE OF COLLECTED FUNDS IN FISCAL YEAR 2027 AND THEREAFTER.—

(1) USE OF FUNDS.—*In addition to the amounts appropriated under subsections (a) and (b), there shall be available to the Secretary, out of the Harbor Maintenance Trust Fund, without further appropriation, for fiscal year 2027 and each fiscal year thereafter, such sums as may be necessary to carry out the purposes of subsection (a)(2).*

(2) AVAILABILITY OF AMOUNTS.—*Amounts made available under this subsection shall remain available until expended.*

[(c)] (d) OPERATION AND MAINTENANCE OF HARBOR PROJECTS.—

(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall make expenditures to pay for operation and maintenance costs of the harbors and inland harbors referred to in subsection (a)(2), including expenditures of funds appropriated from the Harbor Maintenance Trust Fund, based on an equitable allocation of funds among all such harbors and inland harbors.

(2) CRITERIA.—

(A) IN GENERAL.—In determining an equitable allocation of funds under paragraph (1), the Secretary shall—

- (i) consider the information obtained in the assessment conducted under [subsection (e)] subsection (f);
- (ii) consider the national and regional significance of harbor operations and maintenance; and

(iii) as appropriate, consider national security and military readiness needs.

(B) LIMITATION.—The Secretary shall not allocate funds under paragraph (1) based solely on the tonnage transiting through a harbor.

(3) EMERGING HARBOR PROJECTS.—Notwithstanding any other provision of this subsection, in making expenditures under paragraph (1) ~~for each of fiscal years 2015 through 2022~~ *for each fiscal year*, the Secretary shall allocate for operation and maintenance costs of emerging harbor projects an amount that is not less than 10 percent of the funds made available under this section for fiscal year 2012 to pay the costs described in subsection (a)(2).

(4) MANAGEMENT OF GREAT LAKES NAVIGATION SYSTEM.—To sustain effective and efficient operation and maintenance of the Great Lakes Navigation System, including any navigation feature in the Great Lakes that is a Federal responsibility with respect to operation and maintenance, the Secretary shall manage all of the individually authorized projects in the Great Lakes Navigation System as components of a single, comprehensive system, recognizing the interdependence of the projects.

~~[(d)]~~ (e) PRIORITIZATION.—

(1) PRIORITY.—

(A) IN GENERAL.—~~For each of fiscal years 2015 through 2024~~ *For each fiscal year*, if priority funds are available, the Secretary shall use the priority funds as follows:

(i) ~~90~~ *Not more than 90* percent of the priority funds shall be used for high- and moderate-use harbor projects.

(ii) ~~10~~ *At least 10* percent of the priority funds shall be used for emerging harbor projects.

(B) ADDITIONAL CONSIDERATIONS.—For each of fiscal years 2015 through 2024, of the priority funds available, the Secretary shall use—

(i) not less than 5 percent of such funds for underserved harbor projects; and

(ii) not less than 10 percent of such funds for projects that are located within the Great Lakes Navigation System.

(C) UNDERSERVED HARBORS.—In determining which underserved harbor projects shall receive funds under this paragraph, the Secretary shall consider—

(i) the total quantity of commerce supported by the water body on which the project is located; and

(ii) the minimum width and depth that—

(I) would be necessary at the underserved harbor project to provide sufficient clearance for fully loaded commercial vessels using the underserved harbor project to maneuver safely; and

(II) does not exceed the constructed width and depth of the authorized navigation project.

(2) EXPANDED USES.—

(A) DEFINITION OF ELIGIBLE HARBOR OR INLAND HARBOR DEFINED.—In this paragraph, the term “eligible harbor or

inland harbor” means a harbor or inland harbor at which the total amount of harbor maintenance taxes collected in the immediately preceding 3 fiscal years exceeds the value of the work carried out for the harbor or inland harbor using amounts from the Harbor Maintenance Trust Fund during those 3 fiscal years.

(B) USE OF EXPANDED USES FUNDS.—

(i) FISCAL YEARS 2015 THROUGH 2024.—For each of fiscal years 2015 through 2024, of the priority funds available, the Secretary shall use not less than 10 percent of such funds for expanded uses carried out at an eligible harbor or inland harbor.

(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 2025 and each fiscal year thereafter, the Secretary shall use not less than 10 percent of the priority funds available for expanded uses carried out at an eligible harbor or inland harbor.

(C) PRIORITIZATION.—In allocating funds under this paragraph, the Secretary shall give priority to projects at eligible harbors or inland harbors for which the difference, calculated in dollars, is greatest between—

(i) the total amount of funding made available for projects at that eligible harbor or inland harbor from the Harbor Maintenance Trust Fund in the immediately preceding 3 fiscal years; and

(ii) the total amount of harbor maintenance taxes collected at that harbor or inland harbor in the immediately preceding 3 fiscal years.

(3) REMAINING FUNDS.—

(A) IN GENERAL.—For each of fiscal years 2015 through 2024, if after fully funding all projects eligible for funding under paragraphs (1)(B) and (2)(B)(i), priority funds made available under those paragraphs remain unobligated, the Secretary shall use those remaining funds to pay for operation and maintenance costs of any harbor or inland harbor referred to in subsection (a)(2) based on an equitable allocation of those funds among the harbors and inland harbors.

(B) CRITERIA.—In determining an equitable allocation of funds under subparagraph (A), the Secretary shall—

(i) use the criteria specified in **subsection (c)(2)(A) subsection (d)(2)(A)**; and

(ii) make amounts available in accordance with the requirements of paragraph (1)(A).

(4) EMERGENCY EXPENDITURES.—Nothing in this subsection prohibits the Secretary from making an expenditure to pay for the operation and maintenance costs of a specific harbor or inland harbor, including the transfer of funding from the operation and maintenance of a separate project, if—

(A) the Secretary determines that the action is necessary to address the navigation needs of a harbor or inland harbor where safe navigation has been severely restricted due to an unforeseen event; and

(B) the Secretary provides within 90 days of the action notice and information on the need for the action to the

Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

[(e)] (f) ASSESSMENT OF HARBORS AND INLAND HARBORS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, and biennially thereafter, the Secretary shall assess the operation and maintenance needs and uses of the harbors and inland harbors referred to in subsection (a)(2).

(2) ASSESSMENT OF HARBOR NEEDS AND ACTIVITIES.—

(A) TOTAL OPERATION AND MAINTENANCE NEEDS OF HARBORS.—In carrying out paragraph (1), the Secretary shall identify—

(i) the total future costs required to achieve and maintain the constructed width and depth for the harbors and inland harbors referred to in subsection (a)(2); and

(ii) the total expected costs for expanded uses at eligible harbors or inland harbors referred to in [subsection (d)(2)] *subsection (e)(2)*.

(B) USES OF HARBORS AND INLAND HARBORS.—In carrying out paragraph (1), the Secretary shall identify current uses (and, to the extent practicable, assess the national, regional, and local benefits of such uses) of harbors and inland harbors referred to in subsection (a)(2), including the use of those harbors for—

(i) commercial navigation, including the movement of goods;

(ii) domestic trade;

(iii) international trade;

(iv) commercial fishing;

(v) subsistence, including use by Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) for subsistence and ceremonial purposes;

(vi) use as a harbor of refuge;

(vii) transportation of persons;

(viii) purposes relating to domestic energy production, including the fabrication, servicing, or supply of domestic offshore energy production facilities;

(ix) activities of the Secretary of the department in which the Coast Guard is operating;

(x) activities of the Secretary of the Navy;

(xi) public health and safety related equipment for responding to coastal and inland emergencies;

(xii) recreation purposes; and

(xiii) other authorized purposes.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—For fiscal year 2016, and biennially thereafter, in conjunction with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Com-

committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that, with respect to harbors and inland harbors referred to in subsection (a)(2)—

(i) identifies the operation and maintenance costs associated with the harbors and inland harbors, including those costs required to achieve and maintain the constructed width and depth for the harbors and inland harbors and the costs for expanded uses at eligible harbors and inland harbors, on a project-by-project basis;

(ii) identifies the amount of funding requested in the President's budget for the operation and maintenance costs associated with the harbors and inland harbors, on a project-by-project basis;

(iii) identifies the unmet operation and maintenance needs associated with the harbors and inland harbors, on a project-by-project basis; and

(iv) identifies the harbors and inland harbors for which the President will allocate funding over the subsequent 5 fiscal years for operation and maintenance activities, on a project-by-project basis, including the amounts to be allocated for such purposes.

(B) PUBLIC AVAILABILITY.—The Secretary shall make the report submitted under subparagraph (A) available to the public, including on the Internet.

[(f)] (g) DEFINITIONS.—In this section:

(1) CONSTRUCTED WIDTH AND DEPTH.—The term “constructed width and depth” means the width and depth to which a project has been constructed, which may not exceed the authorized width and depth of the project.

(2) EMERGING HARBOR PROJECT.—The term “emerging harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits less than 1,000,000 tons of cargo annually.

(3) EXPANDED USES.—The term “expanded uses” means the following activities:

(A) The maintenance dredging of a berth in a harbor that is accessible to a Federal navigation project and that benefits commercial navigation at the harbor.

(B) The maintenance dredging and disposal of legacy-contaminated sediment, and sediment unsuitable for open water disposal, if—

(i) such dredging and disposal benefits commercial navigation at the harbor; and

(ii) such sediment is located in and affects the maintenance of a Federal navigation project or is located in a berth that is accessible to a Federal navigation project.

(4) GREAT LAKES NAVIGATION SYSTEM.—The term “Great Lakes Navigation System” includes—

(A)(i) Lake Superior;

(ii) Lake Huron;

(iii) Lake Michigan;

(iv) Lake Erie; and

- (v) Lake Ontario;
- (B) all connecting waters between the lakes referred to in subparagraph (A) used for commercial navigation;
- (C) any navigation features in the lakes referred to in subparagraph (A) or waters described in subparagraph (B) that are a Federal operation or maintenance responsibility; and
- (D) areas of the Saint Lawrence River that are operated or maintained by the Federal Government for commercial navigation.

(5) HARBOR MAINTENANCE TAX.—The term “harbor maintenance tax” means the amounts collected under section 4461 of the Internal Revenue Code of 1986.

(6) HIGH-USE HARBOR PROJECT.—The term “high-use harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits not less than 10,000,000 tons of cargo annually.

(7) MODERATE-USE HARBOR PROJECT.—The term “moderate-use harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits annually—

- (A) more than 1,000,000 tons of cargo; but
- (B) less than 10,000,000 tons of cargo.

(8) PRIORITY FUNDS.—The term “priority funds” means the difference between—

- (A) the total funds that are made available under this section to pay the costs described in subsection (a)(2) for a fiscal year; and
- (B) the total funds made available under this section to pay the costs described in subsection (a)(2) in fiscal year 2012.

(9) UNDERSERVED HARBOR PROJECT.—

(A) IN GENERAL.—The term “underserved harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2)—

- (i) that is a moderate-use harbor project or an emerging harbor project;
- (ii) that has been maintained at less than the constructed width and depth of the project during each of the preceding 6 fiscal years; and
- (iii) for which State and local investments in infrastructure have been made at those projects during the preceding 6 fiscal years.

(B) ADMINISTRATION.—For purposes of this paragraph, 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)).

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TITLE XI—MISCELLANEOUS PROGRAMS AND PROJECTS

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**SEC. 1156. COST SHARING PROVISIONS FOR THE TERRITORIES AND INDIAN TRIBES.**

(a) IN GENERAL.—The Secretary shall waive local cost-sharing requirements up to \$200,000 for all studies and [projects in American] projects—

(1) *in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and the Trust Territory of the Pacific Islands* [.] *and*

(2) *for a federally recognized Indian tribe.*

(b) INFLATION ADJUSTMENT.—The Secretary shall adjust the dollar amount specified in subsection (a) for inflation for the period beginning on November 17, 1986, and ending on the date of enactment of this subsection.

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**WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014**

\* \* \* \* \*

**TITLE I—PROGRAM REFORMS AND STREAMLINING**

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**SEC. 1022. CREDIT IN LIEU OF REIMBURSEMENT.**

(a) REQUESTS FOR CREDITS.—With respect to an authorized flood damage reduction project, or separable element thereof, [that has been constructed by a non-Federal interest under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13) before the date of enactment of this Act] *for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13)*, the Secretary may provide to the non-Federal interest, at the request of the non-Federal interest, a credit in an amount equal to the estimated Federal share of the cost of the project or separable element, in lieu of providing to the non-Federal interest a reimbursement in that amount.

(b) APPLICATION OF CREDITS.—At the request of the non-Federal interest, the Secretary may apply such credit to the [share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies] *non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest.*

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**SEC. 1024. AUTHORITY TO ACCEPT AND USE MATERIALS AND SERVICES.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary is authorized to accept and use materials and services contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a re-

sult of an emergency, or that has had or may have an equipment failure (including a failure caused by a lack of or deferred maintenance), if the Secretary determines that the acceptance and use of such materials and services is in the public interest.

(b) LIMITATION.—Any entity that contributes materials or services under subsection (a) shall not be eligible for credit or reimbursement for the value of such materials or services.

(c) REPORT.—Not later than 60 days after initiating an activity under this section, 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 report that includes—

- (1) a description of the activities undertaken, including the costs associated with the activities; and
- (2) a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources project.

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## TITLE II—NAVIGATION

\* \* \* \* \*

### Subtitle B—Port and Harbor Maintenance

\* \* \* \* \*

**SEC. 2105. ARCTIC DEEP DRAFT PORT DEVELOPMENT PARTNERSHIPS.**

(a) IN GENERAL.—The Secretary may provide technical assistance to non-Federal public entities, including Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450b)]) (25 U.S.C. 450b) and Native villages, Regional Corporations, and Village Corporations (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), for the development, construction, operation, and maintenance of channels, harbors, and related infrastructure associated with deep draft ports for purposes of dealing with Arctic development and security needs.

(b) ACCEPTANCE OF FUNDS.—The Secretary is authorized to accept and expend funds provided by non-Federal public entities, including Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450b)]) (25 U.S.C. 450b) and Native villages, Regional Corporations, and Village Corporations (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), to carry out the technical assistance activities described in subsection (a).

(c) LIMITATION.—No assistance may be provided under this section until after the date on which the entity to which that assistance is to be provided enters into a written agreement with the Secretary that includes such terms and conditions as the Secretary determines to be appropriate and in the public interest.

(d) CONSIDERATION OF NATIONAL SECURITY INTERESTS.—In carrying out a study of the feasibility of an Arctic deep draft port, the Secretary shall consult with the Secretary of Homeland Security

and the Secretary of Defense to identify national security benefits associated with the Arctic deep draft port.

[(d)] (e) PRIORITIZATION.—The Secretary shall prioritize technical assistance provided under this section for Arctic deep draft ports identified by the Secretary, the Secretary of Homeland Security, and the Secretary of Defense as important for Arctic development and security.

**SEC. 2106. ADDITIONAL MEASURES AT DONOR PORTS AND ENERGY TRANSFER PORTS.**

(a) DEFINITIONS.—In this section:

(1) CARGO CONTAINER.—The term “cargo container” means a cargo container that is 1 Twenty-foot Equivalent Unit.

(2) DONOR PORT.—The term “donor port” means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or a successor regulation);

(B) at which the total amount of harbor maintenance taxes collected comprise not less than **[\$15,000,000]** \$5,000,000 annually of the total funding of the Harbor Maintenance Trust Fund established under section 9505 of the Internal Revenue Code of 1986;

(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected at that port in the previous 5 fiscal years; and

(D) that is located in a State in which more than 2,000,000 cargo containers were unloaded from or loaded on to vessels in fiscal year 2012.

(3) ENERGY COMMODITY.—The term “energy commodity” includes—

(A) petroleum products;

(B) natural gas;

(C) coal;

(D) wind and solar energy components; and

(E) biofuels.

(4) ENERGY TRANSFER PORT.—The term “energy transfer port” means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, **[Code of Federal Regulation]** *Code of Federal Regulations* (or any successor regulation); and

(B)(i) at which energy commodities comprised greater than 25 percent of all commercial activity by tonnage in fiscal year 2012; and

(ii) through which more than 40,000,000 tons of cargo were transported in fiscal year 2012.

(5) EXPANDED USES.—The term “expanded uses” has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(f)).

(6) HARBOR MAINTENANCE TAX.—The term “harbor maintenance tax” has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(f)).

(b) AUTHORITY.—

- (1) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide to donor ports and energy transfer ports amounts in accordance with this section.
- (2) LIMITATIONS.—Amounts provided under this section—
- (A) for energy transfer ports shall be divided equally among all States with an energy transfer port; and
- (B) shall be made available to a port as either a donor port or an energy transfer port and no port may receive amounts as both a donor port and an energy transfer port.
- (c) USE OF FUNDS.—Amounts provided under this section may be used by a donor port or an energy transfer port—
- (1) to provide payments to importers entering cargo or shippers transporting cargo through that port, as calculated by U.S. Customs and Border Protection according to the amount of harbor maintenance taxes collected;
- (2) for expanded uses; or
- (3) for environmental remediation related to dredging berths and Federal navigation channels.
- (d) ADMINISTRATION OF PAYMENTS.—If a donor port or an energy transfer port elects to provide payments to importers or shippers under subsection (c), the Secretary shall transfer the amount that would otherwise be provided to the port under this section that is equal to those payments to the Commissioner of U.S. Customs and Border Protection to provide the payments to the importers or shippers.
- (e) REPORT TO CONGRESS.—
- (1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall assess the impact of the authority provided by this section 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 and make publicly available a report on the results of that assessment, including any recommendations for amending or reauthorizing the authority.
- (2) FACTORS.—In carrying out the assessment under paragraph (1), the Secretary shall assess—
- (A) the impact of the amounts provided and used under this section on those ports that received funds under this section; and
- (B) any impact on domestic harbors and ports that did not receive funds under this section.
- (f) AUTHORIZATION OF APPROPRIATIONS.—
- (1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 2015 through **2018** 2020.
- (2) DIVISION BETWEEN DONOR PORTS AND ENERGY TRANSFER PORTS.—For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to donor ports and energy transfer ports.
- (3) ADDITIONAL APPROPRIATIONS.—If the target total budget resources under subparagraphs (A) through (D) of section 2101(b)(1) are met for each of fiscal years **2015 through 2018** 2016 through 2020, there is authorized to be appropriated to

carry out this section \$50,000,000 for each of fiscal years [2019 through 2022] *2021 through 2025*.

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## TITLE VI—DEAUTHORIZATION AND BACKLOG PREVENTION

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### SEC. 6002. REVIEW OF CORPS OF ENGINEERS ASSETS.

(a) ASSESSMENT AND INVENTORY.—Not later than 1 year after [the date of enactment of this Act] *the date of enactment of the Water Resources Development Act of 2016*, the Secretary shall conduct an assessment of all properties under the control of the Corps of Engineers and develop an inventory of the properties that are not needed for the missions of the Corps of Engineers.

(b) CRITERIA.—In conducting the assessment and developing the inventory under subsection (a), the Secretary shall use the following criteria:

(1) The extent to which the property aligns with the current missions of the Corps of Engineers.

(2) The economic impact of the property on existing communities in the vicinity of the property.

(3) The extent to which the utilization rate for the property is being maximized and is consistent with nongovernmental industry standards for the given function or operation.

(4) The extent to which the reduction or elimination of the property could reduce operation and maintenance costs of the Corps of Engineers.

(5) The extent to which the reduction or elimination of the property could reduce energy consumption by the Corps of Engineers.

(6) *The extent to which the property has economic, cultural, historic, or recreational significance, or impacts at the national, State, or local level.*

(c) NOTIFICATION.—As soon as practicable following completion of the inventory of properties under subsection (a), the Secretary shall provide the inventory to the Administrator of General Services.

(d) REPORT TO CONGRESS.—Not later than 30 days after the date of the notification under subsection (c), 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 and make publicly available a report containing the findings of the Secretary with respect to the assessment and inventory required under subsection (a).

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## TITLE VII—WATER RESOURCES INFRASTRUCTURE

### SEC. 7001. ANNUAL REPORT TO CONGRESS.

(a) **IN GENERAL.**—Not later than February 1 of each year, the Secretary shall develop 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 an annual report, to be entitled “Report to Congress on Future Water Resources Development”, that identifies the following:

(1) **FEASIBILITY REPORTS.**—Each feasibility report that meets the criteria established in subsection (c)(1)(A).

(2) **PROPOSED FEASIBILITY STUDIES.**—Any proposed feasibility study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

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

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

(B) is identified by the Secretary for authorization.

(b) **REQUESTS FOR PROPOSALS.**—

(1) **PUBLICATION.**—Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed feasibility studies and proposed modifications to authorized water resources development projects and feasibility studies to be included in the annual report.

(2) **DEADLINE FOR REQUESTS.**—The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) **NOTIFICATION.**—On the date of publication of each notice required by this subsection, the Secretary shall—

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) **CONTENTS.**—

(1) **FEASIBILITY REPORTS, PROPOSED FEASIBILITY STUDIES, AND PROPOSED MODIFICATIONS.**—

(A) **CRITERIA FOR INCLUSION IN REPORT.**—The Secretary shall include in the annual report only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that—

- (i) are related to the missions and authorities of the Corps of Engineers;
- (ii) require specific congressional authorization, including by an Act of Congress;
- (iii) have not been congressionally authorized;
- (iv) have not been included in any previous annual report; and
- (v) if authorized, could be carried out by the Corps of Engineers.

(B) DESCRIPTION OF BENEFITS.—

(i) DESCRIPTION.—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed feasibility study and proposed modification to an authorized water resources development project or feasibility study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification (including the water resources development project that is the subject of the proposed feasibility study or the proposed modification to an authorized feasibility study).

(ii) BENEFITS.—The benefits (or expected benefits, in the case of a proposed feasibility study) described in this clause are benefits to—

- (I) the protection of human life and property;
- (II) improvement to transportation;
- (III) the national economy;
- (IV) the environment; or
- (V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—

(i) for each proposed feasibility study included in the annual report, the non-Federal interest that submitted the proposed feasibility study pursuant to subsection (b); and

(ii) for each proposed feasibility study and proposed modification to an authorized water resources development project or feasibility study included in the annual report, whether the non-Federal interest has demonstrated—

(I) that local support exists for the proposed feasibility study or proposed modification to an authorized water resources development project or feasibility study (including the water resources development project that is the subject of the proposed feasibility study or the proposed modification to an authorized feasibility study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each feasibility report, proposed feasibility study, and proposed modification to an authorized water re-

sources development project or feasibility study included under paragraph (1)(A)—

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

- (i) the feasibility report;
- (ii) the proposed feasibility study;
- (iii) the authorized feasibility study for which the modification is proposed; or
- (iv) construction of—

(I) the water resources development project that is the subject of—

- (aa) the feasibility report;
- (bb) the proposed feasibility study; or
- (cc) the authorized feasibility study for which a modification is proposed; or

(II) the proposed modification to an authorized water resources development project;

(B) a letter or statement of support for the feasibility report, proposed feasibility study, or proposed modification to an authorized water resources development project or feasibility study from each associated non-Federal interest;

(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to an authorized water resources development project or feasibility study;

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

- (i) the proposed modification to an authorized feasibility study; and
- (ii) construction of—

(I) the water resources development project that is the subject of—

- (aa) the feasibility report; or
- (bb) the authorized feasibility study for which a modification is proposed, with respect to the change in costs resulting from such modification; or

(II) the proposed modification to an authorized water resources development project; and

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

- (i) the water resources development project that is the subject of—

- (I) the feasibility report; or
- (II) the authorized feasibility study for which a modification is proposed, with respect to the benefits of such modification; or

- (ii) the proposed modification to an authorized water resources development project.

(3) CERTIFICATION.—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to an authorized water resources development project or feasibility

study included in the annual report meets the criteria established in paragraph (1)(A).

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

(d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—Notwithstanding any other deadlines required by this section, the Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

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

(f) DEFINITIONS.—In this section:

(1) ANNUAL REPORT.—The term “annual report” means a report required by subsection (a).

(2) FEASIBILITY REPORT.—

(A) IN GENERAL.—The term “feasibility report” means a final feasibility report developed under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282).

(B) INCLUSIONS.—The term “feasibility report” includes—

(i) a report described in section 105(d)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(d)(2)); and

(ii) where applicable, any associated report of the Chief of Engineers.

(3) FEASIBILITY STUDY.—The term “feasibility study” has the meaning given that term in section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

(4) NON-FEDERAL INTEREST.—The term “non-Federal interest” has the meaning given that term in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b).

(5) WATER RESOURCES DEVELOPMENT PROJECT.—*The term “water resources development project” includes a project under an environmental infrastructure assistance program.*

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## WATER RESOURCES DEVELOPMENT ACT OF 2007

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Water Resources Development Act of 2007”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

*	*	*	*	*	*	*
TITLE II—GENERAL PROVISIONS						
*	*	*	*	*	*	*
<p><b>[Sec. 2040. Electronic submission of permit applications.]</b>  <i>Sec. 2040. Electronic submission and tracking of permit applications.</i></p>						
*	*	*	*	*	*	*

## TITLE II—GENERAL PROVISIONS

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**SEC. 2006. REMOTE AND SUBSISTENCE HARBORS.**

(a) IN GENERAL.—In conducting a study of harbor and navigation improvements, the Secretary may recommend a project without the need to demonstrate that the project is justified solely by national economic development benefits if the Secretary determines that—

(1)(A) the community to be served by the project is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or

(B) the project would be located in the State of Hawaii or Alaska, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa;

(2) the harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the region served by the harbor and navigation improvement, as determined by the Secretary, including consideration of information provided by the non-Federal interest; and

(3) the long-term viability of the community *in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project*, would be threatened without the harbor and navigation improvement.

(b) JUSTIFICATION.—In considering whether to recommend a project under subsection (a), the Secretary shall consider the benefits of the project to—

(1) public health and safety of the local community *and communities that are located in the region to be served by the project and that will rely on the project*, including access to facilities designed to protect public health and safety;

(2) access to natural resources for subsistence purposes;

(3) local and regional economic opportunities;

(4) welfare of the **[local population]** *regional population to be served by the project*; and

(5) social and cultural value to the **[community]** *local community and communities that are located in the region to be served by the project and that will rely on the project*.

(c) PRIORITIZATION.—Projects recommended by the Secretary under subsection (a) shall be given equivalent budget consideration

and priority as projects recommended solely by national economic development benefits.

(d) DISPOSITION.—

(1) IN GENERAL.—The Secretary may carry out any project identified in the study carried out pursuant to subsection (a) in accordance with the criteria for projects carried out under the authority of the Secretary under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

(2) NON-FEDERAL INTERESTS.—In evaluating and implementing a project under this section, the Secretary shall allow a non-Federal interest to participate in the financing of a project in accordance with the criteria established for flood control projects under section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4184).

(e) ANNUAL REPORT.—For a project that cannot be carried out under the authority specified in subsection (d), on a determination by the Secretary of the feasibility of the project under subsection (a), the Secretary may include a recommendation concerning the project in the annual report submitted to Congress under section 7001.

\* \* \* \* \*

**[SEC. 2017. ACCESS TO WATER RESOURCE DATA.**

**[(a) IN GENERAL.—**The Secretary shall carry out a program to provide public access to water resources and related water quality data in the custody of the Corps of Engineers.

**[(b) DATA.—**Public access under subsection (a) shall—

**[(1) include, at a minimum, access to data generated in water resources project development and regulation under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and**

**[(2) appropriately employ geographic information system technology and linkages to water resource models and analytical techniques.**

**[(c) PARTNERSHIPS.—**To the maximum extent practicable, in carrying out activities under this section, the Secretary shall develop partnerships, including cooperative agreements, with State, tribal, and local governments and other Federal agencies.

**[(d) AUTHORIZATION OF APPROPRIATIONS.—**There is authorized to be appropriated to carry out this section \$3,000,000 for each fiscal year.]

**SEC. 2017. ACCESS TO WATER RESOURCE DATA.**

*(a) IN GENERAL.—Using available funds, the Secretary shall make publicly available, including on the Internet, all data in the custody of the Corps of Engineers on—*

*(1) the planning, design, construction, operation, and maintenance of water resources development projects; and*

*(2) water quality and water management of projects owned, operated, or managed by the Corps of Engineers.*

*(b) LIMITATION.—Nothing in this section may be construed to compel or authorize the disclosure of data or other information determined by the Secretary to be confidential information, privileged information, law enforcement information, national security information, infrastructure security information, personal information,*

or information the disclosure of which is otherwise prohibited by law.

(c) *TIMING.*—The Secretary shall ensure that data is made publicly available under subsection (a) as quickly as practicable after the data is generated by the Corps of Engineers.

(d) *PARTNERSHIPS.*—In carrying out this section, the Secretary may develop partnerships, including through cooperative agreements, with State, tribal, and local governments and other Federal agencies.

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

(a) *MITIGATION FOR FISH AND WILDLIFE LOSSES.*—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) in the first sentence of paragraph (1) by striking “to the Congress” and inserting “to Congress in any report, and shall not select a project alternative in any report,”;

(2) in the second sentence of paragraph (1) by inserting “, and other habitat types are mitigated to not less than in-kind conditions” after “mitigated in-kind”; and

(3) by adding at the end the following:

“(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 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) 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) 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 wa-

tershed, 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) 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).

“(4) DETERMINATION OF SUCCESS.—

“(A) IN GENERAL.—A mitigation plan under this subsection shall be considered to be successful at the time at which the criteria under paragraph (3)(B)(ii) are achieved under the plan, as determined by monitoring under paragraph (3)(B)(i).

“(B) CONSULTATION.—In determining whether a mitigation plan is successful under subparagraph (A), the Secretary shall consult annually with appropriate Federal agencies and each State in which the applicable project is located on at least the following:

“(i) The ecological success of the mitigation as of the date on which the report is submitted.

“(ii) The likelihood that the mitigation will achieve ecological success, as defined in the mitigation plan.

“(iii) The projected timeline for achieving that success.

“(iv) Any recommendations for improving the likelihood of success.

“(5) MONITORING.—Mitigation monitoring shall continue until it has been demonstrated that the mitigation has met the ecological success criteria.”

(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 participation 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)).

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

[(c) WETLANDS MITIGATION.—

[(1) IN GENERAL.—In carrying out a water resources project that involves wetlands mitigation and that has impacts that occur within the service area of a mitigation bank, the Secretary, where appropriate, shall first consider the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605) or other applicable Federal law (including regulations).

[(2) SERVICE AREA.—To the maximum extent practicable, the service area of the mitigation bank under paragraph (1) shall be in the same watershed as the affected habitat.

[(3) RESPONSIBILITY FOR MONITORING.—

[(A) IN GENERAL.—Purchase of credits from a mitigation bank for a water resources project relieves the Secretary and the non-Federal interest from responsibility for monitoring or demonstrating mitigation success.

[(B) APPLICABILITY.—The relief of responsibility under subparagraph (A) applies only in any case in which the Secretary determines that monitoring of mitigation success is being conducted by the Secretary or by the owner or operator of the mitigation bank.]

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**[SEC. 2040. ELECTRONIC SUBMISSION OF PERMIT APPLICATIONS.**

[(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement a program to allow electronic submission of permit applications for permits under the jurisdiction of the Secretary.

[(b) LIMITATIONS.—This section does not preclude the submission of a physical copy.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000.]

**SEC. 2040. ELECTRONIC SUBMISSION AND TRACKING OF PERMIT APPLICATIONS.**

*(a) DEVELOPMENT OF ELECTRONIC SYSTEM.—*

*(1) IN GENERAL.—The Secretary shall research, develop, and implement an electronic system to allow the electronic preparation and submission of applications for permits and requests for jurisdictional determinations under the jurisdiction of the Secretary.*

*(2) INCLUSION.—The electronic system required under paragraph (1) shall address—*

*(A) applications for standard individual permits;*

*(B) applications for letters of permission;*

*(C) joint applications with States for State and Federal permits;*

*(D) applications for emergency permits;*

*(E) applications or requests for jurisdictional determinations; and*

*(F) preconstruction notification submissions, when required for a nationwide or other general permit.*

*(3) IMPROVING EXISTING DATA SYSTEMS.—The Secretary shall seek to incorporate the electronic system required under paragraph (1) into existing systems and databases of the Corps of Engineers to the maximum extent practicable.*

*(4) PROTECTION OF INFORMATION.—The electronic system required under paragraph (1) shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is otherwise prohibited by law.*

*(b) SYSTEM REQUIREMENTS.—The electronic system required under subsection (a) shall—*

*(1) enable an applicant or requester to prepare electronically an application for a permit or request;*

*(2) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, the completed application form or request;*

*(3) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, data and other information in support of the permit application or request;*

*(4) provide an online interactive guide to provide assistance to an applicant or requester at any time while filling out the permit application or request; and*

*(5) enable an applicant or requester (or a designated agent) to track the status of a permit application or request in a manner that will—*

*(A) allow the applicant or requester to determine whether the application is pending or final and the disposition of the request;*

*(B) allow the applicant or requester to research previously submitted permit applications and requests within a given geographic area and the results of such applications or requests; and*

*(C) allow identification and display of the location of the activities subject to a permit or request through a map-based interface.*

(c) *DOCUMENTATION.*—All permit decisions and jurisdictional determinations made by the Secretary shall be in writing and include documentation supporting the basis for the decision or determination. The Secretary shall prescribe means for documenting all decisions or determinations to be made by the Secretary.

(d) *RECORD OF DETERMINATIONS.*—

(1) *IN GENERAL.*—The Secretary shall maintain, for a minimum of 5 years, a record of all permit decisions and jurisdictional determinations made by the Secretary, including documentation supporting the basis of the decisions and determinations.

(2) *ARCHIVING OF INFORMATION.*—The Secretary shall explore and implement an appropriate mechanism for archiving records of permit decisions and jurisdictional determinations, including documentation supporting the basis of the decisions and determinations, after the 5-year maintenance period described in paragraph (1).

(e) *AVAILABILITY OF DETERMINATIONS.*—

(1) *IN GENERAL.*—The Secretary shall make the records of all permit decisions and jurisdictional determinations made by the Secretary available to the public for review and reproduction.

(2) *PROTECTION OF INFORMATION.*—The Secretary shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is prohibited by law, which may be excluded from disclosure.

(f) *DEADLINE FOR ELECTRONIC SYSTEM IMPLEMENTATION.*—

(1) *IN GENERAL.*—The Secretary shall develop and implement, to the maximum extent practicable, the electronic system required under subsection (a) not later than 2 years after the date of enactment of the Water Resources Development Act of 2016.

(2) *REPORT ON ELECTRONIC SYSTEM IMPLEMENTATION.*—Not later than 180 days after the expiration of the deadline under paragraph (1), 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 describing the measures implemented and barriers faced in carrying out this section.

(g) *APPLICABILITY.*—The requirements described in subsections (c), (d), and (e) shall apply to permit applications and requests for jurisdictional determinations submitted to the Secretary after the date of enactment of the Water Resources Development Act of 2016.

(h) *LIMITATION.*—This section shall not preclude the submission to the Secretary, acting through the Chief of Engineers, of a physical copy of a permit application or a request for a jurisdictional determination.

#### **SEC. 2041. PROJECT ADMINISTRATION.**

(a) *PROJECT TRACKING.*—The Secretary shall assign a unique tracking number to each water resources project under the jurisdiction of the Secretary to be used by each Federal agency throughout the life of the project.

(b) *REPORT REPOSITORY.*—

(1) *IN GENERAL.*—The Secretary shall provide to the Library of Congress a copy of each final feasibility study, final environmental impact statement, final reevaluation report, final post-

*authorization change report*, record of decision, and report to Congress prepared by the Corps of Engineers.

(2) AVAILABILITY TO PUBLIC.—Each document described in paragraph (1) shall be made available to the public, and an electronic copy of each document shall be made permanently available to the public through the Internet.

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## TITLE IX—NATIONAL LEVEE SAFETY PROGRAM

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### SEC. 9002. DEFINITIONS.

In this title, the following definitions apply:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) CANAL STRUCTURE.—

(A) IN GENERAL.—The term “canal structure” means an embankment, wall, or structure along a canal or manmade watercourse that—

(i) constrains water flows;

(ii) is subject to frequent water loading; and

(iii) is an integral part of a flood risk reduction system that protects the leveed area from flood waters associated with hurricanes, precipitation events, seasonal high water, and other weather-related events.

(B) EXCLUSION.—The term “canal structure” does not include a barrier across a watercourse.

(3) COMMITTEE.—The term “committee” means the Committee on Levee Safety established by section 9003(a).

(4) FLOODPLAIN MANAGEMENT.—The term “floodplain management” means the operation of a community program of corrective and preventative measures for reducing flood damage.

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) INSPECTION.—The term “inspection” means an actual inspection of a levee—

(A) to establish the global information system location of the levee;

(B) to determine the general condition of the levee; and

(C) to estimate the number of structures and population at risk and protected by the levee that would be adversely impacted if the levee fails or water levels exceed the height of the levee.

(7) LEVEE.—

(A) IN GENERAL.—The term “levee” means a manmade barrier (such as an embankment, floodwall, or other structure)—

(i) the primary purpose of which is to provide hurricane, storm, or flood protection relating to seasonal high water, storm surges, precipitation, or other weather events; and

(ii) that is normally subject to water loading for only a few days or weeks during a calendar year.

(B) INCLUSIONS.—The term “levee” includes a levee system, including—

(i) levees and canal structures that—

(I) constrain water flows;

(II) are subject to more frequent water loading;

and

(III) do not constitute a barrier across a watercourse; and

(ii) roadway and railroad embankments, but only to the extent that the embankments are integral to the performance of a flood damage reduction system.

(C) EXCLUSIONS.—The term “levee” does not include—

(i) a roadway or railroad embankment that is not integral to the performance of a flood damage reduction system;

(ii) a canal constructed completely within natural ground without any manmade structure (such as an embankment or retaining wall to retain water or a case in which water is retained only by natural ground);

(iii) a canal regulated by a Federal or State agency in a manner that ensures that applicable Federal safety criteria are met;

(iv) a levee or canal structure—

(I) that is not a part of a Federal flood damage reduction system;

(II) that is not recognized under the National Flood Insurance Program as providing protection from the 1-percent-annual-chance or greater flood;

(III) that is not greater than 3 feet high;

(IV) the population in the leveed area of which is less than 50 individuals; and

(V) the leveed area of which is less than 1,000 acres; or

(v) any shoreline protection or river bank protection system (such as revetments or barrier islands).

(8) LEVEE FEATURE.—The term “levee feature” means a structure that is critical to the functioning of a levee, including—

(A) an embankment section;

(B) a floodwall section;

(C) a closure structure;

(D) a pumping station;

(E) an interior drainage work; and

(F) a flood damage reduction channel.

(9) LEVEE SYSTEM.—The term “levee system” means 1 or more levee segments, including all levee features that are interconnected and necessary to ensure protection of the associated leveed areas—

(A) that collectively provide flood damage reduction to a defined area; and

(B) the failure of 1 of which may result in the failure of the entire system.

(10) NATIONAL LEVEE DATABASE.—The term “national levee database” means the levee database established under section 9004.

(11) PARTICIPATING PROGRAM.—The term “participating program” means a levee safety program developed by a [State or Indian tribe] *State, regional district, or Indian tribe* that includes the minimum components necessary for recognition by the Secretary.

(12) REGIONAL DISTRICT.—*The term “regional district” means a subdivision of a State government, or a subdivision of multiple State governments, that is authorized to acquire, construct, operate, and maintain projects for the purpose of flood damage reduction.*

[(12)] (13) REHABILITATION.—The term “rehabilitation” means the repair, replacement, reconstruction, removal of a levee, or reconfiguration of a levee system, including a setback levee, that is carried out to reduce flood risk or meet national levee safety guidelines.

[(13)] (14) RISK.—The term “risk” means a measure of the probability and severity of undesirable consequences.

[(14)] (15) STATE.—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

[(15)] (16) STATE LEVEE SAFETY AGENCY.—The term “State levee safety agency” means the agency of a State that has regulatory authority over the safety of any non-Federal levee in the State.

[(16)] (17) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

\* \* \* \* \*

#### SEC. 9004. INVENTORY AND INSPECTION OF LEVEES.

(a) LEVEE DATABASE.—

(1) IN GENERAL.—Not later than [one year after the date of enactment of this Act] *1 year after the date of enactment of the Water Resources Development Act of 2016*, 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 updated levee information provided by [States, Indian tribes, Federal agencies, and other entities] *States, regional districts, Indian tribes, Federal agencies, and other entities*;

(B) utilizing such information as is available, the general condition of each levee; and

(C) an estimate of the number of structures and population at risk and protected by each levee that would be adversely impacted if the levee fails or water levels exceed the height of the levee.

(3) AVAILABILITY OF INFORMATION.—

(A) AVAILABILITY TO **[FEDERAL, STATE, AND LOCAL]** *FEDERAL, STATE, REGIONAL, TRIBAL, AND LOCAL* GOVERNMENTAL AGENCIES.—The Secretary shall make all of the information in the database available to appropriate **[Federal, State, and local]** *Federal, State, regional, tribal, and local* governmental agencies.

(B) AVAILABILITY TO THE PUBLIC.—The Secretary shall make the information in the database described in paragraph (2)(A), and such other information in the database as the Secretary determines appropriate, available to the public.

(b) INVENTORY AND INSPECTION OF LEVEES.—

(1) FEDERAL LEVEES.—The Secretary, at Federal expense, shall establish an inventory and conduct an inspection of all federally owned and operated levees.

(2) FEDERALLY CONSTRUCTED, NONFEDERALLY OPERATED AND MAINTAINED LEVEES.—The Secretary shall establish an inventory and conduct an inspection of all federally constructed, non-federally operated and maintained levees, at the original cost share for the project.

(3) PARTICIPATING LEVEES.—For non-Federal levees the owners of which are participating in the emergency response to natural disasters program established under section 5 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved August 18, 1941 (33 U.S.C. 701n), the Secretary shall establish an inventory and conduct an inspection of each such levee if the owner of the levee requests such inspection. The Federal share of the cost of an inspection under this paragraph shall be 65 percent.

(c) LEVEE REVIEW.—

(1) IN GENERAL.—The Secretary shall carry out a one-time inventory and review of all levees identified in the national levee database.

(2) NO FEDERAL INTEREST.—The inventory and inspection under paragraph (1) does not create a Federal interest in the construction, operation, or maintenance of any levee that is included in the inventory or inspected under this subsection.

(3) REVIEW CRITERIA.—In carrying out the inventory and review, the Secretary shall use the levee safety action classification criteria to determine whether a levee should be classified in the inventory as requiring a more comprehensive inspection.

(4) **[STATE AND TRIBAL]** *STATE, REGIONAL, AND TRIBAL* PARTICIPATION.—At the request of a **[State or Indian tribe]** *State, regional district, or Indian tribe* with respect to any levee subject to review under this subsection, the Secretary shall—

(A) allow an official of the **[State or Indian tribe]** *State, regional district, or Indian tribe* to participate in the review of the levee; and

(B) provide information to the **[State or Indian tribe]** *State, regional district, or Indian tribe* relating to the location, construction, operation, or maintenance of the levee.

(5) EXCEPTIONS.—In carrying out the inventory and review under this subsection, the Secretary shall not be required to review any levee that has been inspected by a **[State or Indian**

tribe] *State, regional district, or Indian tribe* using the same methodology described in paragraph (3) during the 1-year period immediately preceding the date of enactment of this subsection if the Governor of the State or [chief executive of the tribal government] *chief executive of the regional district or tribal government*, as applicable, requests an exemption from the review.

**SEC. 9005. LEVEE SAFETY INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall carry out a levee safety initiative.

(b) MANAGEMENT.—The Secretary shall appoint—

- (1) an administrator of the levee safety initiative; and
- (2) such staff as are necessary to implement the initiative.

(c) LEVEE SAFETY GUIDELINES.—

(1) ESTABLISHMENT.—Not later than [1 year after the date of enactment of this subsection] *1 year after the date of enactment of the Water Resources Development Act of 2016*, the Secretary, in consultation with the Administrator and in coordination with [State, local, and tribal governments and organizations] *State, regional, local, and tribal governments and organizations* with expertise in levee safety, shall establish a set of voluntary, comprehensive, national levee safety guidelines that—

(A) are available for common, uniform use by all [Federal, State, tribal, and local agencies] *Federal, State, regional, local, and tribal agencies*;

(B) incorporate policies, procedures, standards, and criteria for a range of levee types, canal structures, and related facilities and features; and

(C) provide for adaptation to local, regional, or watershed conditions.

(2) REQUIREMENT.—The policies, procedures, standards, and criteria under paragraph (1)(B) shall be developed taking into consideration the levee hazard potential classification system established under subsection (d).

(3) INCORPORATION.—The guidelines shall address, to the maximum extent practicable—

(A) the activities and practices carried out by [State, local, and tribal governments] *State, regional, local, and tribal governments*, and the private sector to safely build, regulate, operate, and maintain levees; and

(B) Federal activities that facilitate State, *regional, or tribal* efforts to develop and implement effective State, *regional, or tribal* programs for the safety of levees, including levee inspection, levee rehabilitation, locally developed floodplain management, and public education and training programs.

(4) CONSIDERATION BY FEDERAL AGENCIES.—To the maximum extent practicable, all Federal agencies shall consider the levee safety guidelines in carrying out activities relating to the management of levees.

(5) PUBLIC COMMENT.—Prior to finalizing the guidelines under this subsection, the Secretary shall—

(A) issue draft guidelines for public comment, including comment by [States, non-Federal interests, and other ap-

propriate stakeholders] *States, regional districts, Indian tribes, non-Federal interests, and other appropriate stakeholders*; and

(B) consider any comments received in the development of final guidelines.

(d) HAZARD POTENTIAL CLASSIFICATION SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish a hazard potential classification system for use under the levee safety initiative and participating programs.

(2) REVISION.—The Secretary shall review and, as necessary, revise the hazard potential classification system not less frequently than once every 5 years.

(3) CONSISTENCY.—The hazard potential classification system established pursuant to this subsection shall be consistent with and incorporated into the levee safety action classification tool developed by the Corps of Engineers.

(e) TECHNICAL ASSISTANCE AND MATERIALS.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall provide technical assistance and training to promote levee safety and assist [States, communities, and levee owners] *States, regional districts, Indian tribes, communities, and levee owners* in—

(A) developing levee safety programs;

(B) identifying and reducing flood risks associated with levees;

(C) identifying local actions that may be carried out to reduce flood risks in leveed areas; and

(D) rehabilitating, improving, replacing, reconfiguring, modifying, and removing levees and levee systems.

(2) ELIGIBILITY.—To be eligible to receive technical assistance under this subsection, a State shall—

(A) be in the process of establishing or have in effect a State levee safety program under which a State levee safety agency, in accordance with State law, carries out the guidelines established under subsection (c)(1); and

(B) allocate sufficient funds in the budget of that State to carry out that State levee safety program.

(3) WORK PLANS.—The Secretary shall enter into an agreement with each State receiving technical assistance under this subsection to develop a work plan necessary for the State levee safety program of that State to reach a level of program performance that meets the guidelines established under subsection (c)(1).

(f) PUBLIC EDUCATION AND AWARENESS.—

(1) IN GENERAL.—The Secretary, in coordination with the Administrator, shall carry out public education and awareness efforts relating to the levee safety initiative.

(2) CONTENTS.—In carrying out the efforts under paragraph (1), the Secretary and the Administrator shall—

(A) educate individuals living in leveed areas regarding the risks of living in those areas; and

(B) promote consistency in the transmission of information regarding levees among Federal agencies and regarding risk communication at the State and local levels.

(g) **[STATE AND TRIBAL] STATE, REGIONAL, AND TRIBAL** LEVEE SAFETY PROGRAM.—

(1) GUIDELINES.—

(A) **IN GENERAL.**—Not later than **[1 year after the date of enactment of this subsection] 1 year after the date of enactment of the Water Resources Development Act of 2016**, in consultation with the Administrator, the Secretary shall issue guidelines that establish the minimum components necessary for recognition of a **[State or tribal] State, regional, or tribal** levee safety program as a participating program.

(B) **GUIDELINE CONTENTS.**—The guidelines under subparagraph (A) shall include provisions and procedures requiring each participating **[State and Indian tribe] State, regional district, and Indian tribe** to certify to the Secretary that the **[State or Indian tribe] State, regional district, or Indian tribe**, as applicable—

(i) has the authority to participate in the levee safety initiative;

(ii) can receive funds under this title;

(iii) has adopted any levee safety guidelines developed under this title;

(iv) will carry out levee inspections;

(v) will carry out, consistent with applicable requirements, flood risk management and any emergency action planning procedures the Secretary determines to be necessary relating to levees;

(vi) will carry out public education and awareness activities consistent with the efforts carried out under subsection (f); and

(vii) will collect and share information regarding the location and condition of levees, including for inclusion in the national levee database.

(C) **PUBLIC COMMENT.**—Prior to finalizing the guidelines under this paragraph, the Secretary shall—

(i) issue draft guidelines for public comment; and

(ii) consider any comments received in the development of final guidelines.

(2) ASSISTANCE TO **[STATES] STATES, REGIONAL DISTRICTS, AND INDIAN TRIBES.**—

(A) **ESTABLISHMENT.**—The Administrator may provide assistance, subject to the availability of funding specified in appropriations Acts for Federal Emergency Management Agency activities pursuant to this title and subject to amounts available under subparagraph (E), to **[States and Indian tribes] States, regional districts, and Indian tribes** in establishing participating programs, conducting levee inventories, and improving levee safety programs in accordance with subparagraph (B).

(B) **REQUIREMENTS.**—To be eligible to receive assistance under this section, a **[State or Indian tribe] State, regional district, or Indian tribe** shall—

(i) meet the requirements of a participating program established by the guidelines issued under paragraph (1);

(ii) use not less than 25 percent of any amounts received to identify and assess non-Federal [levees within the State] *levees within the State or regional district* or on land of the Indian tribe;

(iii) submit to the Secretary and Administrator any information collected by the [State or Indian tribe] *State, regional district, or Indian tribe* in carrying out this subsection for inclusion in the national levee safety database; and

(iv) identify actions to address hazard mitigation activities associated with levees and leveed areas identified in the hazard mitigation plan of the State approved by the Administrator of the Federal Emergency Management Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(C) MEASURES TO ASSESS EFFECTIVENESS.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall implement quantifiable performance measures and metrics to assess the effectiveness of the assistance provided in accordance with subparagraph (A).

(ii) CONSIDERATIONS.—In assessing the effectiveness of assistance under clause (i), the Administrator shall consider the degree to which the [State or tribal] *State, regional, or tribal* program—

(I) ensures that human lives and property that are protected by new and existing levees are safe;

(II) encourages the use of appropriate engineering policies, procedures, and technical practices for levee site investigation, design, construction, operation and maintenance, inspection, assessment, and emergency preparedness;

(III) develops and supports public education and awareness projects to increase public acceptance and support of levee safety programs and provide information;

(IV) builds public awareness of the residual risks associated with living in levee protected areas; and

(V) develops technical assistance materials, seminars, and guidelines to improve the security of levees of the United States.

(D) MAINTENANCE OF EFFORT.—Technical assistance or grants may not be provided to a State under this subsection during a fiscal year unless the State enters into an agreement with the Administrator to ensure that the State will maintain during that fiscal year aggregate expenditures for programs to ensure levee safety that equal or exceed the average annual level of such expenditures for the State for the 2 fiscal years preceding that fiscal year.

(E) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this sub-

section \$25,000,000 for each of fiscal years 2015 through 2019.

(ii) ALLOCATION.—For each fiscal year, amounts made available under this subparagraph shall be allocated among the **States and Indian tribes** *States, regional districts, and Indian tribes* as follows:

(I)  $\frac{1}{3}$  among **States and Indian tribes** *States, regional districts, and Indian tribes* that qualify for assistance under this subsection.

(II)  $\frac{2}{3}$  among **States and Indian tribes** *States, regional districts, and Indian tribes* that qualify for assistance under this subsection, to each such **State or Indian tribe** *State, regional district, or Indian tribe* in the proportion that—

(aa) the **miles of levees in the State** *miles of levees in the State or regional district* or on the land of the Indian tribe that are listed on the inventory of levees; bears to

(bb) the **miles of levees in all States** *miles of levees in all States and regional districts* and on the land of all Indian tribes that are in the national levee database.

(iii) MAXIMUM AMOUNT OF ALLOCATION.—The amounts allocated to a **State or Indian tribe** *State, regional district, or Indian tribe* under this subparagraph shall not exceed 50 percent of the reasonable cost of implementing the **State or tribal** *State, regional, or tribal* levee safety program.

(F) PROHIBITION.—No amounts made available to the Administrator under this title shall be used for levee construction, rehabilitation, repair, operations, or maintenance.

(h) LEVEE REHABILITATION ASSISTANCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall provide assistance to **States, Indian tribes, and local governments** *States, regional districts, Indian tribes, and local governments* relating to addressing flood mitigation activities that result in an overall reduction in flood risk.

(2) REQUIREMENTS.—To be eligible to receive assistance under this subsection, a **State, Indian tribe, or local government** *State, regional district, Indian tribe, or local government* shall—

(A) participate in, and comply with, all applicable Federal floodplain management and flood insurance programs;

(B) have in place a hazard mitigation plan that—

(i) includes all levee risks; and

(ii) complies with the Disaster Mitigation Act of 2000 (Public Law 106–390; 114 Stat. 1552);

(C) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(D) commit to provide normal operation and maintenance of the project for the 50 year-period following completion of rehabilitation; and

- (E) comply with such minimum eligibility requirements as the Secretary, in consultation with the committee, may establish to ensure that each owner and operator of a levee under a participating **[State or tribal]** *State, regional, or tribal* levee safety program—
- (i) acts in accordance with the guidelines developed under subsection (c); and
  - (ii) carries out activities relating to the public in the leveed area in accordance with the hazard mitigation plan described in subparagraph (B).
- (3) FLOODPLAIN MANAGEMENT PLANS.—
- (A) IN GENERAL.—Not later than 1 year after the date of execution of a project agreement for assistance under this subsection, a **[State, Indian tribe, or local government]** *State, regional district, Indian tribe, or local government* shall prepare a floodplain management plan in accordance with the guidelines under subparagraph (D) to reduce the impacts of future flood events in each applicable leveed area.
- (B) INCLUSIONS.—A plan under subparagraph (A) shall address—
- (i) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in each applicable leveed area;
  - (ii) plans for flood fighting and evacuation; and
  - (iii) public education and awareness of flood risks.
- (C) IMPLEMENTATION.—Not later than 1 year after the date of completion of construction of the applicable project, a floodplain management plan prepared under subparagraph (A) shall be implemented.
- (D) GUIDELINES.—Not later than **[180 days after the date of enactment of this subsection]** *180 days after the date of enactment of the Water Resources Development Act of 2016*, the Secretary, in consultation with the Administrator, shall develop such guidelines for the preparation of floodplain management plans prepared under this paragraph as the Secretary determines to be appropriate.
- (E) TECHNICAL SUPPORT.—The Secretary may provide technical support for the development and implementation of floodplain management plans prepared under this paragraph.
- (4) USE OF FUNDS.—
- (A) IN GENERAL.—Assistance provided under this subsection may be used—
- (i) for any rehabilitation activity to maximize overall risk reduction associated with a levee under a participating **[State or tribal]** *State, regional, or tribal* levee safety program; and
  - (ii) only for a levee that is not federally operated and maintained.
- (B) PROHIBITION.—Assistance provided under this subsection shall not be used—
- (i) to perform routine operation or maintenance for a levee; or

(ii) to make any modification to a levee that does not result in an improvement to public safety.

(5) NO PROPRIETARY INTEREST.—A contract for assistance provided under this subsection shall not be considered to confer any proprietary interest on the United States.

(6) COST SHARE.—The maximum Federal share of the cost of any assistance provided under this subsection shall be 65 percent.

(7) PROJECT LIMIT.—The maximum amount of Federal assistance for a project under this subsection shall be \$10,000,000.

(8) LIMITATION.—A project shall not receive Federal assistance under this subsection more than 1 time.

(9) FEDERAL INTEREST.—For a project that is not a project eligible for rehabilitation assistance under section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), the Secretary shall determine that the proposed rehabilitation is in the Federal interest prior to providing assistance for such rehabilitation.

(10) OTHER LAWS.—Assistance provided under this subsection shall be subject to all applicable laws (including regulations) that apply to the construction of a civil works project of the Corps of Engineers.

(i) EFFECT OF SECTION.—Nothing in this section—

(1) affects the requirement under section 100226(b)(2) of Public Law 112–141 (42 U.S.C. 4101 note; 126 Stat. 942); or

(2) confers any regulatory authority on—

(A) the Secretary; or

(B) the Administrator, including for the purpose of setting premium rates under the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

#### SEC. 9006. REPORTS.

(a) STATE OF LEVEES.—

(1) IN GENERAL.—Not later than **1 year** after the date of enactment of this subsection *1 year after the date of enactment of the Water Resources Development Act of 2016*, and biennially thereafter, the Secretary in coordination with the committee, shall submit to Congress and make publicly available a report describing the state of levees in the United States and the effectiveness of the levee safety initiative, including—

(A) progress achieved in implementing the levee safety initiative;

(B) **State and tribal** *State, regional, and tribal* participation in the levee safety initiative;

(C) recommendations to improve coordination of levee safety, floodplain management, and environmental protection concerns, including—

(i) identifying and evaluating opportunities to coordinate public safety, floodplain management, and environmental protection activities relating to levees; and

(ii) evaluating opportunities to coordinate environmental permitting processes for operation and maintenance activities at existing levee projects in compliance with all applicable laws; and

(D) any recommendations for legislation and other congressional actions necessary to ensure national levee safety.

(2) INCLUSION.—Each report under paragraph (1) shall include a report of the committee that describes the independent recommendations of the committee for the implementation of the levee safety initiative.

(b) NATIONAL DAM AND LEVEE SAFETY PROGRAM.—Not later than 3 years after the date of enactment of this subsection, to the maximum extent practicable, the Secretary and the Administrator, in coordination with the committee, shall submit to Congress and make publicly available a report that includes recommendations regarding the advisability and feasibility of, and potential approaches for, establishing a joint national dam and levee safety program.

(c) ALIGNMENT OF FEDERAL PROGRAMS RELATING TO LEVEES.—Not later than [2 years after the date of enactment of this subsection] *2 years after the date of enactment of the Water Resources Development Act of 2016*, the Comptroller General of the United States shall submit to Congress a report on opportunities for alignment of Federal programs to provide incentives to [State, tribal, and local] *State, regional, tribal, and local* governments and individuals and entities—

(1) to promote shared responsibility for levee safety;

(2) to encourage the development of strong [State and tribal] *State, regional, and tribal* levee safety programs;

(3) to better align the levee safety initiative with other Federal flood risk management programs; and

(4) to promote increased levee safety through other Federal programs providing assistance to [State and local] *State, regional, tribal, and local* governments.

(d) LIABILITY FOR CERTAIN LEVEE ENGINEERING PROJECTS.—Not later than [1 year after the date of enactment of this subsection] *1 year after the date of enactment of the Water Resources Development Act of 2016*, the Secretary shall submit to Congress and make publicly available a report that includes recommendations that identify and address any legal liability associated with levee engineering projects that prevent—

(1) levee owners from obtaining needed levee engineering services; or

(2) development and implementation of a [State or tribal] *State, regional, or tribal* levee safety program.

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## SECTION 156 OF THE WATER RESOURCES DEVELOPMENT ACT OF 1976

### SEC. 156.

(a) IN GENERAL.—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 additional period extend beyond the fiftieth year

which begins after the date of initiation of construction of such project.

(b) REVIEW.—Notwithstanding subsection (a), the Secretary shall, at the request of the non-Federal interest, carry out a study to determine the feasibility of extending the period of nourishment described in subsection (a) for a period not to exceed 15 additional years beyond the maximum period described in subsection (a).

(c) PLAN FOR REDUCING RISK TO PEOPLE AND PROPERTY.—

(1) IN GENERAL.—As part of the review described in subsection (b), the non-Federal interest shall submit to the Secretary a plan for reducing risk to people and property during the life of the project.

(2) INCLUSION OF PLAN IN RECOMMENDATION TO CONGRESS.—The Secretary shall include the plan described in subsection (a) in the recommendations to Congress described in subsection (d).

(d) REPORT TO CONGRESS.—Upon completion of the review described in subsection (b), the Secretary shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations of the Secretary related to the review; and

(2) include in the subsequent annual report to Congress required under section 7001 of the Water Resources Reform and Development Act of 2014, any recommendations that require specific congressional authorization.

(e) SPECIAL RULE.—Notwithstanding any other provision of this section, for any existing authorized water resources development project for which the maximum period for nourishment described in subsection (a) will expire within the 5 year-period beginning on the date of enactment of the Water Resources Reform and Development Act of 2014, that project shall remain eligible for nourishment for an additional [3] 6 years after the expiration of such period.

## SECTION 5 OF THE ACT OF JUNE 22, 1936

AN ACT Authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes.

### FLOOD CONTROL ACT OF 1936

SEC. 5. That pursuant to the policy outlined in sections 1 and 3, the following works of improvement, for the benefit of navigation and the control of destructive flood waters and other purposes, are hereby adopted and authorized to be prosecuted, in order of their emergency as may be designated by the President, under the direction of the Secretary of War and supervision of the Chief of Engineers in accordance with the plans in the respective reports and records hereinafter designated: *Provided*, That penstocks or other similar facilities, adapted to possible future use in the development of adequate electric power may be installed in any dam herein authorized when approved by the Secretary of War upon the recommendation of the Chief of Engineers. *Provided further*, That the Secretary of War is authorized to receive from States and political subdivisions thereof and other non-Federal interests, such funds as

may be contributed by them for work, which includes planning and design, to be expended in connection with funds appropriated by the United States for any authorized water resources development study or project, including a project for navigation on the inland waterways, whenever such work and expenditure may be considered by the Secretary of War, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of War, on recommendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *Provided*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: *Provided further*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests, to formulate, review, or revise operational documents for any reservoir for which the Secretary is authorized to prescribe regulations for the use of storage allocated for flood risk management or navigation pursuant to section 7 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 709): *Provided further*, That when contributions made by States and political subdivisions thereof and other non-Federal interests, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of War, be returned to the proper representatives of the contributing interests: *Provided further*, That the term "States" means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Federally recognized Indian tribes: *Provided further*, That the term "non-Federal interest" has the meaning given that term in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b).

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#### **SECTION 301 OF THE WATER SUPPLY ACT OF 1958**

SEC. 301. (a) It is hereby declared to be the policy of the Congress to recognize the primary responsibilities of the States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes and that the Federal Government should participate and cooperate with States and local interests in developing such water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation, or multiple purpose projects.

(b) In carrying out the policy set forth in this section, it is provided that storage may be included in any reservoir project surveyed, planned, constructed or to be planned, surveyed and/or constructed by the Corps of Engineers or the Bureau of Reclamation

to impound water for present or anticipated future demand or need for municipal or industrial water, and the reasonable value thereof may be taken into account in estimating the economic value of the entire project: *Provided*, That the cost of any construction or modification authorized under the provisions of this section shall be determined on the basis that all authorized purposes served by the project shall share equitably in the benefits of multiple purpose construction, as determined by the Secretary of the Army or the Secretary of the Interior, as the case may be: *Provided further*, That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And provided further*, That (1) for Corps of Engineers projects, not to exceed 30 percent of the total estimated cost of any project may be allocated to anticipated future demands, and, (2) for Bureau of Reclamation projects, not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project: *And provided further*, That for Corps of Engineers projects, the Secretary of the Army may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of completion, with repayment contracts providing for recalculation of the interest rate at, five-year intervals, and for Bureau of Reclamation projects, the entire amount of the construction costs, including interest during construction, allocated to water supply shall be repaid within the life of the project but in no event to exceed fifty years after the project is first used for the storage of water for water supply purposes, except that (1) no payment need be made with respect to storage for future water supply until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. For Corps of Engineers projects, all annual operation, maintenance, and replacement costs for municipal and industrial water supply storage under the provisions of this section shall be reimbursed from State or local interests on an annual basis. For Corps of Engineers projects, any repayment by a State or local interest shall be made with interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or, when a recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs. For Bureau of Reclamation projects, the interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable pub-

lic obligations, which are neither due nor callable for redemption for fifteen years from date of issue. The provisions of this subsection insofar as they relate to the Bureau of Reclamation and the Secretary of the Interior shall be alternative to and not a substitute for the provisions of the Reclamation Projects Act of 1939 (53 Stat. 1187) relating to the same subject.

(c) RELEASE OF FUTURE WATER STORAGE.—

(1) ESTABLISHMENT OF 10-YEAR PLANS FOR THE UTILIZATION OF FUTURE STORAGE.—

(A) IN GENERAL.—For the period beginning 180 days after the date of enactment of this paragraph and ending on January 1, 2016, the Secretary may accept from a State or local interest a plan for the utilization of allocated water storage for future use under this Act.

(B) CONTENTS.—A plan submitted under subparagraph (A) shall include—

(i) a 10-year timetable for the conversion of future use storage to present use; and

(ii) a schedule of actions that the State or local interest agrees to carry out over a 10-year period, in cooperation with the Secretary, to seek new and alternative users of future water storage that is contracted to the State or local interest on the date of enactment of this paragraph.

(2) FUTURE WATER STORAGE.—For water resource development projects managed by the Secretary, a State or local interest that the Secretary determines has complied with paragraph (1) may request from the Secretary a release to the United States of any right of the State or local interest to future water storage under this Act that was allocated for future use water supply prior to November 17, 1986.

(3) ADMINISTRATION.—

(A) IN GENERAL.—Not later than 180 days after receiving a request under paragraph (2), the Secretary shall provide to the applicable State or local interest a written decision on whether the Secretary recommends releasing future water storage rights.

(B) RECOMMENDATION.—If the Secretary recommends releasing future water storage rights, the Secretary shall include that recommendation in the annual plan submitted under section 7001 of the Water Resources Reform and Development Act of 2014.

(4) SAVINGS CLAUSE.—Nothing in this subsection authorizes the Secretary to release a State or local interest from a contractual obligation unless specifically authorized by Congress.

(d) The provisions of this section shall not be construed to modify the provisions of section 1 and section 8 of the Flood Control Act of 1944 (58 Stat. 887), as amended and extended, or the provisions of section 8 of the Reclamation Act of 1902 (32 Stat. 390).

(e) Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include storage as provided in subsection (b), 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.

[(f) The Committees of jurisdiction are very concerned about the operation of projects in the Apalachicola-Chattahoochee-Flint River System and the Alabama-Coosa-Tallapoosa River System, and further, the Committees of jurisdiction recognize that this ongoing water resources dispute raises serious concerns related to the authority of the Secretary of the Army to allocate substantial storage at projects to provide local water supply pursuant to the Water Supply Act of 1958 absent congressional approval. Interstate water disputes of this nature are more properly addressed through interstate water agreements that take into consideration the concerns of all affected States including impacts to other authorized uses of the projects, water supply for communities and major cities in the region, water quality, freshwater flows to communities, rivers, lakes, estuaries, and bays located downstream of projects, agricultural uses, economic development, and other appropriate concerns. To that end, the Committees of jurisdiction strongly urge the Governors of the affected States to reach agreement on an interstate water compact as soon as possible, and we pledge our commitment to work with the affected States to ensure prompt consideration and approval of any such agreement. Absent such action, the Committees of jurisdiction should consider appropriate legislation to address these matters including any necessary clarifications to the Water Supply Act of 1958 or other law. This subsection does not alter existing rights or obligations under law.]

### ACT OF AUGUST 18, 1941

AN ACT Authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes.

SEC. 5. (a)(1) That 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 and subject to the condition that the Chief of Engineers may include modifications to the structure or project, or in implementation of nonstructural alternatives to the repair or restoration of such flood control work [if requested] *after consultation with the non-Federal sponsor and if requested and agreed to* 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 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 or implement nonstructural alternatives to the repair or restoration of the structure [if requested] *after consultation with the non-Federal sponsor and if requested and agreed to* by the non-Federal sponsor. 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, 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 appropriation 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.

(2) In preparing a cost and benefit feasibility assessment for any emergency project described in paragraph (1), the Chief of Engineers shall consider the benefits to be gained by such project for the protection of—

- (A) residential establishments;
- (B) commercial establishments, including the protection of inventory; and
- (C) agricultural establishments, including the protection of crops.

(b)(1) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that (A) as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water, (B) an adequate supply of water can be made available to such farmer, rancher, or political subdivision through the construction of a well, and (C) as a result of the drought such well could not be constructed by a private business, the Secretary, subject to paragraph (3) of

this subsection, may enter into an agreement with such farmer, rancher, or political subdivision for the construction of such well.

(2) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water and water cannot be obtained by such farmer, rancher, or political subdivision, the Secretary may transport water to such farmer, rancher, or political subdivision by methods which include, but are not limited to, small-diameter emergency water lines and tank trucks, until such time as the Secretary determines that an adequate supply of water is available to such farmer, rancher, or political subdivision.

(3)(A) Any agreement entered into by the Secretary pursuant to paragraph (1) of this subsection shall require the farmer, rancher, or political subdivision for whom the well is constructed to pay to the United States the reasonable cost of such construction, with interest, over such number of years, not to exceed thirty, as the Secretary deems appropriate. The rate of interest shall be that rate which the Secretary determines would apply if the amount to be repaid was a loan made pursuant to section 7(b)(2) of the Small Business Act.

(B) The Secretary shall not construct any well pursuant to this subsection unless the farmer, rancher, or political subdivision for whom the well is being constructed has obtained, prior to construction, all necessary State and local permits.

(4) The Federal share for the transportation of water pursuant to paragraph (2) of this subsection shall be 100 per centum.

(5) For purposes of this subsection—

(A) the term “construction” includes construction, reconstruction, or repair;

(B) the term “distressed area” means an area which the Secretary determines due to drought conditions has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property;

(C) the term “political subdivision” means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over the water supply of such public body;

(D) the term “reasonable cost” means the lesser of (i) the cost to the Secretary of constructing a well pursuant to this subsection exclusive of the cost of transporting equipment used in the construction of wells, or (ii) the cost to a private business of constructing such well;

(E) the term “Secretary” means the Secretary of the Army, acting through the Chief of Engineers; and

(F) the term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) LEVEE OWNERS MANUAL.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subsection, in accordance with chapter 5 of

title 5, United States Code, the Secretary of the Army shall prepare a manual describing the maintenance and upkeep responsibilities that the Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$1,000,000 to carry out this subsection.

(3) DEFINITIONS.—In this subsection, the following definitions apply:

(A) MAINTENANCE AND UPKEEP.—The term “maintenance and upkeep” means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

(B) REPAIR AND REHABILITATION.—The term “repair and rehabilitation”—

(i) means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; but

(ii) does not include—

(I) any improvement to the structure; or

(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.

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**ESTUARY RESTORATION ACT OF 2000**

\* \* \* \* \*

**TITLE I—ESTUARY RESTORATION**

\* \* \* \* \*

**SEC. 104. ESTUARY HABITAT RESTORATION PROGRAM.**

(a) ESTABLISHMENT.—There is established an estuary habitat restoration program under which the Secretary may carry out estuary habitat restoration projects and provide technical assistance through the award of contracts and cooperative agreements in accordance with the requirements of this title.

(b) ORIGIN OF PROJECTS.—A proposed estuary habitat restoration project shall originate from a non-Federal interest consistent with State or local laws.

(c) SELECTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary shall select estuary habitat restoration projects from a list of project proposals submitted by the Estuary Habitat Restoration Council under section 105(b).

(2) REQUIRED ELEMENTS.—Each estuary habitat restoration project selected by the Secretary must—

(A) address restoration needs identified in an estuary habitat restoration plan;

(B) be consistent with the estuary habitat restoration strategy developed under section 106;

(C) include a monitoring plan that is consistent with standards for monitoring developed under section 107 to ensure that short-term and long-term restoration goals are achieved; and

(D) include satisfactory assurance from the non-Federal interests proposing the project that the non-Federal interests will have adequate personnel, funding, and authority to carry out items of local cooperation and properly maintain the project.

(3) FACTORS FOR SELECTION OF PROJECTS.—In selecting an estuary habitat restoration project, the Secretary shall consider the following factors:

(A) Whether the project is part of an approved Federal or State estuary management or habitat restoration plan.

(B) The technical feasibility of the project.

(C) The scientific merit of the project.

(D) Whether the project will encourage increased coordination and cooperation among Federal, State, and local government agencies.

(E) Whether the project fosters public-private partnerships and uses Federal resources to encourage increased private sector involvement, including consideration of the amount of private funds or in-kind contributions for an estuary habitat restoration activity.

(F) Whether the project is cost-effective.

(G) Whether the State in which the non-Federal interest is proposing the project has a dedicated source of funding to acquire or restore estuary habitat, natural areas, and open spaces for the benefit of estuary habitat restoration or protection.

(H) Other factors that the Secretary determines to be reasonable and necessary for consideration.

(4) PRIORITY.—In selecting estuary habitat restoration projects to be carried out under this title, the Secretary shall give priority consideration to a project if, in addition to meriting selection based on the factors under paragraph (3)—

(A) the project occurs within a watershed in which there is a program being carried out that addresses sources of pollution and other activities that otherwise would re-impair the restored habitat; or

(B) the project includes pilot testing of or a demonstration of an innovative technology or approach having the potential for improved cost-effectiveness in estuary habitat restoration.

(d) COST SHARING.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in paragraph (2) and subsection (e)(2), the Federal share of the cost of an estuary habitat restoration project (other than the cost of

operation and maintenance of the project) carried out under this title shall not exceed 65 percent of such cost.

(B) MONITORING.—

(i) COSTS.—The costs of monitoring an estuary habitat restoration project funded under this title may be included in the total cost of the estuary habitat restoration project.

(ii) GOALS.—The goals of the monitoring shall be—

(I) to measure the effectiveness of the restoration project; and

(II) to allow adaptive management to ensure project success.

(2) INNOVATIVE TECHNOLOGY COSTS.—The Federal share of the incremental additional cost of including in a project pilot testing of or a demonstration of an innovative technology or approach described in subsection (c)(4)(B) shall be 85 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of an estuary habitat restoration project carried out under this title shall include lands, easements, rights-of-way, and relocations and may include services (including monitoring), or any other form of in-kind contribution determined by the Secretary to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the activity.

(4) OPERATION AND MAINTENANCE.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(e) INTERIM ACTIONS.—

(1) IN GENERAL.—Pending completion of the estuary habitat restoration strategy to be developed under section 106, the Secretary may take interim actions to carry out an estuary habitat restoration activity.

(2) FEDERAL SHARE.—The Federal share of the cost of an estuary habitat restoration activity before the completion of the estuary habitat restoration strategy shall not exceed 25 percent of such cost.

(f) COOPERATION OF NON-FEDERAL INTERESTS.—

(1) IN GENERAL.—The Secretary may not carry out an estuary habitat restoration project until a non-Federal interest has entered into a written agreement with the Secretary in which the non-Federal interest agrees to—

(A) provide all lands, easements, rights-of-way, and relocations and any other elements the Secretary determines appropriate under subsection (d)(3); and

(B) provide for long-term maintenance and monitoring of the project.

(2) NONGOVERNMENTAL ORGANIZATIONS.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project to be undertaken under this title, the Secretary, in consultation and coordination with appropriate State and local governmental agencies and Indian tribes, may allow a nongovernmental organization to serve as the non-Federal interest for the project.

(3) PROJECT AGREEMENTS.—*For a project carried out under this title, the requirements of section 103(j)(1) of the Water Re-*

*sources Development Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).*

(g) DELEGATION OF PROJECT IMPLEMENTATION.—

(1) IN GENERAL.—In carrying out this title, the Secretary may delegate project implementation to another Federal department or agency on a reimbursable basis if the Secretary, upon the recommendation of the Council, determines such delegation is appropriate.

(2) SMALL PROJECTS.—

(A) SMALL PROJECT DEFINED.—In this paragraph, the term “small project” means a project carried out under this title with an estimated Federal cost of less than \$1,000,000.

(B) DELEGATION OF PROJECT IMPLEMENTATION.—In carrying out this section, the Secretary, on recommendation of the Council, may delegate implementation of a small project to—

- (i) the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service);
- (ii) the Under Secretary for Oceans and Atmosphere of the Department of Commerce;
- (iii) the Administrator of the Environmental Protection Agency; or
- (iv) the Secretary of Agriculture.

(C) FUNDING.—A small project delegated to the head of a Federal department or agency under this paragraph may be carried out using funds appropriated to the department or agency under section 109(a)(1) or other funds available to the department or agency.

(D) AGREEMENTS.—The head of a Federal department or agency to which a small project is delegated under this paragraph shall enter into an agreement with the non-Federal interest for the project generally in conformance with the criteria in subsections (d) and (e). Cooperative agreements may be used for any delegated project to allow the non-Federal interest to carry out the project on behalf of the Federal agency.

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**SEC. 109. FUNDING.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTUARY HABITAT RESTORATION PROJECTS.—There is authorized to be appropriated for carrying out and providing technical assistance for estuary habitat restoration projects—

(A) to the Secretary, \$25,000,000 for each of fiscal years 2008 through **[2012]** 2021;

(B) to the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), \$2,500,000 for each of fiscal years 2008 through **[2012]** 2021;

(C) to the Under Secretary for Oceans and Atmosphere of the Department of Commerce, \$2,500,000 for each of fiscal years 2008 through **[2012]** 2021;

(D) to the Administrator of the Environmental Protection Agency, \$2,500,000 for each of fiscal years 2008 through ~~2012~~ 2021; and

(E) to the Secretary of Agriculture, \$2,500,000 for each of fiscal years 2008 through ~~2012~~ 2021.

Such sums shall remain available until expended.

(2) MONITORING.—There is authorized to be appropriated to the Under Secretary for Oceans and Atmosphere of the Department of Commerce for the acquisition, maintenance, and management of monitoring data on restoration projects carried out under this title and other information compiled under section 107, \$1,500,000 for each of fiscal years 2001 through ~~2012~~ 2021. Such sums shall remain available until expended.

(b) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF THE COUNCIL.—Not to exceed 3 percent of the amounts appropriated for a fiscal year under subsection (a)(1) or \$1,500,000, whichever is greater, may be used by the Secretary for administration and operation of the Council.

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**WATER RESOURCES DEVELOPMENT ACT OF 1974**

\* \* \* \* \*

**SEC. 22. (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 non-Federal interest~~, *group of States, or non-Federal interest* working with a State *or group of States* 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 *or group of States*, 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 technical assistance to such agency or non-Federal interest in managing water resources.

(B) TYPES OF ASSISTANCE.—Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.

(b) FEES.—

(1) ESTABLISHMENT AND COLLECTION.—For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to 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).

(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 interest for assistance under this section.

(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.

(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 \$30,000,000 annually to carry out subsection (a)(1), except that not more than \$5,000,000 in Federal funds shall be expended in any one year in any one State. *The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).*

(2) TECHNICAL ASSISTANCE.—There is authorized to be appropriated \$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.

(d) ANNUAL SUBMISSION OF PROPOSED ACTIVITIES.—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 describing the individual activities proposed for funding under subsection (a)(1) for that fiscal year.

(e) For the purposes of this section, the term “State” means theseveral States of the United States, Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

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## FLOOD CONTROL ACT OF 1970

### SEC. 221. WRITTEN AGREEMENT REQUIREMENT FOR WATER RESOURCES PROJECTS.

(a) COOPERATION OF NON-FEDERAL INTEREST.—

(1) IN GENERAL.—After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under any provision of law, shall not be commenced until each non-Federal interest has entered into a written partnership agreement with the Secretary (or, where appropriate, the district engineer for

the district in which the project will be carried out) under which each party agrees to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than \$25,000.

(2) LIQUIDATED DAMAGES.—A partnership agreement described in paragraph (1) may include a provision for liquidated damages in the event of a failure of one or more parties to perform.

(3) OBLIGATION OF FUTURE APPROPRIATIONS.—In any partnership agreement described in paragraph (1) and entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.

(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—

(i) the costs of planning (including data collection), design, management, mitigation, construction, and construction services that are provided by the non-Federal interest for implementation of the project;

(ii) the value of materials or services provided before execution of the partnership agreement, including efforts on constructed elements incorporated into the project; and

(iii) the value of materials and services provided after execution of the partnership agreement.

(B) CONDITION.—The Secretary may credit an in-kind contribution under subparagraph (A) only if the Secretary determines that the material or service provided as an in-kind contribution is integral to the project.

(C) WORK PERFORMED BEFORE PARTNERSHIP AGREEMENT.—

(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 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 shall do so 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 subparagraph (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 and shall do so 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 requirement that a non-Federal interest pay a portion of the costs of construction of the project under 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

(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 of the Water Resources Development Act of 1986 (33 U.S.C. 2211; 33 U.S.C. 2213); and

(iv) shall not exceed the actual and reasonable costs of the materials, services, or other things provided by the non-Federal interest, as determined by the Secretary.

(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.—

(i) IN GENERAL.—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, subject to the availability of funds, shall enter into a reimbursement agreement with the non-Federal interest, which shall be in addition to a partnership agreement under subparagraph (A), to reimburse the difference to the non-Federal interest.

(ii) PRIORITY.—If appropriated funds are insufficient to cover the full cost of all requested reimbursement agreements under clause (i), the Secretary shall enter into reimbursement agreements in the order in which requests for such agreements are received.

(H) APPLICABILITY.—

(i) IN GENERAL.—This paragraph shall apply to water resources projects authorized after November 16, 1986, including projects initiated 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) AUTHORIZATION AS ADDITION TO OTHER AUTHORIZATIONS.—The authority of the Secretary to provide credit for in-kind contributions pursuant to this paragraph shall be in addition to any other authorization to provide credit for in-kind contributions and shall not be construed as a limitation on such other authorization. The Secretary shall apply the provisions of this paragraph, in lieu of provisions under other crediting authority, only if so requested by the non-Federal interest.

(b) DEFINITION OF NON-FEDERAL INTEREST.—The term “non-Federal interest” means—

(1) a legally constituted public body (including a federally recognized Indian tribe *and, as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), a Native village, Regional Corporation, and Village Corporation*); or

(2) a nonprofit entity with the consent of the affected local government,

that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

(c) Every agreement entered into pursuant to this section shall be enforceable in the appropriate district court of the United States.

(d) After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) DELEGATION OF AUTHORITY.—Not later than June 30, 2008, the Secretary shall issue policies and guidelines for partnership agreements that delegate to the district engineers, at a minimum—

(1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;

(2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources project;

(3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and

(4) the authority to sign any partnership agreement for any water resources project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.

(f) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, and every year thereafter, the Secretary shall submit to Congress a report detailing the following:

(1) The number of partnership agreements signed by district engineers and the number of partnership agreements signed by the Secretary.

(2) For any partnership agreement signed by the Secretary, an explanation of why delegation to the district engineer was not appropriate.

(g) PUBLIC AVAILABILITY.—Not later than 120 days after the date of enactment of this subsection, the Chief of Engineers shall—

(1) ensure that each district engineer has made available to the public, including on the Internet, all partnership agreements entered into under this section within the preceding 10 years and all partnership agreements for water resources projects currently being carried out in that district; and

(2) make each partnership agreement entered into after such date of enactment available to the public, including on the Internet, not later than 7 days after the date on which such agreement is entered into.

(h) This section shall not apply to any project the construction of which was commenced before January 1, 1972.

#### ACT OF DECEMBER 22, 1944

AN ACT Authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, In connection with*

the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.

In conformity with this policy:

(a) Plans, proposals, or reports of the Chief of Engineers, Department of the Army, for any works of improvement for navigation or flood control not heretofore or herein authorized, shall be submitted to the Congress only upon compliance with the provisions of this paragraph (a). Investigations which form the basis of any such plans, proposals, or reports shall be conducted in such a manner as to give to the affected State or States, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and, to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. If such investigations in whole or part are concerned with the use or control of waters arising west of the ninety-seventh meridian, the Chief of Engineers shall give to the Secretary of the Interior, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. The relations of the Chief of Engineers with any State under this paragraph (a) shall be with the Governor of the State or such official or agency of the State as the Governor may designate. The term "affected State or States" shall include those in which the works or any part thereof are proposed to be located; those which in whole or part are both within the drainage basin involved and situated in a State lying wholly or in part west of the ninety-eighth meridian; and such of those which are east of the ninety-eighth meridian as, in the judgment of the Chief of Engineers, will be substantially affected. Such plans, proposals, or reports and related investigations shall be made to the end, among other things, of facilitating the coordination of plans for the construction and operation of the proposed works with other plans involving the waters which would be used or controlled by such proposed works. Each report submitting any such plans or proposals to the Congress shall set out therein, among other things, the relationship between the plans for construction and operation of the proposed works and the plans, if any, submitted by the affected States and by the Secretary of the Interior. The Chief of Engineers shall transmit a copy of his proposed report to each affected State, and, in case the plans or proposals covered by the report are concerned with the use or control of waters which rise in whole or in part west of the ninety-seventh meridian, to the Sec-

retary of the Interior. Within 30 days from the date of receipt of said proposed report, the written views and recommendations of each affected State and of the Secretary of the Interior may be submitted to the Chief of Engineers. The Secretary of the Army shall transmit to the Congress, with such comments and recommendations as he deems appropriate, the proposed report together with the submitted views and recommendations of affected States and of the Secretary of the Interior. The Secretary of the Army may prepare and make said transmittal any time following said 30-day period. The letter of transmittal and its attachments shall be printed as a House or Senate document *and shall be made publicly available*.

(b) The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

(c) The Secretary of the Interior, in making investigations of and reports on works for irrigation and purposes incidental thereto shall, in relation to an affected State or States (as defined in paragraph (a) of this section), and to the Secretary of the Army, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of the Army. In the event a submission of views and recommendations, made by an affected State or by the Secretary of the Army pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and section 9 (a) of the Reclamation Project Act of 1939 (53 Stat. 1187) and subsection 3 (a) of the Act of August 11, 1939 (53 Stat. 1418), as amended, are hereby amended accordingly.

\* \* \* \* \*

**WATER RESOURCES DEVELOPMENT ACT OF 1992**

\* \* \* \* \*

**TITLE II—GENERALLY APPLICABLE PROVISIONS**

\* \* \* \* \*

**SEC. 213. USE OF DOMESTIC PRODUCTS.**

(a) COMPLIANCE WITH BUY AMERICAN ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that procurements with funds appropriated to carry out this Act are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c), popularly known as the “Buy American Act”.

(2) LIMITATION ON APPLICABILITY.—This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of the enactment of this Act.

(3) REPORTS.—The Secretary shall report to Congress on procurements covered under this subsection of products that are not domestic products.

(4) ANNUAL REPORT ON PURCHASE OF FOREIGN MANUFACTURED ARTICLES.—

(A) IN GENERAL.—*Not later than 90 days after the last day of each fiscal year, the Secretary shall submit to Congress a report on the amount of acquisitions in such fiscal year made by the Corps of Engineers for civil works projects from entities that manufactured the articles, materials, or supplies outside of the United States.*

(B) CONTENTS.—*The report required under subparagraph*

(A) shall indicate, for each acquisition—

(i) *the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States; and*

(ii) *a summary of the total procurement funds spent on goods manufactured in the United States and the total procurement funds spent on goods manufactured outside of the United States.*

(C) PUBLIC AVAILABILITY.—*Not later than 30 days after the submission of a report under subparagraph (A), the Secretary shall make such report publicly available on the agency’s Web site.*

(b) DEFINITIONS.—For the purposes of this section, the term “domestic product” means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

\* \* \* \* \*

**TITLE IV—INFRASTRUCTURE TECHNOLOGY, RESEARCH AND DEVELOPMENT**

**SEC. 401. INTERNATIONAL OUTREACH PROGRAM.**

[(a) IN GENERAL.—The Secretary is authorized to engage in activities to inform the United States maritime industry and port authorities of technological innovations abroad that could significantly improve waterborne transportation in the United States, both inland and deep draft. Such activities may include—

[(1) development, monitoring, assessment, and dissemination of information about foreign water transportation and port facilities that could significantly improve water transportation in the United States;

[(2) research, development, training, and other forms of technology transfer and exchange; and

[(3) offering technical services which cannot be readily obtained in the private sector to be incorporated in the proposals of port authorities or other water transportation developers if the costs for assistance will be recovered under the terms of each project.]

(a) AUTHORIZATION.—

(1) IN GENERAL.—*The Secretary may engage in activities to inform the United States of technological innovations abroad that could significantly improve water resources development in the United States.*

(2) INCLUSIONS.—*Activities under paragraph (1) may include—*

*(A) development, monitoring, assessment, and dissemination of information about foreign water resources projects that could significantly improve water resources development in the United States;*

*(B) research, development, training, and other forms of technology transfer and exchange; and*

*(C) offering technical services that cannot be readily obtained in the private sector to be incorporated into water resources projects if the costs for assistance will be recovered under the terms of each project.*

(b) COOPERATION.—The Secretary may carry out the provisions of this section in cooperation with Federal departments and agencies, State and local agencies, authorities, institutions, corporations (profit or nonprofit), foreign governments, or other organizations.

(c) FUNDING.—The funds to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating entity or organization according to cost-sharing agreements proscribed by the Secretary. Reimbursement for services provided under this section shall be credited to the appropriation concerned.

\* \* \* \* \*

**WATER RESOURCES DEVELOPMENT ACT OF 1988**

\* \* \* \* \*

**SEC. 38. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER.**

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

(1) LIBERTY LANDING.—[Omitted]

(2) MARINA TOWERS AND WORLD TRADE CENTER-PIER 25 NORTH.—[Omitted]

(3) MARINE TRADE CENTER-PIER 24 NORTH.—[Omitted]

(4) NATIONAL SUGAR COMPANY “SUGAR HOUSE”.—[Omitted]

(5) RIVERCENTER.—[Omitted]

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENT.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulk headed and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) [(except 30 years from such date of enactment, in the case of the area or any part thereof described in subsection (a)(5))] is not bulk headed or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire. *Notwithstanding the preceding sentence, the declaration of nonnavigability for the area described in subsection (a)(5), or any part thereof, shall not expire.*

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

September 22, 2016

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The Honorable Bill Shuster  
 Chairman  
 Committee on Transportation and Infrastructure  
 2251 Rayburn House Office Building  
 Washington, DC 20515

Dear Mr. Chairman:

I write regarding H.R. 5303, the Water Resources Development Act of 2016. This bill contains provisions under the jurisdiction of the Committee on Natural Resources.

I recognize and appreciate your desire to bring this bill before the House of Representatives in an expeditious manner, and accordingly, I will agree that the Committee on Natural Resources be discharged from further consideration of the bill. I do so with the understanding that this action does not affect the jurisdiction of the Committee on Natural Resources, and that the Committee expressly reserves its authority to seek conferees on any provision within its jurisdiction during any House-Senate conference that may be convened on this, or any similar legislation. I ask that you support any such request.

I also ask that a copy of this letter and your response be included in the Congressional Record during consideration of H.R. 5303 bill on the House floor.

Thank you for your work on this important issue, and I look forward to its enactment soon.

Sincerely,



Rob Bishop  
 Chairman  
 Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker  
 The Honorable Kevin McCarthy, Majority Leader  
 The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources  
 The Honorable Thomas J. Wickham, Jr., Parliamentarian



Committee on Transportation and Infrastructure  
U.S. House of Representatives

Bill Shuster  
Chairman

Washington, DC 20515

Peter A. DeFazio  
Ranking Member

September 22, 2016

Christopher F. Bertram, Staff Director

Katherine W. Dedrick, Democratic Staff Director

The Honorable Rob Bishop  
Chairman, Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Bishop:

Thank you for your letter regarding H.R. 5303, the *Water Resources Development Act of 2016*. I appreciate your willingness to support expediting the consideration of this legislation on the House floor.

I acknowledge that by waiving consideration of this bill, the Committee on Natural Resources does not waive any future jurisdictional claim to provisions in this or similar legislation. In addition, should a conference on the bill be necessary, I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving any provision within this legislation on which the Committee on Natural Resources has a valid jurisdictional claim.

I will include our letters on H.R. 5303 in the bill report filed by the Committee on Transportation and Infrastructure, as well as in the *Congressional Record* during House floor consideration of the bill. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on Natural Resources as the bill moves through the legislative process.

Sincerely,

Bill Shuster  
Chairman

cc: The Honorable John A. Boehner  
The Honorable Peter A. DeFazio  
The Honorable Raul M. Grijalva  
Mr. Thomas J. Wickham, Jr., Parliamentarian

