

# Water Resources Reform and Development Act of 2013

## Section-by-Section

### Title I—PROGRAM REFORMS AND STREAMLINING

#### **Section 101. Vertical Integration and Acceleration of Studies.**

This section limits Corps of Engineers feasibility studies to 3 years and \$3 million in federal costs per feasibility study. It also requires District, Division, and Headquarters personnel to concurrently conduct reviews of a feasibility study. For any feasibility study not complete after 3 years, upon notification of the non-federal project sponsor and Congress, the Secretary of the Army may take up to one additional year to complete the feasibility study. If the feasibility study is still not complete, authorization for the feasibility study is terminated.

#### **Section 102. Expediting the Evaluation and Processing of Permits.**

This section provides permanent authority for the Corps of Engineers to accept funds from non-federal public interests to expedite the processing of permits within the regulatory program of the Corps of Engineers. Additionally, this section allows public utility companies to participate in the program.

#### **Section 103. Environmental Streamlining.**

This section accelerates Corps of Engineers studies and reviews by requiring that the Secretary of the Army hold the lead role in facilitating the environmental review process, creates opportunities for non-federal sponsors to assume greater responsibilities in protecting public health, safety, and the environment, and authorizes deadlines for all agencies providing materials and comments for studies and reviews.

#### **Section 104. Consolidation of Studies.**

This section repeals requirements that the Corps of Engineers conduct a reconnaissance study prior to initiating a feasibility study. It creates an accelerated process which allows non-federal project sponsors and the Corps of Engineers to proceed directly to the feasibility study.

#### **Section 105. Removal of Duplicative Analyses.**

This section repeals a requirement that the Corps of Engineers re-evaluate cost-estimates immediately after initial cost-estimates have been completed.

**Section 106. Expediting Approval of Modifications and Alterations of Project by Non-Federal Interests.**

This section requires the Secretary of the Army to develop a 45-day benchmark for reviewing and processing applications from non-federal entities to modify or improve eligible federal water resources projects.

**Section 107. Construction of Projects by Non-Federal Interests.**

This section authorizes non-federal project sponsors to provide funds to the Corps of Engineers to carry out studies and authorizes non-federal project sponsors to carry out authorized federal water resources development projects.

**Section 108. Contributions by Non-Federal Interests.**

This section clarifies the non-federal interests that may contribute funds toward construction of authorized water resources projects. Additionally, this section clarifies that inland navigation facilities and the repair of water resources facilities after an emergency declaration are eligible for contributed funds from non-federal interests.

**Section 109. Contributions by Non-Federal Interests for Management of Corps of Engineers Inland Navigation Facilities.**

This section authorizes the Secretary of the Army to accept non-federal contributions from non-federal entities to operate and maintain the nation's inland waterways transportation system.

**Section 110. Clarification of Impacts to Other Federal Facilities.**

This section clarifies that when a Corps of Engineer project adversely impacts other federal facilities, the Secretary of the Army may accept funds from other federal agencies to address the impacts, including removal, relocation, and reconstruction of such facilities.

**Section 111. Clarification of Previously Authorized Work.**

This section clarifies that the Corps of Engineers may carry out measures to improve fish species habitat within the boundaries and downstream of a Corps project that includes a fish hatchery if the Corps is explicitly authorized to compensate for fish losses associated with the project.

**Section 112. Tribal Partnership Program.**

This section authorizes the Corps of Engineers to carry out water-related planning activities and construct water resources development projects that are located primarily within Indian country.

**Section 113. Technical Corrections.**

This section corrects two provisions in WRDA 2007 that have not been properly executed due to unintended interpretations. In previous Water Resources Development Acts, credit was authorized for individual projects. However, many of these provisions had been written differently over time, though the intent was the same. In an effort to harmonize those activities for which credit could be authorized, Congress requested technical assistance from the Corps of Engineers in drafting a credit provision that could be applied to all Corps projects. While the language provided by the Corps was part of WRDA 2007, the Corps then came back to Congress saying that specific section of law could not be executed. This provision ensures non-federal project sponsors receive credit for contributions to carrying out federal water resources development projects that are in excess of non-federal cost-sharing requirements. This section also provides for in-kind credit for work done by the non-Federal sponsor prior to execution of a project cooperation agreement with the Corps of Engineers for work done prior to the enactment of this Act.

**Section 114. Water Infrastructure Public-Private Partnership Pilot Program.**

This section authorizes the Secretary of the Army to enter into agreements with non-federal interests, including private entities, to finance construction of at least 15 authorized water resources development projects.

**Section 115. Annual Report to Congress.**

This section requires the Secretary of the Army to annually publish a notice in the Federal Register requesting proposals, from non-federal interests, for project authorizations, studies, and modifications to existing Corps of Engineers projects. Further, it requires the Secretary submit to Congress and make publicly available an annual report of those activities that are related to the missions of the Corps of Engineers 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.

**Section 116. Actions To Be Taken In Conjunction with the President's Annual Budget Submission To Congress.**

This section requires the Corps of Engineers, as part of the President's annual budget process, to identify and recommend to Congress water resources projects that should receive the fully authorized amount of funding in each of the current and succeeding four fiscal years, assuming an annual construction budget of \$2 billion. This section also requires the Corps of Engineers, as part of the President's annual budget process, to report to Congress on the prioritization of federal actions to be carried out during the next fiscal year to mitigate for fish and wildlife losses as a result of Corps of Engineers projects in the Missouri River Basin.

**Section 117. Hurricane and Storm Damage Reduction Study.**

This section requires the Secretary of the Army to make specific project recommendations to Congress as a result of the study funded in the Disaster Relief Appropriations Act of 2013.

**Section 118. Non-Federal Plans to Provide Additional Flood Risk Reduction.**

This section authorizes the Secretary of the Army to carry out a locally preferred plan at non-federal expense if that project increment provides a higher level of flood protection and is economically justified, technically achievable, and environmentally acceptable.

**Section 119. Review of Emergency Response Authorities.**

This section authorizes the Secretary of the Army to evaluate alternative levels of restoration for federal flood damage reduction projects that are damaged after storm events.

**Section 120. Emergency Communication of Risk.**

This section authorizes the Secretary to establish procedures for notifying the public and affected governments and Indian tribes of flood risk when precipitation and runoff in a river basin presents a risk to life and property.

**Section 121. Improvements to the National Dam Safety Program Act.**

This section authorizes technical and clarifying changes to FEMA's Dam Safety Program.

**Section 122. Restricted Areas at Corps of Engineers Dams.**

This section would prohibit the Secretary of the Army from installing permanent barriers or restricting public access in the vicinity of the 10 dams on the Cumberland River in Kentucky and Tennessee.

**Section 123. Levee Safety.**

This section amends the Planning Assistance to States program to include State levee safety programs as an eligible activity and authorizes the Corps of Engineers to provide technical assistance to States that voluntarily participate in levee safety activities.

**Section 124. Vegetation on Levees.**

This section requires the Secretary of the Army to re-issue regulations regarding vegetation on levees that incorporate regional characteristics, habitat for species of concern, and levee performance.

**Section 125. Reduction of Federal Costs.**

This section authorizes the Corps of Engineers to place dredged material in nearby shoreline systems to protect coastal infrastructure and reduce emergency repair costs.

**Section 126. Advanced Modeling Technologies.**

This section encourages the Corps of Engineers to utilize industry best modeling practices to expedite project delivery or improve the evaluation of water resources development projects.

**Section 127. Enhanced Use of Electronic Commerce in Federal Procurement.**

This section requires the Secretary of the Army submit a report to Congress detailing activities carried out by the Corps of Engineers in order to comply with procurement laws related to electronic bidding.

**Section 128. Corrosion Prevention.**

This section encourages the Corps of Engineers to incorporate corrosion prevention activities to extend the lifecycle of federal water resources projects.

**Section 129. Resilient Construction and Innovative Technology.**

This section encourages the Corps of Engineers to use durable, resilient, and sustainable materials in carrying out activities related to water resources development projects.

**Section 130. Assessment of Water Supply in Arid Regions.**

This section requires the Secretary of the Army to issue a report on practices, priorities, and authorized purposes at Corps of Engineers reservoirs in arid regions of the United States and their effect on water supply during times of drought.

**Section 131. River Basin Commissions.**

This section requires that, for every year the President does not request funding for Corps of Engineers activities related to participating in River Basin Commissions, the Secretary of the Army must submit to Congress a justification on the lack of funding and an analysis of the associated impacts.

**Section 132. Sense of Congress Regarding Water Resources Development Bills.**

This section re-affirms that Water Resources Development Acts should be considered by Congress every two years.

## TITLE II—NAVIGATION IMPROVEMENTS

### Subtitle A — Ports

#### **Section 201. Expanded Use of Harbor Maintenance Trust Fund.**

This section sets target expenditures from the Harbor Maintenance Trust Fund increasing each year so that by Fiscal Year 2020, and every year thereafter, no less than 80 percent of the funds collected go to operation and maintenance activities. In those years where the target expenditures from the Harbor Maintenance Trust Fund are met, the Secretary of the Army may use up to 5 percent of the expenditures on specific expanded uses, to consist of the dredging of berths and the dredging and disposal of contaminated sediments affecting a federal navigation project.

#### **Section 202. Assessment and Prioritization of Operation and Maintenance.**

This section requires the Secretary of the Army review the operation and maintenance needs of different types of harbors, and to identify the unmet needs in the President's annual budget submission to Congress. To the maximum extent practicable, the Secretary shall make future operation and maintenance expenditures based on an equitable allocation among all harbor types regardless of size and tonnage, based on the review and assessment made by the Secretary. For Fiscal Years 2015 and 2016, the Secretary of the Army shall allocate 10 percent of the annual Harbor Maintenance Trust Fund expenditures on harbors that have throughput of less than 1 million tons.

#### **Section 203. Preserving United States Harbors.**

This section authorizes non-federal interests to enter into agreements with the Secretary of the Army to provide the Corps of Engineers with an economic justification in order to receive priority federal operation and maintenance funding for authorized projects.

#### **Section 204. Consolidation of Deep Draft Navigation Expertise.**

This section requires the Secretary of the Army to consolidate coastal navigation expertise into one location.

#### **Section 205. Reopening of Dredged Material Disposal Site.**

This section provides the ability for the Secretary of the Army, in concurrence with the Administrator of the Environmental Protection Agency, to reopen the Cape Arundel Disposal site in Maine under a set of specific limitations and timeline.

## Subtitle B—Inland Waterways

### **Section 211. Definitions.**

This section defines the terms used in this subtitle.

### **Section 212. Project Delivery Process Reforms.**

This section requires the Secretary of the Army, for all capital improvement projects on the inland waterways navigation system, to utilize certified project managers, utilize risk-based cost estimates, evaluate early contractor involvement acquisition procedures, review the use of fully funded contracts or continuing contracts, identify best management practices to speed project delivery, and, develop a portfolio of standard design for inland navigation locks. This section also augments the duties of the Inland Waterways Users Board and requires the Secretary, in coordination with the Board, to submit to Congress a 20-year investment strategy for the nation's inland and intracoastal waterways.

### **Section 213. Efficiency of Revenue Collection.**

This section requires the Comptroller General of the United States to prepare an evaluation of current method of collection of the fuel taxes for the Inland Waterways Trust Fund and to review alternative methods of collection.

### **Section 214. Inland Waterways Revenue Studies.**

This section requires the Secretary of the Army, in coordination with the Secretary of the Treasury, to carry out a study on the feasibility of authorizing the issuance of federally tax-exempt bonds secured against available proceeds in the Inland Waterways Trust Fund. This section also requires the Secretary of the Army to evaluate alternative revenue options, including those recommended by the Inland Waterways Users Board, for financing inland waterways projects.

### **Section 215. Inland Waterways Stakeholder Roundtable.**

This section requires the Secretary of the Army to conduct a meeting of Inland Waterway stakeholders to review and evaluate alternatives to address the financial needs of the system.

**Section 216. Preserving the Inland Waterway Trust Fund.**

This section authorizes a change in cost-share for the inland navigation project in the vicinity of Olmsted, Illinois to provide that for each fiscal year after the date of enactment 25 percent of the cost of construction for the Olmsted Project shall be paid from the Inland Waterways Trust Fund, provides a sense of Congress that expenditures for the Olmsted project should be not less than \$150 million annually until completion, and requires that for any inland navigation project that costs more than \$500 million, the Secretary shall submit to Congress an annual financial plan for the project.

**Section 217. Public Comment on Lock Operations.**

This section requires the Secretary of the Army to provide a 90 day notice and public comment period before carrying out any modification to the operation of a navigation lock on the inland system.

**Section 218. Assessment of Operation and Maintenance Needs of the Atlantic Intracoastal Waterway.**

This section requires the Secretary of the Army to conduct an assessment of the operation and maintenance needs of the Atlantic Intracoastal Waterway System.

**Section 219. Upper Mississippi River Protection.**

This section directs the Secretary of the Army to assess the implications of changing the operations of a navigation lock on the Upper Mississippi River System.

**Section 220. Corps of Engineers Lock and Dam Energy Development.**

This section encourages the development of hydropower generation capacity by non-federal interests at an existing Corps of Engineers Lock and Dam facility. Any development of hydropower generation capacity developed under this section would be financed entirely by the non-federal interests.



## TITLE III – DEAUTHORIZATIONS AND BACKLOG PREVENTION

### Section 301. Deauthorization of Inactive Projects.

This section establishes a process that will lead to the deauthorization of old inactive projects valued at a minimum of \$12,000,000,000. It requires the Secretary of the Army submit a list of inactive projects to the Congress that were authorized prior to the Water Resources Development Act of 2007, have not begun construction, or if they have begun construction, have not received any funds, federal or non-federal, in the past 5 years. The Secretary shall identify projects from the oldest authorization to the newest until the total Federal cost of the projects on the list totals \$12,000,000,000. After a 180 day period of congressional review, the projects on the list are deauthorized.

### Section 302. Inventory and Expedited Disposition of Excess Properties.

This section requires the Secretary of the Army to complete an assessment of property under the control of the Corps of Engineers within one year and to identify property that is excess to project needs. The Secretary is further directed to notify the Administrator of General Services of all excess property.

### Section 303. Backlog Prevention.

This section terminates the authorization for any project or separable element of a project authorized for construction by this Act after 7 years unless construction has been initiated. At the end of the 7-year period, the Secretary must submit to the Committee on Transportation and Infrastructure of the House and the Committee on Environment and Public Works of the Senate a report that identifies the projects deauthorized by this section. After the expiration of a 12-year period, the Secretary shall submit a report to the committees 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 304. Deauthorizations.

This section deauthorizes components of 15 Army Corps of Engineers projects that had previously been authorized for navigation, flood control, shoreline protection, or public works projects.

**Section 305. Land Conveyances.**

This section accomplishes the conveyance of land for two projects, both of which transfer lands that will be used either for inland waterways navigation or other public uses. Both of these land conveyances are done at no cost to the government.

**TITLE IV – WATER RESOURCES INFRASTRUCTURE**

**Section 401. Authorization of Final Feasibility Studies**

This section authorizes 23 water resources projects that have completed the technical review by the Corps of Engineers 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, hurricane and storm damage risk reduction, flood risk management, environmental restoration.

**Section 402. Project Modifications.**

This section modifies three previously authorized water resources projects. These project modifications were requested by the Administration when the President submitted his FY 2014 Budget request to Congress. Subject to section 902 of the Water Resources Development Act of 1986, project cost increases must be authorized by Congress. This provision authorizes new cost levels for the projects Miami Harbor, Miami-Dade County, Florida; Olmsted Lock and Dam on the Lower Ohio River, Illinois and Kentucky; and Little Calumet River Basin, Cady Marsh Ditch, Indiana. For the Miami Harbor and Little Calumet River Basin projects, the authorization level provided in this section is sufficient to complete the projects. For the Olmsted project, the provision provides sufficient funding authority for approximately 5 years of work. The Administration would need to request and justify any additional funding authority.

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