

113TH CONGRESS
1ST SESSION

S. _____

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Water Resources Development Act of 2013”.

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

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

TITLE I—WATER RESOURCE PROJECTS

- Sec. 1001. Purposes.
- Sec. 1002. Project authorizations.
- Sec. 1003. Project review.

TITLE II—WATER RESOURCES POLICY REFORMS

- Sec. 2001. Purposes.
- Sec. 2002. Safety assurance review.
- Sec. 2003. Continuing authority programs.
- Sec. 2004. Continuing authority program prioritization.
- Sec. 2005. Fish and wildlife mitigation.
- Sec. 2006. Mitigation status report.
- Sec. 2007. Independent peer review.
- Sec. 2008. Operation and maintenance of navigation and hydroelectric facilities.
- Sec. 2009. Hydropower at Corps of Engineers facilities.
- Sec. 2010. Clarification of work-in-kind credit authority.
- Sec. 2011. Transfer of excess work-in-kind credit.
- Sec. 2012. Credit for in-kind contributions.
- Sec. 2013. Credit in lieu of reimbursement.
- Sec. 2014. Dam optimization.
- Sec. 2015. Water supply.
- Sec. 2016. Report on water storage pricing formulas.
- Sec. 2017. Clarification of previously authorized work.
- Sec. 2018. Consideration of Federal land in feasibility studies.
- Sec. 2019. Planning assistance to States.
- Sec. 2020. Vegetation management policy.
- Sec. 2021. Levee certifications.
- Sec. 2022. Restoration of flood and hurricane storm damage reduction projects.
- Sec. 2023. Operation and maintenance of certain projects.
- Sec. 2024. Dredging study.
- Sec. 2025. Non-Federal project implementation pilot program.
- Sec. 2026. Non-Federal implementation of feasibility studies.
- Sec. 2027. Tribal partnership program.
- Sec. 2028. Cooperative agreements with Columbia River Basin Indian tribes.
- Sec. 2029. Military munitions response actions at civil works shoreline protection projects.
- Sec. 2030. Beach nourishment.
- Sec. 2031. Regional sediment management.
- Sec. 2032. Study acceleration.
- Sec. 2033. Project acceleration.
- Sec. 2034. Feasibility studies.
- Sec. 2035. Accounting and administrative expenses.
- Sec. 2036. Determination of project completion.
- Sec. 2037. Project partnership agreements.
- Sec. 2038. Interagency and international support authority.
- Sec. 2039. Acceptance of contributed funds to increase lock operations.
- Sec. 2040. Emergency response to natural disasters.
- Sec. 2041. Systemwide improvement frameworks.
- Sec. 2042. Funding to process permits.
- Sec. 2043. National riverbank stabilization and erosion prevention study and pilot program.

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- Sec. 2044. Hurricane and storm damage risk reduction prioritization.
- Sec. 2045. Prioritization of ecosystem restoration efforts.
- Sec. 2046. Special use permits.
- Sec. 2047. Operations and maintenance on fuel taxed inland waterways.
- Sec. 2048. Corrosion prevention.
- Sec. 2049. Project deauthorizations.
- Sec. 2050. Reports to Congress.

TITLE III—PROJECT MODIFICATIONS

- Sec. 3001. Purpose.
- Sec. 3002. Chatfield Reservoir, Colorado.
- Sec. 3003. Missouri River Recovery Implementation Committee expenses reimbursement.
- Sec. 3004. Hurricane and storm damage reduction study.
- Sec. 3005. Lower Yellowstone Project, Montana.
- Sec. 3006. Project deauthorizations.
- Sec. 3007. Raritan River Basin, Green Brook Sub-basin, New Jersey.
- Sec. 3008. Red River Basin, Oklahoma, Texas, Arkansas, Louisiana.

TITLE IV—WATER RESOURCE STUDIES

- Sec. 4001. Purpose.
- Sec. 4002. Initiation of new water resources studies.
- Sec. 4003. Applicability.

TITLE V—REGIONAL AND NONPROJECT PROVISIONS

- Sec. 5001. Purpose.
- Sec. 5002. Northeast Coastal Region ecosystem restoration.
- Sec. 5003. Chesapeake Bay Environmental Restoration and Protection Program.
- Sec. 5004. Rio Grande environmental management program, Colorado, New Mexico, Texas.
- Sec. 5005. Lower Columbia River and Tillamook Bay ecosystem restoration, Oregon and Washington.
- Sec. 5006. Arkansas River, Arkansas and Oklahoma.
- Sec. 5007. Aquatic invasive species prevention and management; Columbia River Basin.
- Sec. 5008. Upper Missouri Basin flood and drought monitoring.
- Sec. 5009. Northern Rockies headwaters extreme weather mitigation.

TITLE VI—LEVEE SAFETY

- Sec. 6001. Short title.
- Sec. 6002. Findings; purposes.
- Sec. 6003. Definitions.
- Sec. 6004. National levee safety program.
- Sec. 6005. National levee safety advisory board.
- Sec. 6006. Inventory and inspection of levees.
- Sec. 6007. Reports.
- Sec. 6008. Effect of title.
- Sec. 6009. Authorization of appropriations.

TITLE VII—INLAND WATERWAYS

- Sec. 7001. Purposes.

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- Sec. 7002. Definitions.
- Sec. 7003. Project delivery process reforms.
- Sec. 7004. Major rehabilitation standards.
- Sec. 7005. Inland waterways system revenues.
- Sec. 7006. Efficiency of revenue collection.

TITLE VIII—HARBOR MAINTENANCE

- Sec. 8001. Short title.
- Sec. 8002. Purposes.
- Sec. 8003. Funding for harbor maintenance programs.
- Sec. 8004. Harbor Maintenance Trust Fund prioritization.
- Sec. 8005. Civil works program of the Corps of Engineers.

TITLE IX—DAM SAFETY

- Sec. 9001. Short title.
- Sec. 9002. Purpose.
- Sec. 9003. Administrator.
- Sec. 9004. Inspection of dams.
- Sec. 9005. National Dam Safety Program.
- Sec. 9006. Public awareness and outreach for dam safety.
- Sec. 9007. Authorization of appropriations.

TITLE X—INNOVATIVE FINANCING PILOT PROJECTS

- Sec. 10001. Short title.
- Sec. 10002. Purposes.
- Sec. 10003. Definitions.
- Sec. 10004. Authority to provide assistance.
- Sec. 10005. Applications.
- Sec. 10006. Eligible entities.
- Sec. 10007. Projects eligible for assistance.
- Sec. 10008. Activities eligible for assistance.
- Sec. 10009. Determination of eligibility and project selection.
- Sec. 10010. Secured loans.
- Sec. 10011. Program administration.
- Sec. 10012. State and local permits.
- Sec. 10013. Regulations.
- Sec. 10014. Funding.
- Sec. 10015. Report to Congress.

TITLE XI—EXTREME WEATHER

- Sec. 11001. Improving management of flood and drought.
- Sec. 11002. GAO study on management of flood and drought.
- Sec. 11003. Post-disaster watershed assessments.

1 SEC. 2. DEFINITION OF SECRETARY.

- 2 In this Act, the term “Secretary” means the Sec-
3 retary of the Army.

1 **SEC. 1002. PROJECT AUTHORIZATIONS.**

2 The Secretary is authorized to carry out projects for
3 water resources development, conservation, and other pur-
4 poses, subject to the conditions that—

5 (1) each project is carried out—

6 (A) substantially in accordance with the
7 plan for the project; and

8 (B) subject to any conditions described in
9 the report for the project; and

10 (2) a Report of the Chief of Engineers has been
11 completed and a referral by the Assistant Secretary
12 of the Army for Civil Works has been made to Con-
13 gress as of the date of enactment of this Act for the
14 project.

15 **SEC. 1003. PROJECT REVIEW.**

16 (a) IN GENERAL.—For a project that is authorized
17 by Federal law as of the date of enactment of this Act,
18 the Secretary may modify the authorized project cost set
19 under section 902 of the Water Resources Development
20 Act of 1986 (33 U.S.C. 2280)—

21 (1) by submitting the required certification and
22 additional information to Congress in accordance
23 with subsection (b); and

24 (2) after receiving an appropriation of funds in
25 accordance with subsection (c).

26 (b) REQUIREMENTS FOR SUBMISSION.—

1 (1) CERTIFICATION.—The certification to Con-
2 gress under subsection (a) shall include a certifi-
3 cation by the Secretary that—

4 (A) expenditures above the authorized cost
5 of the project are necessary to protect life and
6 safety, maintain critical navigation routes, or
7 restore ecosystems;

8 (B) the project continues to provide bene-
9 fits identified in the report of the Chief of Engi-
10 neers for the project; and

11 (C) for projects under construction—

12 (i) a temporary stop or delay resulting
13 from a failure to increase the authorized
14 cost of the project will increase costs to the
15 Federal Government; and

16 (ii) the amount requested for the
17 project in the budget of the President or
18 included in a work plan for the expenditure
19 of funds for the fiscal year during which
20 the certification is submitted will exceed
21 the authorized cost of the project.

22 (2) ADDITIONAL INFORMATION.—The informa-
23 tion provided to Congress about the project under
24 subsection (a) shall include, at a minimum—

1 (A) a comprehensive review of the project
2 costs and reasons for exceeding the authorized
3 limits set under section 902 of the Water Re-
4 sources Development Act of 1986 (33 U.S.C.
5 2280);

6 (B) an expedited analysis of the updated
7 benefits and costs of the project; and

8 (C) the new funding level needed to com-
9 plete the project.

10 (3) APPROVAL OF CONGRESS.—The Secretary
11 may not change the authorized project costs under
12 subsection (a) unless—

13 (A) a certification and required informa-
14 tion is submitted to Congress under subsection
15 (b); and

16 (B) after such submission, amounts are
17 appropriated to initiate or continue construction
18 of the project in an appropriations or other Act.

19 (c) TERMINATION OF EFFECTIVENESS.—The author-
20 ity of the Secretary under this section terminates on the
21 date that is 3 years after the date of enactment of this
22 Act.

1 **TITLE II—WATER RESOURCES**
2 **POLICY REFORMS**

3 **SEC. 2001. PURPOSES.**

4 The purposes of this title are—

5 (1) to reform the implementation of water re-
6 sources projects by the Corps of Engineers;

7 (2) to make other technical changes to the
8 water resources policy of the Corps of Engineers;
9 and

10 (3) to implement reforms, including—

11 (A) enhancing the ability of local sponsors
12 to partner with the Corps of Engineers by en-
13 suring the eligibility of the local sponsors to re-
14 ceive and apply credit for work carried out by
15 the sponsors and increasing the role of sponsors
16 in carrying out Corps of Engineers projects;

17 (B) ensuring continuing authority pro-
18 grams can continue to meet important needs;

19 (C) encouraging the continuation of efforts
20 to modernize feasibility studies and establish
21 targets for expedited completion of feasibility
22 studies;

23 (D) seeking efficiencies in the management
24 of dams and related infrastructure to reduce
25 environmental impacts while maximizing other

1 benefits and project purposes, such as flood
2 control, navigation, water supply, and hydro-
3 power;

4 (E) clarifying mitigation requirements for
5 Corps of Engineers projects and ensuring trans-
6 parency in the independent external review of
7 those projects; and

8 (F) establishing an efficient and trans-
9 parent process for deauthorizing projects that
10 have failed to receive a minimum level of invest-
11 ment to ensure active projects can move for-
12 ward while reducing the backlog of authorized
13 projects.

14 **SEC. 2002. SAFETY ASSURANCE REVIEW.**

15 Section 2035 of the Water Resources Development
16 Act of 2007 (33 U.S.C. 2344) is amended by adding at
17 the end the following:

18 “(g) NONAPPLICABILITY OF FACCA.—The Federal
19 Advisory Committee Act (5 U.S.C. App.) shall not apply
20 to a safety assurance review conducted under this sec-
21 tion.”.

22 **SEC. 2003. CONTINUING AUTHORITY PROGRAMS.**

23 (a) SMALL RIVER AND HARBOR IMPROVEMENT
24 PROJECTS.—Section 107 of the River and Harbor Act of
25 1960 (33 U.S.C. 577) is amended—

1 (1) in subsection (a), by striking
2 “\$35,000,000” and inserting “\$50,000,000”; and
3 (2) in subsection (b), by striking “\$7,000,000”
4 and inserting “\$10,000,000”.

5 (b) SHORE DAMAGE PREVENTION OR MITIGATION.—
6 Section 111(c) of the River and Harbor Act of 1968 (33
7 U.S.C. 426i(c)) is amended by striking “\$5,000,000” and
8 inserting “\$10,000,000”.

9 (c) REGIONAL SEDIMENT MANAGEMENT.—

10 (1) IN GENERAL.—Section 204 of the Water
11 Resources Development Act of 1992 (33 U.S.C.
12 2326) is amended—

13 (A) in subsection (c)(1)(C), by striking
14 “\$5,000,000” and inserting “\$10,000,000”;
15 and

16 (B) in subsection (g), by striking
17 “\$30,000,000” and inserting “\$50,000,000”.

18 (2) APPLICABILITY.—Section 2037 of the
19 Water Resources Development Act of 2007 (121
20 Stat. 1094) is amended by added at the end the fol-
21 lowing:

22 “(c) APPLICABILITY.—The amendment made by sub-
23 section (a) shall not apply to any project authorized under
24 this Act if a report of the Chief of Engineers for the

1 project was completed prior to the date of enactment of
2 this Act.”.

3 (d) SMALL FLOOD CONTROL PROJECTS.—Section
4 205 of the Flood Control Act of 1948 (33 U.S.C. 701s)
5 is amended in the third sentence by striking “\$7,000,000”
6 and inserting “\$10,000,000”.

7 (e) PROJECT MODIFICATIONS FOR IMPROVEMENT OF
8 ENVIRONMENT.—Section 1135(d) of the Water Resources
9 Development Act of 1986 (33 U.S.C. 2309a(d)) is amend-
10 ed—

11 (1) in the second sentence, by striking “Not
12 more than 80 percent of the non-Federal may be”
13 and inserting “The non-Federal share may be pro-
14 vided”; and

15 (2) in the third sentence, by striking
16 “\$5,000,000” and inserting “\$10,000,000”.

17 (f) AQUATIC ECOSYSTEM RESTORATION.—Section
18 206(d) of the Water Resources Development Act of 1996
19 (33 U.S.C. 2330(d)) is amended by striking “\$5,000,000”
20 and inserting “\$10,000,000”.

21 (g) FLOODPLAIN MANAGEMENT SERVICES.—Section
22 206(d) of the Flood Control Act of 1960 (33 U.S.C. 709a)
23 is amended by striking “\$15,000,000” and inserting
24 “\$50,000,000”.

1 **SEC. 2004. CONTINUING AUTHORITY PROGRAM**
2 **PRIORITIZATION.**

3 (a) DEFINITION OF CONTINUING AUTHORITY PRO-
4 GRAM PROJECT.—In this section, the term “continuing
5 authority program” means 1 of the following authorities:

6 (1) Section 205 of the Flood Control Act of
7 1948 (33 U.S.C. 701s).

8 (2) Section 111 of the River and Harbor Act of
9 1968 (33 U.S.C. 426i).

10 (3) Section 206 of the Water Resources Devel-
11 opment Act of 1996 (33 U.S.C. 2330).

12 (4) Section 1135 of the Water Resources Devel-
13 opment Act of 1986 (33 U.S.C. 2309a).

14 (5) Section 107 of the River and Harbor Act of
15 1960 (33 U.S.C. 577).

16 (6) Section 3 of the Act of August 13, 1946
17 (33 U.S.C. 426g).

18 (b) PRIORITIZATION.—Not later than 1 year after the
19 date of enactment of this Act, the Secretary shall publish
20 in the Federal Register and on a publicly available website,
21 the criteria the Secretary uses for prioritizing annual
22 funding for continuing authority program projects.

23 (c) ANNUAL REPORT.—Not later than 1 year after
24 the date of enactment of this Act and each year thereafter,
25 the Secretary shall publish in the Federal Register and
26 on a publicly available website, a report on the status of

1 each continuing authority program, which, at a minimum,
2 shall include—

3 (1) the name and a short description of each
4 active continuing authority program project;

5 (2) the cost estimate to complete each active
6 project; and

7 (3) the funding available in that fiscal year for
8 each continuing authority program.

9 (d) CONGRESSIONAL NOTIFICATION.—On publication
10 in the Federal Register under subsections (b) and (c), the
11 Secretary shall submit to the Committee on Environment
12 and Public Works of the Senate and the Committee on
13 Transportation and Infrastructure of the House of Rep-
14 resentatives a copy of all information published under
15 those subsections.

16 **SEC. 2005. FISH AND WILDLIFE MITIGATION.**

17 (a) IN GENERAL.—Section 906 of the Water Re-
18 sources Development Act of 1986 (33 U.S.C. 2283) is
19 amended—

20 (1) in subsection (d)—

21 (A) in paragraph (1)—

22 (i) in the first sentence—

23 (I) by inserting “for damages to
24 ecological resources, including terres-

1 trial and aquatic resources, and” after
2 “mitigate”;

3 (II) by inserting “ecological re-
4 sources and” after “impact on”; and

5 (III) by inserting “without the
6 implementation of mitigation meas-
7 ures” before the period; and

8 (ii) by inserting before the last sen-
9 tence the following: “If the Secretary de-
10 termines that mitigation to in-kind condi-
11 tions is not possible, the Secretary shall
12 identify in the report the basis for that de-
13 termination.”; and

14 (B) in paragraph (3)—

15 (i) in subparagraph (A), by inserting
16 “, at a minimum,” after “complies with”;
17 and

18 (ii) in subparagraph (B)—

19 (I) by striking clause (iii);

20 (II) by redesignating clauses (iv)
21 and (v) as clauses (v) and (vi), respec-
22 tively; and

23 (III) by inserting after clause (ii)
24 the following:

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

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

6 “(II) the basis for a determina-
7 tion that the land and interests are
8 available for acquisition; and

9 “(III) a determination that the
10 proposed interest sought does not ex-
11 ceed the minimum interest in land
12 necessary to meet the mitigation re-
13 quirements for the project;

14 “(iv) for projects where mitigation will
15 be carried out through a third party miti-
16 gation arrangement in accordance with
17 subsection (i)—

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

21 “(II) the basis for a determina-
22 tion that the mitigation instrument
23 can meet the mitigation requirements
24 for the project;” and

25 (2) by adding at the end the following:

1 “(h) PROGRAMMATIC MITIGATION PLANS.—

2 “(1) IN GENERAL.—The Secretary may develop
3 1 or more programmatic mitigation plans to address
4 the potential impacts to ecological resources, fish,
5 and wildlife associated with existing or future water
6 resources development projects.

7 “(2) USE OF MITIGATION PLANS.—The Sec-
8 retary shall, to the maximum extent practicable, use
9 programmatic mitigation plans developed in accord-
10 ance with this subsection to guide the development
11 of a mitigation plan under subsection (d).

12 “(3) NON-FEDERAL PLANS.—The Secretary
13 shall, to the maximum extent practicable and subject
14 to all conditions of this subsection, use pro-
15 grammatic environmental plans developed by a
16 State, a body politic of the State, which derives its
17 powers from a State constitution, a government enti-
18 ty created by State legislation, or a local govern-
19 ment, that meet the requirements of this subsection
20 to address the potential environmental impacts of
21 existing or future water resources development
22 projects.

23 “(4) SCOPE.—A programmatic mitigation plan
24 developed by the Secretary or an entity described in
25 paragraph (3) to address potential impacts of exist-

1 ing or future water resources development projects
2 may—

3 “(A) be developed on a regional, eco-
4 system, watershed, or statewide scale;

5 “(B) encompass multiple environmental re-
6 sources within a defined geographical area or
7 focus on a specific resource, such as aquatic re-
8 sources or wildlife habitat; and

9 “(C) address impacts from all projects in
10 a defined geographical area or focus on a spe-
11 cific type of project.

12 “(5) CONSULTATION.—The scope of the plan
13 shall be determined by the Secretary or an entity de-
14 scribed in paragraph (3), as appropriate, in con-
15 sultation with the agency with jurisdiction over the
16 resources being addressed in the environmental miti-
17 gation plan.

18 “(6) CONTENTS.—A programmatic environ-
19 mental mitigation plan may include—

20 “(A) an assessment of the condition of en-
21 vironmental resources in the geographical area
22 covered by the plan, including an assessment of
23 recent trends and any potential threats to those
24 resources;

1 “(B) an assessment of potential opportuni-
2 ties to improve the overall quality of environ-
3 mental resources in the geographical area cov-
4 ered by the plan through strategic mitigation
5 for impacts of water resources development
6 projects;

7 “(C) standard measures for mitigating cer-
8 tain types of impacts;

9 “(D) parameters for determining appro-
10 priate mitigation for certain types of impacts,
11 such as mitigation ratios or criteria for deter-
12 mining appropriate mitigation sites;

13 “(E) adaptive management procedures,
14 such as protocols that involve monitoring pre-
15 dicted impacts over time and adjusting mitiga-
16 tion measures in response to information gath-
17 ered through the monitoring;

18 “(F) acknowledgment of specific statutory
19 or regulatory requirements that must be satis-
20 fied when determining appropriate mitigation
21 for certain types of resources; and

22 “(G) any offsetting benefits of self-miti-
23 gating projects, such as ecosystem or resource
24 restoration and protection.

1 “(7) PROCESS.—Before adopting a pro-
2 grammatic environmental mitigation plan for use
3 under this subsection, the Secretary shall—

4 “(A) for a plan developed by the Sec-
5 retary—

6 “(i) make a draft of the plan available
7 for review and comment by applicable envi-
8 ronmental resource agencies and the pub-
9 lic; and

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

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

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

23 “(9) CONSIDERATION IN PROJECT DEVELOP-
24 MENT AND PERMITTING.—If a programmatic envi-
25 ronmental mitigation plan has been developed under

1 this subsection, any Federal agency responsible for
2 environmental reviews, permits, or approvals for a
3 water resources development project may use the
4 recommendations in that programmatic environ-
5 mental mitigation plan when carrying out the re-
6 sponsibilities of the agency under the National Envi-
7 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.).

9 “(10) PRESERVATION OF EXISTING AUTHORI-
10 TIES.—Nothing in this subsection limits the use of
11 programmatic approaches to reviews under the Na-
12 tional Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.).

14 “(i) THIRD-PARTY MITIGATION ARRANGEMENTS.—

15 “(1) ELIGIBLE ACTIVITIES.—In accordance
16 with all applicable Federal laws (including regula-
17 tions), mitigation efforts carried out under this sec-
18 tion may include—

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

22 “(i) the purchase of credits from com-
23 mercial or State, regional, or local agency-
24 sponsored mitigation banks; and

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

3 “(B) contributions to statewide and re-
4 gional efforts to conserve, restore, enhance, and
5 create natural habitats and wetlands.

6 “(2) INCLUSION OF OTHER ACTIVITIES.—The
7 banks, programs, and efforts described in paragraph
8 (1) include any banks, programs, and efforts devel-
9 oped in accordance with applicable law (including
10 regulations).

11 “(3) TERMS AND CONDITIONS.—In carrying out
12 natural habitat and wetlands mitigation efforts
13 under this section, contributions to the mitigation ef-
14 fort may—

15 “(A) take place concurrent with, or in ad-
16 vance of, the commitment of funding to a
17 project; and

18 “(B) occur in advance of project construc-
19 tion only if the efforts are consistent with all
20 applicable requirements of Federal law (includ-
21 ing regulations) and water resources develop-
22 ment planning processes.

23 “(4) PREFERENCE.—At the request of the non-
24 Federal project sponsor, preference may be given, to
25 the maximum extent practicable, to mitigating an

1 environmental impact through the use of a mitiga-
2 tion bank, in-lieu fee, or other third-party mitigation
3 arrangement, if the use of credits from the mitiga-
4 tion bank or in-lieu fee, or the other third-party
5 mitigation arrangement for the project has been ap-
6 proved by the applicable Federal agency.

7 “(j) USE OF FUNDS.—The Secretary may use funds
8 made available for preconstruction engineering and design
9 prior to authorization of project construction to acquire
10 interests in land necessary for meeting the mitigation re-
11 quirements of this section.”.

12 (b) APPLICATION.—The amendments made by sub-
13 section (a) shall not apply to a project for which a mitiga-
14 tion plan has been completed as of the date of enactment
15 of this Act.

16 (c) TECHNICAL ASSISTANCE.—

17 (1) IN GENERAL.—The Secretary may provide
18 technical assistance to States and local governments
19 to establish third-party mitigation instruments, in-
20 cluding mitigation banks and in-lieu fee programs,
21 that will help to target mitigation payments to high-
22 priority ecosystem restoration actions.

23 (2) REQUIREMENTS.—In providing technical as-
24 sistance under this subsection, the Secretary shall
25 give priority to States and local governments that

1 have developed State, regional, or watershed-based
2 plans identifying priority restoration actions.

3 (3) MITIGATION INSTRUMENTS.—The Secretary
4 shall seek to ensure any technical assistance pro-
5 vided under this subsection will support the estab-
6 lishment of mitigation instruments that will result in
7 restoration of high-priority areas identified in the
8 plans under paragraph (2).

9 **SEC. 2006. MITIGATION STATUS REPORT.**

10 Section 2036(b) of the Water Resources Development
11 Act of 2007 (33 U.S.C. 2283a) is amended—

12 (1) by redesignating paragraph (3) as para-
13 graph (4); and

14 (2) by inserting after paragraph (2) the fol-
15 lowing:

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

19 “(A) use a uniform methodology for deter-
20 mining the status of all projects included in the
21 report;

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

1 “(C) provide specific dates for and partici-
2 pants in the consultations required under sec-
3 tion 906(d)(4)(B) of the Water Resources De-
4 velopment Act of 1986 (33 U.S.C.
5 2283(d)(4)(B)).”.

6 **SEC. 2007. INDEPENDENT PEER REVIEW.**

7 (a) **TIMING OF PEER REVIEW.**—Section 2034(b) of
8 the Water Resources Development Act of 2007 (33 U.S.C.
9 2343(b)) is amended—

10 (1) by redesignating paragraph (3) as para-
11 graph (4); and

12 (2) by inserting after paragraph (2) the fol-
13 lowing:

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

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

21 “(i) notify the Committee on Environ-
22 ment and Public Works of the Senate and
23 the Committee on Transportation and In-
24 frastructure of the House of Representa-
25 tives of that decision; and

1 “(ii) make publicly available, including
2 on the Internet the reasons for not con-
3 ducting the review; and

4 “(B) include the reasons for not con-
5 ducting the review in the decision document for
6 the project study.”.

7 (b) ESTABLISHMENT OF PANELS.—Section 2034(c)
8 of the Water Resources Development Act of 2007 (33
9 U.S.C. 2343(c)) is amended by striking paragraph (4) and
10 inserting the following:

11 “(4) CONGRESSIONAL AND PUBLIC NOTIFICA-
12 TION.—Following the identification of a project
13 study for peer review under this section, but prior to
14 initiation of the review by the panel of experts, the
15 Chief of Engineers shall, not later than 7 days after
16 the date on which the Chief of Engineers determines
17 to conduct a review—

18 “(A) notify the Committee on Environment
19 and Public Works of the Senate and the Com-
20 mittee on Transportation and Infrastructure of
21 the House of Representatives of the review; and

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

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

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

3 “(iii) the names and qualifications of
4 the panel of experts.”.

5 (c) RECOMMENDATIONS OF PANEL.—Section 2034(f)
6 of the Water Resources Development Act of 2007 (33
7 U.S.C. 2343(f)) is amended by striking paragraph (2) and
8 inserting the following:

9 “(2) PUBLIC AVAILABILITY AND SUBMISSION
10 TO CONGRESS.—After receiving a report on a project
11 study from a panel of experts under this section, the
12 Chief of Engineers shall make available to the pub-
13 lic, including on the Internet, and submit to the
14 Committee on Environment and Public Works of the
15 Senate and the Committee on Transportation and
16 Infrastructure of the House of Representatives—

17 “(A) a copy of the report not later than 7
18 days after the date on which the report is deliv-
19 ered to the Chief of Engineers; and

20 “(B) a copy of any written response of the
21 Chief of Engineers on recommendations con-
22 tained in the report not later than 3 days after
23 the date on which the response is delivered to
24 the Chief of Engineers.

1 “(3) INCLUSION IN PROJECT STUDY.—A report
2 on a project study from a panel of experts under
3 this section and the written response of the Chief of
4 Engineers shall be included in the final decision doc-
5 ument for the project study.”.

6 (d) APPLICABILITY.—Section 2034(h)(2) of the
7 Water Resources Development Act of 2007 (33 U.S.C.
8 2343(h)(2)) is amended by striking “7 years” and insert-
9 ing “12 years”.

10 **SEC. 2008. OPERATION AND MAINTENANCE OF NAVIGATION**
11 **AND HYDROELECTRIC FACILITIES.**

12 (a) IN GENERAL.—Section 314 of the Water Re-
13 sources Development Act of 1990 (33 U.S.C. 2321) is
14 amended—

15 (1) by striking the heading and inserting the
16 following:

17 **“SEC. 314. OPERATION AND MAINTENANCE OF NAVIGATION**
18 **AND HYDROELECTRIC FACILITIES.”;**

19 (2) in the first sentence, by striking “Activities
20 currently performed” and inserting the following:

21 “(a) IN GENERAL.—Activities currently performed”;

22 (3) in the second sentence, by striking “This
23 section” and inserting the following:

24 “(b) MAJOR MAINTENANCE CONTRACTS AL-
25 LOWED.—This section”;

1 (4) in subsection (a) (as designated by para-
2 graph (2)), by inserting “navigation or” before “hy-
3 droelectric”; and

4 (5) by adding at the end the following:

5 “(c) EXCLUSION.—This section shall not—

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

11 “(2) prohibit the Secretary from contracting
12 out future commercial activities at those navigation
13 facilities.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 contained in section 1(b) of the Water Resources Develop-
16 ment Act of 1990 (104 Stat. 4604) is amended by striking
17 the item relating to section 314 and inserting the fol-
18 lowing:

“Sec. 314. Operation and maintenance of navigation and hydroelectric facili-
ties.”.

19 **SEC. 2009. HYDROPOWER AT CORPS OF ENGINEERS FACILI-**
20 **TIES.**

21 (a) FINDINGS.—Congress finds that—

22 (1) in April 2012, the Oak Ridge National Lab-
23 oratory of the Department of Energy (referred to in
24 this section as the “Oak Ridge Lab”) released a re-

1 port finding that adding hydroelectric power to the
2 non-powered dams of the United States has the po-
3 tential to add more than 12 gigawatts of new gener-
4 ating capacity;

5 (2) the top 10 non-powered dams identified by
6 the Oak Ridge Lab as having the highest hydro-
7 electric power potential could alone supply 3
8 gigawatts of generating capacity;

9 (3) of the 50 non-powered dams identified by
10 the Oak Ridge Lab as having the highest hydro-
11 electric power potential, 48 are Corps of Engineers
12 civil works projects;

13 (4) promoting non-Federal hydroelectric power
14 at Corps of Engineers civil works projects increases
15 the taxpayer benefit of those projects;

16 (5) the development of non-Federal hydro-
17 electric power at Corps of Engineers civil works
18 projects—

19 (A) can be accomplished in a manner that
20 is consistent with authorized project purposes
21 and the responsibilities of the Corps of Engi-
22 neers to protect the environment; and

23 (B) in many instances, may have addi-
24 tional environmental benefits; and

1 (6) the development of non-Federal hydro-
2 electric power at Corps of Engineers civil works
3 projects could be promoted through—

4 (A) clear and consistent lines of responsi-
5 bility and authority within and across Corps of
6 Engineers districts and divisions on hydro-
7 electric power development activities;

8 (B) consistent and corresponding processes
9 for reviewing and approving hydroelectric power
10 development; and

11 (C) developing a means by which non-Fed-
12 eral hydroelectric power developers and stake-
13 holders can resolve disputes with the Corps of
14 Engineers concerning hydroelectric power devel-
15 opment activities at Corps of Engineers civil
16 works projects.

17 (b) POLICY.—Congress declares that it is the policy
18 of the United States that—

19 (1) the development of non-Federal hydro-
20 electric power at Corps of Engineers civil works
21 projects, including locks and dams, shall be given
22 priority;

23 (2) Corps of Engineers approval of non-Federal
24 hydroelectric power at Corps of Engineers civil
25 works projects, including permitting required under

1 section 14 of the Act of March 3, 1899 (33 U.S.C.
2 408), shall be completed by the Corps of Engineers
3 in a timely and consistent manner; and

4 (3) approval of hydropower at Corps of Engi-
5 neers civil works projects shall in no way diminish
6 the other priorities and missions of the Corps of En-
7 gineers, including authorized project purposes and
8 habitat and environmental protection.

9 (c) REPORT.—Not later than 1 year after the date
10 of enactment of this Act and each year thereafter, the Sec-
11 retary shall submit to the Committee on Environment and
12 Public Works of the Senate and the Committee on Trans-
13 portation and Infrastructure of the House of Representa-
14 tives a report that, at a minimum, shall include—

15 (1) a description of initiatives carried out by
16 the Secretary to encourage the development of hy-
17 droelectric power by non-Federal entities at Corps of
18 Engineers civil works projects;

19 (2) a list of all new hydroelectric power activi-
20 ties by non-Federal entities approved at Corps of
21 Engineers civil works projects in that fiscal year, in-
22 cluding the length of time the Secretary needed to
23 approve those activities;

24 (3) a description of the status of each pending
25 application from non-Federal entities for approval to

1 develop hydroelectric power at Corps of Engineers
2 civil works projects;

3 (4) a description of any benefits or impacts to
4 the environment, recreation, or other uses associated
5 with Corps of Engineers civil works projects at
6 which non-Federal entities have developed hydro-
7 electric power in the previous fiscal year; and

8 (5) the total annual amount of payments or
9 other services provided to the Corps of Engineers,
10 the Treasury, and any other Federal agency as a re-
11 sult of approved non-Federal hydropower projects at
12 Corps of Engineers civil works projects.

13 **SEC. 2010. CLARIFICATION OF WORK-IN-KIND CREDIT AU-**
14 **THORITY.**

15 (a) NON-FEDERAL COST SHARE.—Section 7007 of
16 the Water Resources Development Act of 2007 (121 Stat.
17 1277) is amended—

18 (1) in subsection (a)—

19 (A) by inserting “, on, or after” after “be-
20 fore”; and

21 (B) by inserting “, program,” after
22 “study” each place it appears;

23 (2) in subsections (b) and (e), by inserting “,
24 program,” after “study” each place it appears; and

1 (3) by striking subsection (d) and inserting the
2 following:

3 “(d) TREATMENT OF CREDIT BETWEEN
4 PROJECTS.—The value of any land, easements, rights-of-
5 way, relocations, and dredged material disposal areas and
6 the costs of planning, design, and construction work pro-
7 vided by the non-Federal interest that exceed the non-Fed-
8 eral cost share for a study, program, or project under this
9 title may be applied toward the non-Federal cost share
10 for any other study, program, or project carried out under
11 this title.”.

12 (b) IMPLEMENTATION.—Not later than 90 days after
13 the date of enactment of this Act, the Secretary, in coordi-
14 nation with any relevant agencies of the State of Lou-
15 isiana, shall establish a process by which to carry out the
16 amendments made by subsection (a)(3).

17 (c) EFFECTIVE DATE.—The amendments made by
18 subsection (a) take effect on November 8, 2007.

19 **SEC. 2011. TRANSFER OF EXCESS WORK-IN-KIND CREDIT.**

20 (a) IN GENERAL.—Subject to subsection (b), the Sec-
21 retary may apply credit for in-kind contributions provided
22 by a non-Federal interest that is in excess of the required
23 non-Federal cost-share for a water resources study or
24 project toward the required non-Federal cost-share for a
25 different water resources study or project.

1 (b) RESTRICTIONS.—

2 (1) IN GENERAL.—Except for subsection
3 (a)(4)(D)(i) of that section, the requirements of sec-
4 tion 221 of the Flood Control Act of 1970 (42
5 U.S.C. 1962d–5b) (as amended by section 2012 of
6 this Act) shall not apply to any credit under this
7 section.

8 (2) CONDITIONS.—Credit in excess of the non-
9 Federal cost-share for a study or project may be ap-
10 proved under this section only if—

11 (A) the non-Federal interest submits a
12 comprehensive plan to the Secretary that identi-
13 fies—

14 (i) the studies and projects for which
15 the non-Federal interest intends to provide
16 in-kind contributions for credit that is in
17 excess of the non-Federal cost share for
18 the study or project; and

19 (ii) the studies and projects to which
20 that excess credit would be applied;

21 (B) the Secretary approves the comprehen-
22 sive plan; and

23 (C) the total amount of credit does not ex-
24 ceed the total non-Federal cost-share for the

1 studies and projects in the approved com-
2 prehensive plan.

3 (c) ADDITIONAL CRITERIA.—In evaluating a request
4 to apply credit in excess of the non-Federal cost-share for
5 a study or project toward a different study or project, the
6 Secretary shall consider whether applying that credit
7 will—

8 (1) help to expedite the completion of a project
9 or group of projects;

10 (2) reduce costs to the Federal Government;
11 and

12 (3) aid the completion of a project that provides
13 significant flood risk reduction or environmental
14 benefits.

15 (d) TERMINATION OF AUTHORITY.—The authority
16 provided in this section shall terminate 10 years after the
17 date of enactment of this Act.

18 (e) REPORT.—

19 (1) DEADLINES.—

20 (A) IN GENERAL.—Not later than 2 years
21 after the date of enactment of this Act, the Sec-
22 retary shall submit to the Committee on Envi-
23 ronment and Public Works of the Senate and
24 the Committee on Transportation and Infra-
25 structure of the House of Representatives an

1 interim report on the use of the authority under
2 this section.

3 (B) FINAL REPORT.—Not later than 5
4 years after the date of enactment of this Act,
5 the Secretary shall submit to the Committee on
6 Environment and Public Works of the Senate
7 and the Committee on Transportation and In-
8 frastructure of the House of Representatives a
9 final report on the use of the authority under
10 this section.

11 (2) INCLUSIONS.—The reports described in
12 paragraph (1) shall include—

13 (A) a description of the use of the author-
14 ity under this section during the reporting pe-
15 riod;

16 (B) an assessment of the impact of the au-
17 thority under this section on the time required
18 to complete projects; and

19 (C) an assessment of the impact of the au-
20 thority under this section on other water re-
21 sources projects.

22 **SEC. 2012. CREDIT FOR IN-KIND CONTRIBUTIONS.**

23 (a) IN GENERAL.—Section 221(a)(4) of the Flood
24 Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) is
25 amended—

1 “(II) ELIGIBILITY.—Construc-
2 tion that is carried out after the exe-
3 cution of an agreement to carry out
4 work described in subclause (I) and
5 any design activities that are required
6 for that construction, even if the de-
7 sign activity is carried out prior to the
8 execution of the agreement to carry
9 out work, shall be eligible for credit.

10 “(ii) PLANNING.—

11 “(I) IN GENERAL.—In any case
12 in which the non-Federal interest is to
13 receive credit under subparagraph (A)
14 for the cost of planning carried out by
15 the non-Federal interest before execu-
16 tion of a feasibility cost sharing agree-
17 ment, the Secretary and the non-Fed-
18 eral interest shall enter into an agree-
19 ment under which the non-Federal in-
20 terest shall carry out such work prior
21 to the non-Federal interest initiating
22 that planning.

23 “(II) ELIGIBILITY.—Planning
24 that is carried out by the non-Federal
25 interest after the execution of an

1 agreement to carry out work described
2 in subclause (I) shall be eligible for
3 credit.”;

4 (3) in subparagraph (D)(iii), by striking “sec-
5 tions 101 and 103” and inserting “sections
6 101(a)(2) and 103(a)(1)(A) of the Water Resources
7 Development Act of 1986 (33 U.S.C. 2211(a)(2); 33
8 U.S.C. 2213(a)(1)(A))”;

9 (4) by redesignating subparagraph (E) as sub-
10 subparagraph (H);

11 (5) by inserting after subparagraph (D) the fol-
12 lowing:

13 “(E) ANALYSIS OF COSTS AND BENE-
14 FITS.—In the evaluation of the costs and bene-
15 fits of a project, the Secretary shall not con-
16 sider construction carried out by a non-Federal
17 interest under this subsection as part of the fu-
18 ture without project condition.

19 “(F) TRANSFER OF CREDIT BETWEEN
20 SEPARABLE ELEMENTS OF A PROJECT.—Credit
21 for in-kind contributions provided by a non-
22 Federal interest that are in excess of the non-
23 Federal cost share for an authorized separable
24 element of a project may be applied toward the

1 non-Federal cost share for a different author-
2 ized separable element of the same project.

3 “(G) APPLICATION OF CREDIT.—To the
4 extent that credit for in-kind contributions, as
5 limited by subparagraph (D), and credit for re-
6 quired land, easements, rights-of-way, dredged
7 material disposal areas, and relocations pro-
8 vided by the non-Federal interest exceed the
9 non-Federal share of the cost of construction of
10 a project other than a navigation project, the
11 Secretary shall reimburse the difference to the
12 non-Federal interest, subject to the availability
13 of funds.”; and

14 (6) in subparagraph (H) (as redesignated by
15 paragraph (4))—

16 (A) in clause (i), by inserting “, and to
17 water resources projects authorized prior to the
18 date of enactment of the Water Resources De-
19 velopment Act of 1986 (Public Law 99–662), if
20 correction of design deficiencies is necessary”
21 before the period at the end; and

22 (B) by striking clause (ii) and inserting the
23 following:

24 “(ii) AUTHORIZATION IN AD-
25 DITION TO SPECIFIC CREDIT

1 PROVISION.—In any case in
2 which a specific provision of law
3 authorizes credit for in-kind con-
4 tributions provided by a non-Fed-
5 eral interest before the date of
6 execution of a partnership agree-
7 ment, the Secretary may apply
8 the authority provided in this
9 paragraph to allow credit for in-
10 kind contributions provided by
11 the non-Federal interest on or
12 after the date of execution of the
13 partnership agreement.”.

14 (b) APPLICABILITY.—Section 2003(e) of the Water
15 Resources Development Act of 2007 (42 U.S.C. 1962d-
16 5b note) is amended by inserting “, or construction of de-
17 sign deficiency corrections on the project,” after “con-
18 struction on the project”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 subsections (a) and (b) take effect on November 8, 2007.

21 (d) GUIDELINES.—

22 (1) IN GENERAL.—Not later than 1 year after
23 the date of enactment of this Act, the Secretary
24 shall update any guidance or regulations for car-
25 rying out section 221(a)(4) of the Flood Control Act

1 of 1970 (42 U.S.C. 1962d-5b(a)(4)) (as amended by
2 subsection (a)) that are in existence on the date of
3 enactment of this Act or issue new guidelines, as de-
4 termined to be appropriate by the Secretary.

5 (2) INCLUSIONS.—Any guidance, regulations, or
6 guidelines updated or issued under paragraph (1)
7 shall include, at a minimum—

8 (A) the milestone for executing an in-kind
9 memorandum of understanding for construction
10 by a non-Federal interest;

11 (B) criteria and procedures for evaluating
12 a request to execute an in-kind memorandum of
13 understanding for construction by a non-Fed-
14 eral interest that is earlier than the milestone
15 under subparagraph (A) for that execution; and

16 (C) criteria and procedures for determining
17 whether work carried out by a non-Federal in-
18 terest is integral to a project.

19 (3) PUBLIC AND STAKEHOLDER PARTICIPA-
20 TION.—Before issuing any new or revised guidance,
21 regulations, or guidelines or any subsequent updates
22 to those documents, the Secretary shall—

23 (A) consult with affected non-Federal in-
24 terests;

1 (B) publish the proposed guidelines devel-
2 oped under this subsection in the Federal Reg-
3 ister; and

4 (C) provide the public with an opportunity
5 to comment on the proposed guidelines.

6 (e) OTHER CREDIT.—Nothing in section 221(a)(4) of
7 the Flood Control Act of 1970 (42 U.S.C. 1962d–
8 5b(a)(4)) (as amended by subsection (a)) affects any eligi-
9 bility for credit under section 104 of the Water Resources
10 Development of 1986 (33 U.S.C. 2214) that was approved
11 by the Secretary prior to the date of enactment of this
12 Act.

13 **SEC. 2013. CREDIT IN LIEU OF REIMBURSEMENT.**

14 Section 211(e)(2) of the Water Resources Develop-
15 ment Act of 1996 (33 U.S.C. 701b–13(e)(2)) is amended
16 by adding at the end the following:

17 “(C) STUDIES OR OTHER PROJECTS.—On
18 the request of a non-Federal interest, in lieu of
19 reimbursing a non-Federal interest the amount
20 equal to the estimated Federal share of the cost
21 of an authorized flood damage reduction project
22 or a separable element of an authorized flood
23 damage reduction project under this subsection
24 that has been constructed by the non-Federal
25 interest under this section as of the date of en-

1 actment of this Act, the Secretary may provide
2 the non-Federal interest with a credit in that
3 amount, which the non-Federal interest may
4 apply to the share of the cost of the non-Fed-
5 eral interest of carrying out other flood damage
6 reduction projects or studies.”.

7 **SEC. 2014. DAM OPTIMIZATION.**

8 (a) DEFINITIONS.—In this section:

9 (1) OTHER RELATED PROJECT BENEFITS.—

10 The term “other related project benefits” includes—

11 (A) environmental protection and restora-
12 tion, including restoration of water quality and
13 water flows, improving movement of fish and
14 other aquatic species, and restoration of
15 floodplains, wetlands, and estuaries;

16 (B) increased water supply storage;

17 (C) increased hydropower generation;

18 (D) reduced flood risk;

19 (E) additional navigation; and

20 (F) improved recreation.

21 (2) WATER CONTROL PLAN.—The term “water
22 control plan” means—

23 (A) a plan for coordinated regulation
24 schedules for project or system regulation; and

1 (B) such additional provisions as may be
2 required to collect, analyze, and disseminate
3 basic data, prepare detailed operating instruc-
4 tions, ensure project safety, and carry out regu-
5 lation of projects in an appropriate manner.

6 (b) PROGRAM.—

7 (1) IN GENERAL.—The Secretary may carry out
8 activities—

9 (A) to improve the efficiency of the oper-
10 ations and maintenance of dams and related in-
11 frastructure operated by the Corps of Engi-
12 neers; and

13 (B) to maximize, to the extent prac-
14 ticable—

15 (i) authorized project purposes; and

16 (ii) other related project benefits.

17 (2) ELIGIBLE ACTIVITIES.—An eligible activity
18 under this section is any activity that the Secretary
19 would otherwise be authorized to carry out that is
20 designed to provide other related project benefits in
21 a manner that does not adversely impact the author-
22 ized purposes of the project, including—

23 (A) the review of project operations on a
24 regular and timely basis to determine the po-
25 tential for operational changes;

1 (B) carrying out any investigation or study
2 the Secretary determines to be necessary; and

3 (C) the revision or updating of a water
4 control plan or other modification of the oper-
5 ation of a water resource project.

6 (3) IMPACT ON AUTHORIZED PURPOSES.—An
7 activity carried out under this section shall not ad-
8 versely impact any of the authorized purposes of the
9 project.

10 (4) EFFECT ON EXISTING AGREEMENTS.—
11 Nothing in this section supersedes or modifies any
12 written agreement between the Federal Government
13 and a non-Federal interest that is in effect on the
14 date of enactment of this Act.

15 (5) OTHER LAWS.—

16 (A) IN GENERAL.—An activity carried out
17 under this section shall comply with all other
18 applicable laws (including regulations).

19 (B) WATER SUPPLY.—Any activity carried
20 out under this section that results in any modi-
21 fication to water supply storage allocations at a
22 reservoir operated by the Secretary shall comply
23 with section 301 of the Water Supply Act of
24 1958 (43 U.S.C. 390b).

1 (c) POLICIES, REGULATIONS, AND GUIDANCE.—The
2 Secretary shall carry out a review of, and as necessary
3 modify, the policies, regulations, and guidance of the Sec-
4 retary to carry out the activities described in subsection
5 (b).

6 (d) COORDINATION.—

7 (1) IN GENERAL.—The Secretary shall coordi-
8 nate all planning and activities carried out under
9 this section with appropriate Federal, State, and
10 local agencies and those public and private entities
11 that the Secretary determines may be affected by
12 those plans or activities.

13 (2) NON-FEDERAL INTERESTS.—Prior to car-
14 rying out an activity under this section, the Sec-
15 retary shall consult with any applicable non-Federal
16 interest of the affected dam or related infrastruc-
17 ture.

18 (e) REPORTS.—

19 (1) IN GENERAL.—Not later than 2 years after
20 the date of enactment of this Act and every 2 years
21 thereafter, the Secretary shall submit to Congress a
22 report describing the actions carried out under this
23 section.

24 (2) INCLUSIONS.—Each report under para-
25 graph (1) shall include—

1 (A) a schedule for reviewing the operations
2 of individual projects; and

3 (B) any recommendations of the Secretary
4 on changes that the Secretary determines to be
5 necessary—

6 (i) to carry out existing projection au-
7 thorizations, including the deauthorization
8 of any water resource project that the Sec-
9 retary determines could more effectively be
10 achieved through other means;

11 (ii) to improve the efficiency of water
12 resource project operations; and

13 (iii) to maximize authorized project
14 purposes and other related project benefits.

15 (3) UPDATED REPORT.—

16 (A) IN GENERAL.—Not later than 2 years
17 after the date of enactment of this Act, the Sec-
18 retary shall update the report entitled “Author-
19 ized and Operating Purposes of Corps of Engi-
20 neers Reservoirs” and dated July 1992, which
21 was produced pursuant to section 311 of the
22 Water Resources Development Act of 1990
23 (104 Stat. 4639).

24 (B) INCLUSIONS.—The updated report de-
25 scribed in subparagraph (A) shall include—

1 (i) the date on which the most recent
2 review of project operations was conducted
3 and any recommendations of the Secretary
4 relating to that review the Secretary deter-
5 mines to be significant; and

6 (ii) the dates on which the rec-
7 ommendations described in clause (i) were
8 carried out.

9 (f) FUNDING.—

10 (1) IN GENERAL.—The Secretary may use to
11 carry out this section amounts made available to the
12 Secretary from—

13 (A) the general purposes and expenses ac-
14 count;

15 (B) the operations and maintenance ac-
16 count; and

17 (C) any other amounts that are appro-
18 priated to carry out this section.

19 (2) FUNDING FROM OTHER SOURCES.—The
20 Secretary may accept and expend amounts from
21 non-Federal entities and other Federal agencies to
22 carry out this section.

23 (g) COOPERATIVE AGREEMENTS.—The Secretary
24 may enter into cooperative agreements with other Federal
25 agencies and non-Federal entities to carry out this section.

1 **SEC. 2015. WATER SUPPLY.**

2 Section 301 of the Water Supply Act of 1958 (43
3 U.S.C. 390b) is amended by striking subsection (d) and
4 inserting the following:

5 “(d) CONGRESSIONAL APPROVAL OF MODIFICATIONS
6 OF RESERVOIR PROJECTS.—Congressional approval shall
7 be required for any modification of a reservoir project that
8 has been authorized, surveyed, planned, or constructed to
9 include storage for municipal or industrial water supply
10 if, when considered cumulatively with all previous modi-
11 fications of the project, the modification would—

12 “(1) seriously affect the purposes for which the
13 project was authorized, surveyed, planned, or con-
14 structed;

15 “(2) involve major structural or operational
16 changes; or

17 “(3) involve an allocation or reallocation of
18 storage that is equal to or exceeds 5 percent of the
19 conservation storage pool of the project.”.

20 **SEC. 2016. REPORT ON WATER STORAGE PRICING FOR-**
21 **MULAS.**

22 (a) FINDINGS.—Congress finds that—

23 (1) due to the ongoing drought in many parts
24 of the United States, communities are looking for
25 ways to enhance their water storage on Corps of En-

1 gineer reservoirs so as to maintain a reliable supply
2 of water into the foreseeable future;

3 (2) water storage pricing formulas should be
4 equitable and not create disparities between users;
5 and

6 (3) water pricing formulas should not be cost-
7 prohibitive for communities.

8 (b) ASSESSMENT.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this Act, the Comp-
11 troller General of the United States shall initiate an
12 assessment of the water storage pricing formulas of
13 the Corps of Engineers, which shall include an as-
14 sessment of—

15 (A) existing water storage pricing formulas
16 of the Corps of Engineers, in particular wheth-
17 er those formulas produce water storage costs
18 for some beneficiaries that are greatly disparate
19 from the costs of other beneficiaries; and

20 (B) whether equitable water storage pric-
21 ing formulas could lessen the disparate impact
22 and produce more affordable water storage for
23 potential beneficiaries.

1 (2) REPORT.—The Comptroller General of the
2 United States shall submit to Congress a report on
3 the assessment carried out under paragraph (1).

4 **SEC. 2017. CLARIFICATION OF PREVIOUSLY AUTHORIZED**
5 **WORK.**

6 (a) IN GENERAL.—The Secretary may carry out
7 measures to improve fish species habitat within the foot-
8 print and downstream of a water resources project con-
9 structed by the Secretary that includes a fish hatchery if
10 the Secretary—

11 (1) has been explicitly authorized to compensate
12 for fish losses associated with the project; and

13 (2) determines that the measures are—

14 (A) feasible;

15 (B) consistent with authorized project pur-
16 poses and the fish hatchery; and

17 (C) in the public interest.

18 (b) COST SHARING.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 the non-Federal interest shall contribute 35 percent
21 of the total cost of carrying out activities under this
22 section, including the costs relating to the provision
23 or acquisition of required land, easements, rights-of-
24 way, dredged material disposal areas, and reloca-
25 tions.

1 (B) in paragraph (2)(A), by striking “, at
2 Federal expense,”;

3 (2) in subsection (b)—

4 (A) in paragraph (1), by striking “sub-
5 section (a)(1)” each place it appears and insert-
6 ing “subsection (a)”;

7 (B) by redesignating paragraphs (2) and
8 (3) as paragraphs (3) and (4), respectively; and

9 (C) by inserting after paragraph (1) the
10 following:

11 “(2) CONTRIBUTED FUNDS.—The Secretary
12 may accept and expend funds in excess of the fees
13 established under paragraph (1) that are provided
14 by a State or other non-Federal public body for as-
15 sistance under this section.” ; and

16 (3) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) by striking “\$10,000,000” and in-
19 serting “\$30,000,000”; and

20 (ii) by striking “\$2,000,000” and in-
21 serting “\$5,000,000 in Federal funds”;

22 and

23 (B) in paragraph (2), by striking
24 “\$5,000,000” and inserting “\$15,000,000”.

1 **SEC. 2020. VEGETATION MANAGEMENT POLICY.**

2 (a) DEFINITION OF NATIONAL GUIDELINES.—In this
3 section, the term “national guidelines” means the Corps
4 of Engineers policy guidelines for management of vegeta-
5 tion on levees, including—

6 (1) Engineering Technical Letter 1110-2-571
7 entitled “Guidelines for Landscape Planting and
8 Vegetation Management at Levees, Floodwalls, Em-
9 bankment Dams, and Appurtenant Structures” and
10 adopted April 10, 2009; and

11 (2) the draft policy guidance letter entitled
12 “Process for Requesting a Variance from Vegetation
13 Standards for Levees and Floodwalls” (77 Fed. Reg.
14 9637 (Feb. 17, 2012)).

15 (b) REVIEW.—Not later than 180 days after the date
16 of enactment of this Act, the Secretary shall carry out a
17 comprehensive review of the national guidelines in order
18 to determine whether current Federal policy relating to
19 levee vegetation is appropriate for all regions of the United
20 States.

21 (c) FACTORS.—

22 (1) IN GENERAL.—In carrying out the review,
23 the Secretary shall consider—

24 (A) the varied interests and responsibilities
25 in managing flood risks, including the need—

1 (i) to provide for levee safety with lim-
2 ited resources; and

3 (ii) to ensure that levee safety invest-
4 ments minimize environmental impacts and
5 provide corresponding public safety bene-
6 fits;

7 (B) the levee safety benefits that can be
8 provided by woody vegetation;

9 (C) the preservation, protection, and en-
10 hancement of natural resources, including—

11 (i) the benefit of vegetation on levees
12 in providing habitat for endangered,
13 threatened, and candidate species; and

14 (ii) the impact of removing levee vege-
15 tation on compliance with other regulatory
16 requirements;

17 (D) protecting the rights of Indian tribes
18 pursuant to treaties and statutes;

19 (E) the available science and the historical
20 record regarding the link between vegetation on
21 levees and flood risk;

22 (F) the avoidance of actions requiring sig-
23 nificant economic costs and environmental im-
24 pacts; and

1 (G) other factors relating to the factors de-
2 scribed in subparagraphs (A) through (F) iden-
3 tified in public comments that the Secretary de-
4 termines to be appropriate.

5 (2) VARIANCE CONSIDERATIONS.—

6 (A) IN GENERAL.—In carrying out the re-
7 view, the Secretary shall specifically consider
8 whether the national guidelines can be amended
9 to promote and allow for consideration of
10 variances from national guidelines on a State-
11 wide, tribal, regional, or watershed basis, in-
12 cluding variances based on—

- 13 (i) soil conditions;
- 14 (ii) hydrologic factors;
- 15 (iii) vegetation patterns and charac-
16 teristics;
- 17 (iv) environmental resources, includ-
18 ing endangered, threatened, or candidate
19 species and related regulatory require-
20 ments;
- 21 (v) levee performance history, includ-
22 ing historical information on original con-
23 struction and subsequent operation and
24 maintenance activities;
- 25 (vi) any effects on water supply;

1 (vii) any scientific evidence on the link
2 between levee vegetation and levee safety;

3 (viii) institutional considerations, in-
4 cluding implementation challenges;

5 (ix) the availability of limited funds
6 for levee construction and rehabilitation;

7 (x) the economic and environmental
8 costs of removing woody vegetation on lev-
9 ees; and

10 (xi) other relevant factors identified in
11 public comments that the Secretary deter-
12 mines to be appropriate.

13 (B) SCOPE.—The scope of a variance ap-
14 proved by the Secretary may include a complete
15 exemption to national guidelines, as the Sec-
16 retary determines to be necessary.

17 (d) COOPERATION AND CONSULTATION; REC-
18 OMMENDATIONS.—

19 (1) IN GENERAL.—The Secretary shall carry
20 out the review under this section in consultation
21 with other applicable Federal agencies, representa-
22 tives of State, regional, local, and tribal govern-
23 ments, appropriate nongovernmental organizations,
24 and the public.

1 (2) RECOMMENDATIONS.—The Chief of Engi-
2 neers and any State, tribal, regional, or local entity
3 may submit to the Secretary any recommendations
4 for vegetation management policies for levees that
5 conform with Federal and State laws, including rec-
6 ommendations relating to the review of national
7 guidelines under subsection (b) and the consider-
8 ation of variances under subsection (c)(2).

9 (e) PEER REVIEW.—

10 (1) IN GENERAL.—As part of the review, the
11 Secretary shall solicit and consider the views of the
12 National Academy of Engineering and the National
13 Academy of Sciences on the engineering, environ-
14 mental, and institutional considerations underlying
15 the national guidelines, including the factors de-
16 scribed in subsection (c) and any information ob-
17 tained by the Secretary under subsection (d).

18 (2) AVAILABILITY OF VIEWS.—The views of the
19 National Academy of Engineering and the National
20 Academy of Sciences obtained under paragraph (1)
21 shall be—

22 (A) made available to the public; and

23 (B) included in supporting materials issued
24 in connection with the revised national guide-
25 lines required under subsection (f).

1 (f) REVISION OF NATIONAL GUIDELINES.—

2 (1) IN GENERAL.—Not later than 2 years after
3 the date of enactment of this Act, the Secretary
4 shall—

5 (A) revise the national guidelines based on
6 the results of the review, including—

7 (i) recommendations received as part
8 of the consultation described in subsection
9 (d)(1); and

10 (ii) the results of the peer review con-
11 ducted under subsection (e); and

12 (B) submit to Congress a report that con-
13 tains a summary of the activities of the Sec-
14 retary and a description of the findings of the
15 Secretary under this section.

16 (2) CONTENT; INCORPORATION INTO MAN-
17 UAL.—The revised national guidelines shall—

18 (A) provide a practical, flexible process for
19 approving Statewide, tribal, regional, or water-
20 shed variances from the national guidelines
21 that—

22 (i) reflect due consideration of the fac-
23 tors described in subsection (e); and

24 (ii) incorporate State, tribal, and re-
25 gional vegetation management guidelines

1 for specific areas that have been adopted
2 through a formal public process; and

3 (B) be incorporated into the manual pro-
4 posed under section 5(c) of the Act entitled “An
5 Act authorizing the construction of certain pub-
6 lic works on rivers and harbors for flood con-
7 trol, and for other purposes”, approved August
8 18, 1941 (33 U.S.C. 701n(c)).

9 (3) FAILURE TO MEET DEADLINES.—If the
10 Secretary fails to submit a report by the required
11 deadline under this subsection, the Secretary shall
12 submit to the Committee on Environment and Pub-
13 lic Works of the Senate and the Committee on
14 Transportation and Infrastructure of the House of
15 Representatives a detailed explanation of—

16 (A) why the deadline was missed;

17 (B) solutions needed to meet the deadline;

18 and

19 (C) a projected date for submission of the
20 report.

21 (g) CONTINUATION OF WORK.—Concurrent with the
22 completion of the requirements of this section, the Sec-
23 retary shall proceed without interruption or delay with
24 those ongoing or programmed projects and studies, or ele-

1 ments of projects or studies, that are not directly related
2 to vegetation variance policy.

3 (h) INTERIM ACTIONS.—

4 (1) IN GENERAL.—Until the date on which revi-
5 sions to the national guidelines are adopted in ac-
6 cordance with subsection (f), the Secretary shall not
7 require the removal of existing vegetation as a condi-
8 tion or requirement for any approval or funding of
9 a project, or any other action, unless the specific
10 vegetation has been demonstrated to present an un-
11 acceptable safety risk.

12 (2) REVISIONS.—Beginning on the date on
13 which the revisions to the national guidelines are
14 adopted in accordance with subsection (f), the Sec-
15 retary shall consider, on request of an affected enti-
16 ty, any previous action of the Corps of Engineers in
17 which the outcome was affected by the former na-
18 tional guidelines.

19 **SEC. 2021. LEVEE CERTIFICATIONS.**

20 (a) IMPLEMENTATION OF FLOOD PROTECTION
21 STRUCTURE ACCREDITATION TASK FORCE.—In carrying
22 out section 100226 of the Biggert-Waters Flood Insurance
23 Reform Act of 2012 (42 U.S.C. 4101 note; 126 Stat.
24 942), the Secretary shall—

1 (1) ensure that at least 1 program activity car-
2 ried out under the inspection of completed works
3 program of the Corps of Engineers provides ade-
4 quate information to the Secretary to reach a levee
5 accreditation decision for each requirement under
6 section 65.10 of title 44, Code of Federal Regula-
7 tions (or successor regulation); and

8 (2) to the maximum extent practicable, carry
9 out activities under the inspection of completed
10 works program of the Corps of Engineers in align-
11 ment with the schedule established for the national
12 flood insurance program established under chapter 1
13 of the National Flood Insurance Act of 1968 (42
14 U.S.C. 4011 et seq.).

15 (b) ACCELERATED LEVEE SYSTEM EVALUATIONS
16 AND CERTIFICATIONS.—

17 (1) IN GENERAL.—On receipt of a request from
18 a non-Federal interest, the Secretary may carry out
19 a levee system evaluation and certification of a fed-
20 erally authorized levee for purposes of the national
21 flood insurance program established under chapter 1
22 of the National Flood Insurance Act of 1968 (42
23 U.S.C. 4011 et seq.) if the evaluation and certifi-
24 cation will be carried out earlier than such an eval-

1 uation and certification would be carried out under
2 subsection (a).

3 (2) REQUIREMENTS.—A levee system evalua-
4 tion and certification under paragraph (1) shall—

5 (A) at a minimum, comply with section
6 65.10 of title 44, Code of Federal Regulations
7 (as in effect on the date of enactment of this
8 Act); and

9 (B) be carried out in accordance with such
10 procedures as the Secretary, in consultation
11 with the Director of the Federal Emergency
12 Management Agency, may establish.

13 (3) COST SHARING.—

14 (A) NON-FEDERAL SHARE.—Subject to
15 subparagraph (B), the non-Federal share of the
16 cost of carrying out a levee system evaluation
17 and certification under this subsection shall be
18 35 percent.

19 (B) ADJUSTMENT.—The Secretary shall
20 adjust the non-Federal share of the cost of car-
21 rying out a levee system evaluation and certifi-
22 cation under this subsection in accordance with
23 section 103(m) of the Water Resources Devel-
24 opment Act of 1986 (33 U.S.C. 2213(m)).

1 project, separable element of a project, or functional com-
2 ponent of a project that has been transferred to the non-
3 Federal interest.

4 (e) REPORT TO CONGRESS.—Not later than 8 years
5 after the date of enactment of this Act, the Secretary shall
6 submit to the Committee on Environment and Public
7 Works of the Senate and the Committee on Transpor-
8 tation and Infrastructure of the House of Representatives
9 a report on the implementation of this section, including—

10 (1) any recommendations relating to the contin-
11 ued need for the authority provided in this section;

12 (2) a description of the measures carried out
13 under this section;

14 (3) any lessons learned relating to the measures
15 implemented under this section; and

16 (4) best practices for carrying out measures to
17 restore flood damage reduction projects.

18 (f) TERMINATION OF AUTHORITY.—The authority to
19 carry out a measure under this section terminates on the
20 date that is 10 years after the date of enactment of this
21 Act.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to the Secretary to carry
24 out this section \$250,000,000.

1 **SEC. 2023. OPERATION AND MAINTENANCE OF CERTAIN**
2 **PROJECTS.**

3 The Secretary may assume operation and mainte-
4 nance activities for a navigation channel that is deepened
5 by a non-Federal interest prior to December 31, 2012,
6 if—

7 (1) the Secretary determines that the require-
8 ments under paragraphs (2) and (3) of section
9 204(f) of the Water Resources Development Act of
10 1986 (33 U.S.C. 2232(f)) are met;

11 (2) the Secretary determines that the activities
12 carried out by the non-Federal interest in deepening
13 the navigation channel are economically justified and
14 environmentally acceptable; and

15 (3) the deepening activities have been carried
16 out on a Federal navigation channel that—

17 (A) exists as of the date of enactment of
18 this Act; and

19 (B) has been authorized by Congress.

20 **SEC. 2024. DREDGING STUDY.**

21 (a) IN GENERAL.—The Secretary, in conjunction
22 with other relevant Federal agencies and applicable non-
23 Federal interests, shall carry out a study—

24 (1) to compare domestic and international
25 dredging markets, including costs, technologies, and
26 management approaches used in each respective

1 market, and determine the impacts of those markets
2 on dredging needs and practices in the United
3 States;

4 (2) to analyze past and existing practices, tech-
5 nologies, and management approaches used in
6 dredging in the United States; and

7 (3) to develop recommendations relating to the
8 best techniques, practices, and management ap-
9 proaches for dredging in the United States.

10 (b) PURPOSES.—The purposes of the study under
11 this section are—

12 (1) the identification of the best techniques,
13 methods, and technologies for dredging, including
14 the evaluation of the feasibility, cost, and benefits
15 of—

16 (A) new dredging technologies; and

17 (B) improved dredging practices and tech-
18 niques;

19 (2) the appraisal of the needs of the United
20 States for dredging, including the need to increase
21 the size of private and Corps of Engineers dredging
22 fleets to meet demands for additional construction or
23 maintenance dredging needed as of the date of en-
24 actment of this Act and in the subsequent 20 years;

1 (3) the identification of any impediments to
2 dredging, including any recommendations of appro-
3 priate alternatives for responding to those impedi-
4 ments;

5 (4) the assessment, including any recommenda-
6 tions of appropriate alternatives, of the adequacy
7 and effectiveness of—

8 (A) the economic, engineering, and envi-
9 ronmental methods, models, and analyses used
10 by the Chief of Engineers and private dredging
11 operations for dredging; and

12 (B) the current cost structure of construc-
13 tion contracts entered into by the Chief of En-
14 gineers;

15 (5) the evaluation of the efficiency and effec-
16 tiveness of past, current, and alternative dredging
17 practices and alternatives to dredging, including agi-
18 tation dredging; and

19 (6) the identification of innovative techniques
20 and cost-effective methods to expand regional sedi-
21 ment management efforts, including the placement
22 of dredged sediment within river diversions to accel-
23 erate the creation of wetlands.

24 (c) STUDY TEAM.—

1 (1) IN GENERAL.—The Secretary shall establish
2 a study team to assist the Secretary in planning,
3 carrying out, and reporting on the results of the
4 study under this section.

5 (2) STUDY TEAM.—The study team established
6 pursuant to paragraph (1) shall—

7 (A) be appointed by the Secretary; and

8 (B) represent a broad spectrum of experts
9 in the field of dredging and representatives of
10 relevant State agencies and relevant non-Fed-
11 eral interests.

12 (d) PUBLIC COMMENT PERIOD.—The Secretary
13 shall—

14 (1) make available to the public, including on
15 the Internet, all draft and final study findings under
16 this section; and

17 (2) allow for a public comment period of not
18 less than 30 days on any draft study findings prior
19 to issuing final study findings.

20 (e) REPORT TO CONGRESS.—Not later than 2 years
21 after the date of enactment of this Act, and subject to
22 available appropriations, the Secretary, in consultation
23 with the study team established under subsection (c), shall
24 submit a detailed report on the results of the study to the
25 Committee on Environment and Public Works of the Sen-

1 ate and the Committee on Transportation and Infrastruc-
2 ture of the House of Representatives.

3 (f) FAILURE TO MEET DEADLINES.—If the Sec-
4 retary does not complete the study under this section and
5 submit a report to Congress under subsection (e) on or
6 before the deadline described in that subsection, the Sec-
7 retary shall notify Congress and describe why the study
8 was not completed.

9 **SEC. 2025. NON-FEDERAL PROJECT IMPLEMENTATION**
10 **PILOT PROGRAM.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of enactment of this Act, the Secretary shall establish
13 and implement a pilot program to evaluate the cost-effec-
14 tiveness and project delivery efficiency of allowing non-
15 Federal interests to carry out flood risk management, hur-
16 ricane and storm damage reduction, and coastal harbor
17 and channel and inland harbor navigation projects.

18 (b) PURPOSES.—The purposes of the pilot program
19 are—

20 (1) to identify project delivery and cost-saving
21 alternatives that reduce the backlog of authorized
22 Corps of Engineers projects;

23 (2) to evaluate the technical, financial, and or-
24 ganizational efficiencies of a non-Federal interest

1 carrying out the design, execution, management, and
2 construction of 1 or more projects; and

3 (3) to evaluate alternatives for the decentraliza-
4 tion of the project planning, management, and oper-
5 ational decisionmaking process of the Corps of Engi-
6 neers.

7 (c) ADMINISTRATION.—

8 (1) IN GENERAL.—In carrying out the pilot
9 program, the Secretary shall—

10 (A) identify a total of not more than 12
11 projects for flood risk management, hurricane
12 and storm damage reduction, including levees,
13 floodwalls, flood control channels, water control
14 structures, and coastal harbor and channel and
15 inland harbor navigation, that have been au-
16 thorized for construction prior to the date of
17 enactment of this Act that—

18 (i)(I) have received Federal funds
19 prior to the date of enactment of this Act;
20 or

21 (II) for more than 2 consecutive fiscal
22 years, have an unobligated funding balance
23 for that project in the Corps of Engineers
24 construction account; and

1 (ii) to the maximum extent prac-
2 ticable, are located in each of the divisions
3 of the Corps of Engineers;

4 (B) notify the Committee on Environment
5 and Public Works of the Senate and the Com-
6 mittee on Transportation and Infrastructure of
7 the House of Representatives on the identifica-
8 tion of each project under the pilot program;

9 (C) in collaboration with the non-Federal
10 interest, develop a detailed project management
11 plan for each identified project that outlines the
12 scope, budget, design, and construction resource
13 requirements necessary for the non-Federal in-
14 terest to execute the project, or a separable ele-
15 ment of the project;

16 (D) on the request of the non-Federal in-
17 terest, enter into a project partnership agree-
18 ment with the non-Federal interest for the non-
19 Federal interest to provide full project manage-
20 ment control for construction of the project, or
21 a separable element of the project, in accord-
22 ance with plans approved by the Secretary;

23 (E) following execution of the project part-
24 nership agreement, transfer to the non-Federal

1 interest to carry out construction of the project,
2 or a separable element of the project—

3 (i) if applicable, the balance of the un-
4 obligated amounts appropriated for the
5 project, except that the Secretary shall re-
6 tain sufficient amounts for the Corps of
7 Engineers to carry out any responsibilities
8 of the Corps of Engineers relating to the
9 project and pilot program; and

10 (ii) additional amounts, as determined
11 by the Secretary, from amounts made
12 available under subsection (h), except that
13 the total amount transferred to the non-
14 Federal interest shall not exceed the up-
15 dated estimate of the Federal share of the
16 cost of construction, including any required
17 design; and

18 (F) regularly monitor and audit each
19 project being constructed by a non-Federal in-
20 terest under this section to ensure that the con-
21 struction activities are carried out in compli-
22 ance with the plans approved by the Secretary
23 and that the construction costs are reasonable.

24 (2) DETAILED PROJECT SCHEDULE.—Not later
25 than 180 days after entering into an agreement

1 under paragraph (1)(D), each non-Federal interest,
2 to the maximum extent practicable, shall submit to
3 the Secretary a detailed project schedule, based on
4 full funding capability, that lists all deadlines for
5 each milestone in the construction of the project.

6 (3) TECHNICAL ASSISTANCE.—On the request
7 of a non-Federal interest, the Secretary may provide
8 technical assistance to the non-Federal interest, if
9 the non-Federal interest contracts with the Sec-
10 retary for the technical assistance and compensates
11 the Secretary for the technical assistance, relating
12 to—

13 (A) any study, engineering activity, and
14 design activity for construction carried out by
15 the non-Federal interest under this section; and

16 (B) expeditiously obtaining any permits
17 necessary for the project.

18 (d) COST-SHARE.—Nothing in this section affects the
19 cost-sharing requirement applicable on the day before the
20 date of enactment of this Act to a project carried out
21 under this section.

22 (e) REPORT.—

23 (1) IN GENERAL.—Not later than 2 years after
24 the date of enactment of this Act, the Secretary
25 shall submit to the Committee on Environment and

1 Public Works of the Senate and the Committee on
2 Transportation and Infrastructure of the House of
3 Representatives a report detailing the results of the
4 pilot program carried out under this section, includ-
5 ing—

6 (A) a description of the progress of non-
7 Federal interests in meeting milestones in de-
8 tailed project schedules developed pursuant to
9 subsection (c)(2); and

10 (B) any recommendations of the Secretary
11 concerning whether the program or any compo-
12 nent of the program should be implemented on
13 a national basis.

14 (2) UPDATE.—Not later than 5 years after the
15 date of enactment of this Act, the Secretary shall
16 submit to the Committee on Environment and Pub-
17 lic Works of the Senate and the Committee on
18 Transportation and Infrastructure of the House of
19 Representatives an update of the report described in
20 paragraph (1).

21 (3) FAILURE TO MEET DEADLINE.—If the Sec-
22 retary fails to submit a report by the required dead-
23 line under this subsection, the Secretary shall sub-
24 mit to the Committee on Environment and Public
25 Works of the Senate and the Committee on Trans-

1 portation Infrastructure of the House of Representa-
2 tives a detailed explanation of why the deadline was
3 missed and a projected date for submission of the
4 report.

5 (f) ADMINISTRATION.—All laws and regulations that
6 would apply to the Secretary if the Secretary were car-
7 rying out the project shall apply to a non-Federal interest
8 carrying out a project under this section.

9 (g) TERMINATION OF AUTHORITY.—The authority to
10 commence a project under this section terminates on the
11 date that is 5 years after the date of enactment of this
12 Act.

13 (h) AUTHORIZATION OF APPROPRIATIONS.—In addi-
14 tion to any amounts appropriated for a specific project,
15 there is authorized to be appropriated to the Secretary to
16 carry out the pilot program under this section, including
17 the costs of administration of the Secretary, \$25,000,000
18 for each of fiscal years 2014 through 2018.

19 **SEC. 2026. NON-FEDERAL IMPLEMENTATION OF FEASI-**
20 **BILITY STUDIES.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of enactment of this Act, the Secretary shall establish
23 and implement a pilot program to evaluate the cost-effec-
24 tiveness and project delivery efficiency of allowing non-
25 Federal interests to carry out feasibility studies for flood

1 risk management, hurricane and storm damage reduction,
2 ecosystem restoration, and coastal harbor and channel and
3 inland harbor navigation.

4 (b) PURPOSES.—The purposes of the pilot program
5 are—

6 (1) to identify project delivery and cost-saving
7 alternatives to the existing feasibility study process;

8 (2) to evaluate the technical, financial, and or-
9 ganizational efficiencies of a non-Federal interest
10 carrying out a feasibility study of 1 or more
11 projects; and

12 (3) to evaluate alternatives for the decentraliza-
13 tion of the project planning, management, and oper-
14 ational decisionmaking process of the Corps of Engi-
15 neers.

16 (c) ADMINISTRATION.—

17 (1) IN GENERAL.—On the request of a non-
18 Federal interest, the Secretary may enter into an
19 agreement with the non-Federal interest for the non-
20 Federal interest to provide full project management
21 control of a feasibility study for a project for—

22 (A) flood risk management;

23 (B) hurricane and storm damage reduc-
24 tion, including levees, floodwalls, flood control
25 channels, and water control structures;

1 (C) coastal harbor and channel and inland
2 harbor navigation; and

3 (D) ecosystem restoration.

4 (2) USE OF NON-FEDERAL-FUNDS.—

5 (A) IN GENERAL.—A non-Federal interest
6 that has entered into an agreement with the
7 Secretary pursuant to paragraph (1) may use
8 non-Federal funds to carry out the feasibility
9 study.

10 (B) CREDIT.—The Secretary shall credit
11 towards the non-Federal share of the cost of
12 construction of a project for which a feasibility
13 study is carried out under this section an
14 amount equal to the portion of the cost of de-
15 veloping the study that would have been the re-
16 sponsibility of the Secretary, if the study were
17 carried out by the Secretary, subject to the con-
18 ditions that—

19 (i) non-Federal funds were used to
20 carry out the activities that would have
21 been the responsibility of the Secretary;

22 (ii) the Secretary determines that the
23 feasibility study complies with all applica-
24 ble Federal laws and regulations; and

1 (iii) the project is authorized by any
2 provision of Federal law enacted after the
3 date on which an agreement is entered into
4 under paragraph (1).

5 (3) TRANSFER OF FUNDS.—

6 (A) IN GENERAL.—After the date on which
7 an agreement is executed pursuant to para-
8 graph (1), the Secretary may transfer to the
9 non-Federal interest to carry out the feasibility
10 study—

11 (i) if applicable, the balance of any
12 unobligated amounts appropriated for the
13 study, except that the Secretary shall re-
14 tain sufficient amounts for the Corps of
15 Engineers to carry out any responsibilities
16 of the Corps of Engineers relating to the
17 project and pilot program; and

18 (ii) additional amounts, as determined
19 by the Secretary, from amounts made
20 available under subsection (h), except that
21 the total amount transferred to the non-
22 Federal interest shall not exceed the up-
23 dated estimate of the Federal share of the
24 cost of the feasibility study.

1 (B) ADMINISTRATION.—The Secretary
2 shall include such provisions as the Secretary
3 determines to be necessary in an agreement
4 under paragraph (1) to ensure that a non-Fed-
5 eral interest receiving Federal funds under this
6 paragraph—

7 (i) has the necessary qualifications to
8 administer those funds; and

9 (ii) will comply with all applicable
10 Federal laws (including regulations) relat-
11 ing to the use of those funds.

12 (4) NOTIFICATION.—The Secretary shall notify
13 the Committee on Environment and Public Works of
14 the Senate and the Committee on Transportation
15 and Infrastructure of the House of Representatives
16 on the initiation of each feasibility study under the
17 pilot program.

18 (5) AUDITING.—The Secretary shall regularly
19 monitor and audit each feasibility study carried out
20 by a non-Federal interest under this section to en-
21 sure that the use of any funds transferred under
22 paragraph (3) are used in compliance with the
23 agreement signed under paragraph (1).

24 (6) TECHNICAL ASSISTANCE.—On the request
25 of a non-Federal interest, the Secretary may provide

1 technical assistance to the non-Federal interest re-
2 lating to any aspect of the feasibility study, if the
3 non-Federal interest contracts with the Secretary for
4 the technical assistance and compensates the Sec-
5 retary for the technical assistance.

6 (7) DETAILED PROJECT SCHEDULE.—Not later
7 than 180 days after entering into an agreement
8 under paragraph (1), each non-Federal interest, to
9 the maximum extent practicable, shall submit to the
10 Secretary a detailed project schedule, based on full
11 funding capability, that lists all deadlines for mile-
12 stones relating to the feasibility study.

13 (d) COST-SHARE.—Nothing in this section affects the
14 cost-sharing requirement applicable on the day before the
15 date of enactment of this Act to a feasibility study carried
16 out under this section.

17 (e) REPORT.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretary
20 shall submit to the Committee on Environment and
21 Public Works of the Senate and the Committee on
22 Transportation and Infrastructure of the House of
23 Representatives a report detailing the results of the
24 pilot program carried out under this section, includ-
25 ing—

1 (A) a description of the progress of the
2 non-Federal interests in meeting milestones in
3 detailed project schedules developed pursuant to
4 subsection (c)(7); and

5 (B) any recommendations of the Secretary
6 concerning whether the program or any compo-
7 nent of the program should be implemented on
8 a national basis.

9 (2) UPDATE.—Not later than 5 years after the
10 date of enactment of this Act, the Secretary shall
11 submit to the Committee on Environment and Pub-
12 lic Works of the Senate and the Committee on
13 Transportation and Infrastructure of the House of
14 Representatives an update of the report described in
15 paragraph (1).

16 (3) FAILURE TO MEET DEADLINE.—If the Sec-
17 retary fails to submit a report by the required dead-
18 line under this subsection, the Secretary shall sub-
19 mit to the Committee on Environment and Public
20 Works of the Senate and the Committee on Trans-
21 portation Infrastructure of the House of Representa-
22 tives a detailed explanation of why the deadline was
23 missed and a projected date for submission of the
24 report.

1 (f) ADMINISTRATION.—All laws and regulations that
2 would apply to the Secretary if the Secretary were car-
3 rying out the feasibility study shall apply to a non-Federal
4 interest carrying out a feasibility study under this section.

5 (g) TERMINATION OF AUTHORITY.—The authority to
6 commence a feasibility study under this section terminates
7 on the date that is 5 years after the date of enactment
8 of this Act.

9 (h) AUTHORIZATION OF APPROPRIATIONS.—In addi-
10 tion to any amounts appropriated for a specific project,
11 there is authorized to be appropriated to the Secretary to
12 carry out the pilot program under this section, including
13 the costs of administration of the Secretary, \$25,000,000
14 for each of fiscal years 2014 through 2018.

15 **SEC. 2027. TRIBAL PARTNERSHIP PROGRAM.**

16 Section 203 of the Water Resources Development Act
17 of 2000 (33 U.S.C. 2269) is amended—

18 (1) in subsection (d)(1)(B)—

19 (A) by striking “The ability” and inserting
20 the following:

21 “(i) IN GENERAL.—The ability”; and

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

23 “(ii) DETERMINATION.—Not later
24 than 180 days after the date of enactment
25 of the Water Resources Development Act

1 of 2013, the Secretary shall issue guidance
2 on the procedures described in clause (i).”;
3 and
4 (2) in subsection (e), by striking “2012” and
5 inserting “2023”.

6 **SEC. 2028. COOPERATIVE AGREEMENTS WITH COLUMBIA**
7 **RIVER BASIN INDIAN TRIBES.**

8 The Secretary may enter into a cooperative agree-
9 ment with 1 or more federally recognized Indian tribes (or
10 a designated representative of the Indian tribes) that are
11 located, in whole or in part, within the boundaries of the
12 Columbia River Basin to carry out authorized activities
13 within the Columbia River Basin to protect fish, wildlife,
14 water quality, and cultural resources.

15 **SEC. 2029. MILITARY MUNITIONS RESPONSE ACTIONS AT**
16 **CIVIL WORKS SHORELINE PROTECTION**
17 **PROJECTS.**

18 (a) IN GENERAL.—The Secretary may implement
19 any response action the Secretary determines to be nec-
20 essary at a site where—

21 (1) the Secretary has carried out a project
22 under civil works authority of the Secretary that in-
23 cludes placing sand on a beach;

24 (2) as a result of the project described in para-
25 graph (1), military munitions that were originally re-

1 leased as a result of Department of Defense activi-
2 ties are deposited on the beach, posing a threat to
3 human health or the environment.

4 (b) **RESPONSE ACTION FUNDING.**—A response action
5 described in subsection (a) shall be funded from amounts
6 made available to the agency within the Department of
7 Defense responsible for the original release of the muni-
8 tions.

9 **SEC. 2030. BEACH NOURISHMENT.**

10 Section 156 of the Water Resources Development Act
11 of 1976 (42 U.S.C. 1962d–5f) is amended to read as fol-
12 lows:

13 **“SEC. 156. BEACH NOURISHMENT.**

14 “(a) **IN GENERAL.**—The Secretary of the Army, act-
15 ing through the Chief of Engineers, may provide periodic
16 beach nourishment for each water resources development
17 project for which that nourishment has been authorized
18 for an additional period of time, as determined by the Sec-
19 retary, subject to the condition that the additional period
20 shall not exceed the later of—

21 “(1) 50 years after the date on which the con-
22 struction of the project is initiated; or

23 “(2) the date on which the last estimated peri-
24 odic nourishment for the project is to be carried out,

1 as recommended in the applicable report of the Chief
2 of Engineers.

3 “(b) EXTENSION.—Before the end of the 50-year pe-
4 riod referred to in subsection (a)(1), the Secretary of the
5 Army, acting through the Chief of Engineers—

6 “(1) may, at the request of the non-Federal in-
7 terest and subject to the availability of appropria-
8 tions, carry out a review of a nourishment project
9 carried out under subsection (a) to evaluate the fea-
10 sibility of continuing Federal participation in the
11 project for a period not to exceed 15 years; and

12 “(2) shall submit to Congress any recommenda-
13 tions of the Secretary relating to the review.”.

14 **SEC. 2031. REGIONAL SEDIMENT MANAGEMENT.**

15 Section 204 of the Water Resources Development Act
16 of 1992 (33 U.S.C. 2326) (as amended by section
17 2003(c)) is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (1), by inserting “or used
20 in” after “obtained through”; and

21 (B) in paragraph (3)(C), by inserting “for
22 the purposes of improving environmental condi-
23 tions in marsh and littoral systems, stabilizing
24 stream channels, enhancing shorelines, and sup-

1 porting State and local risk management adap-
2 tation strategies” before the period at the end;

3 (2) in subsection (c)(1)(B)—

4 (A) in clause (i), by striking “clause (ii)”
5 and inserting “clauses (ii) and (iii)”;

6 (B) by redesignating clause (ii) as clause
7 (iii); and

8 (C) by inserting after clause (i) the fol-
9 lowing:

10 “(ii) REDUCTION IN NON-FEDERAL
11 SHARE.—The Secretary may reduce the
12 non-Federal share of the costs of construc-
13 tion of a project if the Secretary deter-
14 mines that, through the beneficial use of
15 sediment at another Federal project, there
16 will be an associated reduction or avoid-
17 ance of Federal costs.”;

18 (3) in subsection (d)—

19 (A) by striking the subsection designation
20 and heading and inserting the following:

21 “(d) SELECTION OF DREDGED MATERIAL DISPOSAL
22 METHOD FOR PURPOSES RELATED TO ENVIRONMENTAL
23 RESTORATION OR STORM DAMAGE AND FLOOD REDUC-
24 TION.—”; and

1 (B) in paragraph (1), by striking “in rela-
2 tion to” and all that follows through the period
3 at the end and inserting “in relation to—

4 “(A) the environmental benefits, including
5 the benefits to the aquatic environment to be
6 derived from the creation of wetlands and con-
7 trol of shoreline erosion; or

8 “(B) the flood and storm damage and
9 flood reduction benefits, including shoreline pro-
10 tection, protection against loss of life, and dam-
11 age to improved property.”; and

12 (4) in subsection (e), by striking paragraph (1)
13 and inserting the following:

14 “(1) cooperate with any State or group of
15 States in the preparation of a comprehensive State
16 or regional sediment management plan within the
17 boundaries of the State or among States;”.

18 **SEC. 2032. STUDY ACCELERATION.**

19 (a) FINDINGS.—Congress finds that—

20 (1) delays in the completion of feasibility stud-
21 ies—

22 (A) increase costs for the Federal Govern-
23 ment as well as State and local governments;
24 and

1 (B) delay the implementation of water re-
2 sources projects that provide critical benefits,
3 including reducing flood risk, maintaining com-
4 mercially important flood risk, and restoring
5 vital ecosystems; and

6 (2) the efforts undertaken by the Corps of En-
7 gineers through the establishment of the “3-3-3”
8 planning process should be continued.

9 (b) ACCELERATION OF STUDIES.—

10 (1) IN GENERAL.—Subject to paragraphs (2)
11 and (3), a feasibility study initiated after the date
12 of enactment of this Act shall—

13 (A) be completed not later than 3 years
14 after the date of initiation of the study; and

15 (B) have a maximum Federal cost share of
16 \$3,000,000.

17 (2) ABILITY TO COMPLY.—On initiating a feasi-
18 bility study under paragraph (1), the Secretary
19 shall—

20 (A) certify that the study will comply with
21 the requirements of paragraph (1);

22 (B) for projects the Secretary determines
23 to be too complex to comply with the require-
24 ments of paragraph (1)—

1 (i) not less than 30 days after making
2 a determination, notify the non-Federal in-
3 terest regarding the inability to comply;
4 and

5 (ii) provide a new projected timeline
6 and cost; and

7 (C) if the study conditions have changed
8 such that scheduled timelines or study costs will
9 not be met—

10 (i) not later than 30 days after the
11 study conditions change, notify the non-
12 Federal interest of those changed condi-
13 tions; and

14 (ii) present the non-Federal interest
15 with a new timeline for completion and
16 new projected study costs.

17 (3) APPROPRIATIONS.—

18 (A) IN GENERAL.—All timeline and cost
19 conditions under this section shall be subject to
20 the Secretary receiving adequate appropriations
21 for meeting study timeline and cost require-
22 ments.

23 (B) NOTIFICATION.—Not later than 60
24 days after receiving appropriations, the Sec-
25 retary shall notify the non-Federal interest of

1 any changes to timelines or costs due to inad-
2 equate appropriations.

3 (c) REPORT.—Not later than 18 months after the
4 date of enactment of this Act and each year thereafter,
5 the Secretary shall submit to the Committee on Environ-
6 ment and Public Works of the Senate and the Committee
7 on Transportation and Infrastructure of the House of
8 Representatives a report that describes—

9 (1) the status of the implementation of the “3-
10 3-3” planning process, including the number of par-
11 ticipating projects;

12 (2) the amount of time taken to complete all
13 studies participating in the “3-3-3” planning proc-
14 ess; and

15 (3) any recommendations for additional author-
16 ity necessary to support efforts to expedite the feasi-
17 bility study process for water resource projects.

18 **SEC. 2033. PROJECT ACCELERATION.**

19 Section 2045 of the Water Resources Development
20 Act of 2007 (33 U.S.C. 2348) is amended to read as fol-
21 lows:

22 **“SEC. 2045. PROJECT ACCELERATION.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) ENVIRONMENTAL IMPACT STATEMENT.—

25 The term ‘environmental impact statement’ means

1 the detailed statement of environmental impacts of
2 water resources projects required to be prepared
3 pursuant to the National Environmental Policy Act
4 of 1969 (42 U.S.C. 4321 et seq.).

5 “(2) ENVIRONMENTAL REVIEW PROCESS.—

6 “(A) IN GENERAL.—The term ‘environ-
7 mental review process’ means the process of
8 preparing an environmental impact statement,
9 environmental assessment, categorical exclusion,
10 or other document under the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et
12 seq.) for a water resources project.

13 “(B) INCLUSIONS.—The term ‘environ-
14 mental review process’ includes the process for
15 and completion of any environmental permit,
16 approval, review, or study required for a water
17 resources project under any Federal law other
18 than the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.).

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

24 “(b) POLICY.—The benefits of water resources
25 projects are important to the economy and environment

1 of the United States, and recommendations to Congress
2 regarding those projects should be accelerated by coordi-
3 nated and efficient review and cooperative efforts to pre-
4 vent or quickly resolve disputes during the development
5 and implementation of those water resources projects.

6 “(c) APPLICABILITY.—

7 “(1) IN GENERAL.—The project development
8 procedures under this section apply to the develop-
9 ment of projects initiated after the date of enact-
10 ment of the Water Resources Development Act of
11 2013 and for which the Secretary determines that—

12 “(A) an environmental impact statement is
13 required; or

14 “(B) at the discretion of the Secretary,
15 other water resources projects for which an en-
16 vironmental review process document is re-
17 quired to be prepared.

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

23 “(3) LIST OF WATER RESOURCES DEVELOP-
24 MENT PROJECTS.—

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

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

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

11 “(B) INCLUSIONS.—The Secretary shall
12 include for each study on the list under sub-
13 paragraph (A) a description of the estimated
14 amounts necessary to make substantial progress
15 on the study.

16 “(4) IMPLEMENTATION GUIDANCE.—The Sec-
17 retary shall prepare, in consultation with the Council
18 on Environmental Quality and other Federal agen-
19 cies with jurisdiction over actions or resources that
20 may be impacted by a water resources project, guid-
21 ance documents that describe the processes that the
22 Secretary will use to implement this section, in ac-
23 cordance with the civil works program of the Corps
24 of Engineers and all applicable law.

1 “(d) WATER RESOURCES PROJECT REVIEW PROC-
2 ESS.—The Secretary shall develop and implement a co-
3 ordinated review process for the development of water re-
4 sources projects.

5 “(e) IDENTIFICATION OF JURISDICTIONAL AGEN-
6 CIES.—With respect to the development of each water re-
7 sources project, the Secretary shall identify, as soon as
8 practicable, all Federal, State, and local government agen-
9 cies and Indian tribes that may—

10 “(1) have jurisdiction over the project;

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

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

15 “(f) STATE AUTHORITY.—If the coordinated review
16 process is being implemented under this section by the
17 Secretary with respect to the development of a water re-
18 sources project described in subsection (c) within the
19 boundaries of a State, the State, consistent with State law,
20 may choose to participate in the process and to make sub-
21 ject to the process all State agencies that—

22 “(1) have jurisdiction over the project;

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

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

3 “(g) LEAD AGENCIES.—

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

8 “(2) JOINT LEAD AGENCIES.—

9 “(A) IN GENERAL.—At the discretion of
10 the Secretary and subject to any applicable reg-
11 ulations under the National Environmental Pol-
12 icy Act of 1969 (42 U.S.C. 4321 et seq.), an
13 agency other than the Corps of Engineers may
14 serve as the joint lead agency.

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

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

23 “(ii) may prepare any environmental
24 review process document required in sup-

1 port of any action or approval by the Sec-
2 retary if—

3 “(I) the Corps of Engineers pro-
4 vides guidance in the preparation
5 process and independently evaluates
6 that document; and

7 “(II) the Secretary approves and
8 adopts the document before the Sec-
9 retary takes any subsequent action or
10 makes any approval based on that
11 document, regardless of whether the
12 action or approval of the Secretary re-
13 sults in Federal funding.

14 “(3) DUTIES.—The Secretary shall ensure
15 that—

16 “(A) the non-Federal interest complies
17 with all design and mitigation commitments
18 made jointly by the Secretary and the non-Fed-
19 eral interest in any environmental document
20 prepared by the non-Federal interest in accord-
21 ance with this subsection; and

22 “(B) any environmental document pre-
23 pared by the non-Federal interest is appro-
24 priately supplemented if changes to the water
25 resources project become necessary.

1 “(4) ADOPTION AND USE OF DOCUMENTS.—

2 Any environmental document prepared in accordance
3 with this subsection may be adopted or used by any
4 Federal agency making any approval to the same ex-
5 tent that the Federal agency could adopt or use a
6 document prepared by another Federal agency.

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

11 “(A) to take such actions as are necessary
12 and proper and within the authority and re-
13 sponsibility of the lead agency to facilitate the
14 expeditious resolution of the environmental re-
15 view process for the water resources project;
16 and

17 “(B) to prepare or ensure that any re-
18 quired environmental impact statement or other
19 environmental review document for a water re-
20 sources project required to be completed under
21 the National Environmental Policy Act of 1969
22 (42 U.S.C. 4321 et seq.) is completed in ac-
23 cordance with this section and applicable Fed-
24 eral law.

25 “(h) PARTICIPATING AGENCIES.—

1 “(1) INVITATION.—

2 “(A) IN GENERAL.—The lead agency shall
3 identify, as early as practicable in the environ-
4 mental review process for a water resources
5 project, any other Federal or non-Federal agen-
6 cies that may have an interest in that project
7 and invite those agencies to become partici-
8 pating agencies in the environmental review
9 process for the water resources project.

10 “(B) DEADLINE.—An invitation to partici-
11 pate issued under subparagraph (A) shall set a
12 deadline by which a response to the invitation
13 shall be submitted, which may be extended by
14 the lead agency for good cause.

15 “(2) FEDERAL PARTICIPATING AGENCIES.—Any
16 Federal agency that is invited by the lead agency to
17 participate in the environmental review process for a
18 water resources project shall be designated as a par-
19 ticipating agency by the lead agency unless the in-
20 vited agency informs the lead agency, in writing, by
21 the deadline specified in the invitation that the in-
22 vited agency—

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

1 “(B) has no expertise or information rel-
2 evant to the water resources project;

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

5 “(D) does not have adequate funds to par-
6 ticipate in the water resources project.

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

10 “(A) supports a proposed water resources
11 project; or

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

15 “(4) CONCURRENT REVIEWS.—Each partici-
16 pating agency shall—

17 “(A) carry out the obligations of that
18 agency under other applicable law concurrently
19 and in conjunction with the required environ-
20 mental review process, unless doing so would
21 impair the ability of the Federal agency to con-
22 duct needed analysis or otherwise carry out
23 those obligations; and

24 “(B) formulate and implement administra-
25 tive, policy, and procedural mechanisms to en-

1 able the agency to ensure completion of the en-
2 vironmental review process in a timely, coordi-
3 nated, and environmentally responsible manner.

4 “(i) PROGRAMMATIC COMPLIANCE.—

5 “(1) IN GENERAL.—The Secretary shall issue
6 guidance to allow for the use of programmatic ap-
7 proaches to carry out the environmental review proc-
8 ess that—

9 “(A) eliminates repetitive discussions of
10 the same issues;

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

13 “(C) establishes a formal process for co-
14 ordinating with participating agencies, including
15 the creation of a list of all data that is needed
16 to carry out an environmental review process;
17 and

18 “(D) is consistent with—

19 “(i) the National Environmental Pol-
20 icy Act of 1969 (42 U.S.C. 4321 et seq.);
21 and

22 “(ii) other applicable laws.

23 “(2) REQUIREMENTS.—In carrying out para-
24 graph (1), the Secretary shall—

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

6 “(B) emphasize the importance of collabo-
7 ration among relevant Federal agencies, State
8 agencies, and Indian tribes in undertaking pro-
9 grammatic reviews, especially with respect to
10 including reviews with a broad geographical
11 scope;

12 “(C) ensure that the programmatic re-
13 views—

14 “(i) promote transparency, including
15 of the analyses and data used in the envi-
16 ronmental review process, the treatment of
17 any deferred issues raised by Federal,
18 State, or tribal agencies, or the public, and
19 the temporal and special scales to be used
20 to analyze those issues;

21 “(ii) use accurate and timely informa-
22 tion in the environmental review process,
23 including—

1 “(I) criteria for determining the
2 general duration of the usefulness of
3 the review; and

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

6 “(iii) describe—

7 “(I) the relationship between pro-
8 grammatic analysis and future tiered
9 analysis; and

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

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

15 “(D) allow not fewer than 60 days of pub-
16 lic notice and comment on any proposed guid-
17 ance; and

18 “(E) address any comments received under
19 subparagraph (D).

20 “(j) COORDINATED REVIEWS.—

21 “(1) COORDINATION PLAN.—

22 “(A) ESTABLISHMENT.—

23 “(i) IN GENERAL.—The lead agency
24 shall establish a plan for coordinating pub-
25 lic and agency participation in, and com-

1 ment on, the environmental review process
2 for a water resources project or a category
3 of water resources projects.

4 “(ii) INCORPORATION.—The plan es-
5 tablished under clause (i) shall be incor-
6 porated into the project schedule mile-
7 stones set under section 905(g)(2) of the
8 Water Resources Development Act of 1986
9 (33 U.S.C. 2282(g)(2)).

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

14 “(A) DRAFT ENVIRONMENTAL IMPACT
15 STATEMENTS.—For comments by Federal and
16 States agencies and the public on a draft envi-
17 ronmental impact statement, a period of not
18 more than 60 days after publication in the Fed-
19 eral Register of notice of the date of public
20 availability of the draft environmental impact
21 statement, unless—

22 “(i) a different deadline is established
23 by agreement of the lead agency, the non-
24 Federal interest, as applicable, and all par-
25 ticipating agencies; or

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

3 “(B) OTHER ENVIRONMENTAL REVIEW
4 PROCESSES.—For all comment periods estab-
5 lished by the lead agency for agency or public
6 comments in the environmental review process
7 other than for a draft environmental impact
8 statement, a period of not more than 30 days
9 after the date on which the materials on which
10 comment is requested are made available, un-
11 less—

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

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

18 “(3) DEADLINES FOR DECISIONS UNDER
19 OTHER LAWS.—In any case in which a decision
20 under any Federal law relating to a project, includ-
21 ing the issuance or denial of a permit or license, is
22 required to be made by the date described in sub-
23 section (k)(6)(B)(ii), the Secretary shall submit to
24 the Committee on Environment and Public Works of
25 the Senate and the Committee on Transportation

1 and Infrastructure of the House of Representa-
2 tives—

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

6 “(B) every 60 days thereafter until such
7 date as all decisions of the Federal agency re-
8 lating to the project have been made by the
9 Federal agency, an additional notice that de-
10 scribes the number of decisions of the Federal
11 agency that remain outstanding as of the date
12 of the additional notice.

13 “(4) INVOLVEMENT OF THE PUBLIC.—Nothing
14 in this subsection shall reduce any time period pro-
15 vided for public comment in the environmental re-
16 view process under existing Federal law (including
17 regulations).

18 “(k) ISSUE IDENTIFICATION AND RESOLUTION.—

19 “(1) COOPERATION.—The lead agency and the
20 participating agencies shall work cooperatively in ac-
21 cordance with this section to identify and resolve
22 issues that could delay completion of the environ-
23 mental review process or result in the denial of any
24 approval required for the project under applicable
25 laws.

1 “(2) LEAD AGENCY RESPONSIBILITIES.—

2 “(A) IN GENERAL.—The lead agency shall
3 make information available to the participating
4 agencies as early as practicable in the environ-
5 mental review process regarding the environ-
6 mental and socioeconomic resources located
7 within the project area and the general loca-
8 tions of the alternatives under consideration.

9 “(B) DATA SOURCES.—The information
10 under subparagraph (A) may be based on exist-
11 ing data sources, including geographic informa-
12 tion systems mapping.

13 “(3) PARTICIPATING AGENCY RESPONSIBIL-
14 ITIES.—Based on information received from the lead
15 agency, participating agencies shall identify, as early
16 as practicable, any issues of concern regarding the
17 potential environmental or socioeconomic impacts of
18 the project, including any issues that could substan-
19 tially delay or prevent an agency from granting a
20 permit or other approval that is needed for the
21 project.

22 “(4) INTERIM DECISION ON ACHIEVING ACCEL-
23 ERATED DECISIONMAKING.—

24 “(A) IN GENERAL.—Not later than 30
25 days after the close of the public comment pe-

1 riod on a draft environmental impact statement,
2 the Secretary may convene a meeting with the
3 non-Federal interest or joint lead agency, as ap-
4 plicable, relevant resource agencies, and rel-
5 evant Federal and State agencies to establish a
6 schedule of deadlines to complete decisions re-
7 garding the project.

8 “(B) DEADLINES.—

9 “(i) IN GENERAL.—The deadlines re-
10 ferred to in subparagraph (A) shall be
11 those established by the Secretary, in con-
12 sultation with the non-Federal interest or
13 joint lead agency, as applicable, and other
14 relevant Federal and State agencies.

15 “(ii) FACTORS FOR CONSIDER-
16 ATION.—In establishing a schedule, the
17 Secretary shall consider factors such as—

18 “(I) the responsibilities of par-
19 ticipating agencies under applicable
20 laws;

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

1 “(III) the overall size and com-
2 plexity of the project;

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

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

8 “(iii) MODIFICATIONS.—The Sec-
9 retary may—

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

12 “(II) shorten a schedule only
13 with concurrence of the affected non-
14 Federal interest, joint agency, or rel-
15 evant Federal and State agencies, as
16 applicable.

17 “(C) FAILURE TO MEET DEADLINE.—If
18 the agencies described in subparagraph (A) can-
19 not provide reasonable assurances that the
20 deadlines described in subparagraph (B) will be
21 met, the Secretary may initiate the issue resolu-
22 tion and referral process described under para-
23 graph (5) before the completion of the record of
24 decision.

1 “(5) ACCELERATED ISSUE RESOLUTION AND
2 REFERRAL.—

3 “(A) AGENCY ISSUE RESOLUTION MEET-
4 ING.—

5 “(i) IN GENERAL.—A participating
6 agency or non-Federal interest may re-
7 quest an issue resolution meeting to be
8 conducted by the Secretary.

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

15 “(I) delay completion of the envi-
16 ronmental review process; or

17 “(II) result in denial of any ap-
18 provals required for the project under
19 applicable laws.

20 “(iii) DATE.—A meeting requested
21 under this subparagraph shall be held not
22 later than 21 days after the date on which
23 the Secretary receives the request for the
24 meeting, unless the Secretary determines

1 that there is good cause to extend that
2 deadline.

3 “(iv) NOTIFICATION.—On receipt of a
4 request for a meeting under this subpara-
5 graph, the Secretary shall notify all rel-
6 evant participating agencies of the request,
7 including the issue to be resolved and the
8 date for the meeting.

9 “(v) DISPUTES.—If a relevant partici-
10 pating agency with jurisdiction over an ap-
11 proval required for a project under applica-
12 ble law determines that the relevant infor-
13 mation necessary to resolve the issue has
14 not been obtained and could not have been
15 obtained within a reasonable time, but the
16 Secretary disagrees, the resolution of the
17 dispute shall be forwarded to the heads of
18 the relevant agencies for resolution.

19 “(vi) CONVENTION BY LEAD AGEN-
20 CY.—The Secretary may convene an issue
21 resolution meeting under this subsection at
22 any time, at the discretion of the Sec-
23 retary, regardless of whether a meeting is
24 requested under clause (i).

25 “(vii) EXCEPTION.—

1 “(I) IN GENERAL.—The issue
2 resolution and referral process under
3 this subparagraph shall not be initi-
4 ated if the applicable agency—

5 “(aa) certifies that—

6 “(AA) the agency has
7 not received necessary infor-
8 mation or approvals from
9 another entity in a manner
10 that affects the ability of the
11 agency to meet any require-
12 ments under Federal, State,
13 or local law;

14 “(BB) significant new
15 information or cir-
16 cumstances, including a
17 major modification to an as-
18 pect of the project, requires
19 additional analysis for the
20 agency to make a decision
21 on the project application; or

22 “(CC) the agency lacks
23 the financial resources to
24 complete the review under
25 the scheduled timeframe, in-

1 cluding a description of the
2 number of full-time employ-
3 ees required to complete the
4 review, the amount of fund-
5 ing required to complete the
6 review, and a justification as
7 to why there is not enough
8 funding available to com-
9 plete the review by the dead-
10 line; and

11 “(bb) establishes a new
12 deadline for completion of the re-
13 view.

14 “(II) INSPECTOR GENERAL.—If
15 the applicable agency makes a certifi-
16 cation under subclause (I)(aa)(CC),
17 the Inspector General of the applica-
18 ble agency shall conduct a financial
19 audit to review that certification and
20 submit a report on that certification
21 within 90 days to the Committee on
22 Environment and Public Works of the
23 Senate and the Committee on Trans-
24 portation and Infrastructure of the
25 House of Representatives.

1 “(B) ELEVATION OF ISSUE RESOLU-
2 TION.—

3 “(i) IN GENERAL.—If issue resolution
4 is not achieved by not later than 30 days
5 after the date on which a relevant meeting
6 is held under subparagraph (A), the Sec-
7 retary shall notify the heads of the relevant
8 participating agencies and the non-Federal
9 interest that an issue resolution meeting
10 will be convened.

11 “(ii) REQUIREMENTS.—The Secretary
12 shall identify the issues to be addressed at
13 the meeting and convene the meeting not
14 later than 30 days after the date on which
15 the notice is issued.

16 “(C) REFERRAL OF ISSUE RESOLUTION.—

17 “(i) REFERRAL TO COUNCIL ON ENVI-
18 RONMENTAL QUALITY.—

19 “(I) IN GENERAL.—If a resolu-
20 tion is not achieved by not later than
21 30 days after the date on which an
22 issue resolution meeting is held under
23 subparagraph (B), the Secretary shall
24 refer the matter to the Council on En-
25 vironmental Quality.

1 “(II) MEETING.—Not later than
2 30 days after the date on which the
3 Council on Environmental Quality re-
4 ceives a referral from the Secretary
5 under subclause (I), the Council on
6 Environmental Quality shall hold an
7 issue resolution meeting with the lead
8 agency, the heads of relevant partici-
9 pating agencies and the non-Federal
10 interest.

11 “(ii) REFERRAL TO THE PRESI-
12 DENT.—If a resolution of the issue is not
13 achieved by not later than 30 days after
14 the date on which an issue resolution meet-
15 ing is convened by the Council on Environ-
16 mental Quality under clause (i)(II), the
17 Secretary shall refer the matter directly to
18 the President.

19 “(6) FINANCIAL PENALTY PROVISIONS.—

20 “(A) IN GENERAL.—A Federal agency with
21 jurisdiction over an approval required for a
22 project under applicable Federal laws (including
23 regulations) shall complete any required ap-
24 proval on an expeditious basis using the short-
25 est existing applicable process.

1 “(B) FAILURE TO DECIDE.—

2 “(i) IN GENERAL.—If an agency de-
3 scribed in subparagraph (A) fails to render
4 a decision under any Federal law relating
5 to a project that requires the preparation
6 of an environmental impact statement or
7 environmental assessment, including the
8 issuance or denial of a permit, license, or
9 other approval by the date described in
10 clause (ii), an amount of funding equal to
11 the amounts specified in subclause (I) or
12 (II) shall be transferred from the applica-
13 ble office of the head of the agency, or
14 equivalent office to which the authority for
15 rendering the decision has been delegated
16 by law to the agency or division charged
17 with rendering a decision regarding the ap-
18 plication by not later than 1 day after the
19 applicable date under clause (ii), and once
20 each week thereafter until a final decision
21 is rendered, subject to subparagraph (C)—

22 “(I) \$20,000 for any project re-
23 quiring the preparation of an environ-
24 mental assessment or environmental
25 impact statement; or

1 “(II) \$10,000 for any project re-
2 quiring any type of review under the
3 National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) other
5 than an environmental assessment or
6 environmental impact statement.

7 “(ii) DESCRIPTION OF DATE.—The
8 date referred to in clause (i) is the later
9 of—

10 “(I) the date that is 180 days
11 after the date on which an application
12 for the permit, license, or approval is
13 complete; and

14 “(II) the date that is 180 days
15 after the date on which the Federal
16 lead agency issues a decision on the
17 project under the National Environ-
18 mental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).

20 “(C) LIMITATIONS.—

21 “(i) IN GENERAL.—No transfer of
22 funds under subparagraph (B) relating to
23 an individual project shall exceed, in any
24 fiscal year, an amount equal to 1 percent

1 of the funds made available for the appli-
2 cable agency office.

3 “(ii) FAILURE TO DECIDE.—The total
4 amount transferred in a fiscal year as a re-
5 sult of a failure by an agency to make a
6 decision by an applicable deadline shall not
7 exceed an amount equal to 5 percent of the
8 funds made available for the applicable
9 agency office for that fiscal year.

10 “(D) NO FAULT OF AGENCY.—A transfer
11 of funds under this paragraph shall not be
12 made if—

13 “(i) the applicable agency described in
14 subparagraph (A) certifies that—

15 “(I) the agency has not received
16 necessary information or approvals
17 from another entity in a manner that
18 affects the ability of the agency to
19 meet any requirements under Federal,
20 State, or local law; or

21 “(II) significant new information
22 or circumstances, including a major
23 modification to an aspect of the
24 project, requires additional analysis

1 for the agency to make a decision on
2 the project application; or

3 “(III) the agency lacks the finan-
4 cial resources to complete the review
5 under the scheduled timeframe, in-
6 cluding a description of the number of
7 full-time employees required to com-
8 plete the review, the amount of fund-
9 ing required to complete the review,
10 and a justification as to why there is
11 not enough funding available to com-
12 plete the review by the deadline; and

13 “(ii) if the applicable agency makes a
14 certification under clause (i)(III), the In-
15 spector General of the applicable agency
16 shall conduct a financial audit to review
17 that certification and submit a report on
18 that certification within 90 days to the
19 Committee on Environment and Public
20 Works of the Senate and the Committee on
21 Transportation and Infrastructure of the
22 House of Representatives.

23 “(E) LIMITATION.—The Federal agency
24 from which funds are transferred pursuant to
25 this paragraph shall not reprogram funds to the

1 office of the head of the agency, or equivalent
2 office, to reimburse that office for the loss of
3 the funds.

4 “(F) AUDITS.—In any fiscal year in which
5 any funds are transferred from a Federal agen-
6 cy pursuant to this paragraph, the Inspector
7 General of that agency shall—

8 “(i) conduct an audit to assess com-
9 pliance with the requirements of this para-
10 graph; and

11 “(ii) not later than 120 days after the
12 end of the fiscal year in which the transfer
13 occurred, submit to the Committee on En-
14 vironment and Public Works of the Senate
15 and the Committee on Transportation and
16 Infrastructure of the House of Representa-
17 tives a report describing the reasons why
18 the transfers were levied, including alloca-
19 tions of resources.

20 “(G) EFFECT OF PARAGRAPH.—Nothing
21 in this paragraph affects or limits the applica-
22 tion of, or obligation to comply with, any Fed-
23 eral, State, local, or tribal law.

24 “(I) PERFORMANCE MEASUREMENT.—The Secretary
25 shall establish a program to measure and report on

1 progress made toward improving and expediting the plan-
2 ning and environmental review process.

3 “(m) MEMORANDUM OF AGREEMENTS FOR EARLY
4 COORDINATION.—

5 “(1) SENSE OF CONGRESS.—It is the sense of
6 Congress that—

7 “(A) the Secretary and other Federal
8 agencies with relevant jurisdiction in the envi-
9 ronmental review process should cooperate with
10 each other, State agencies, and Indian tribes on
11 environmental review and water resources
12 project delivery activities at the earliest prac-
13 ticable time to avoid delays and duplication of
14 effort later in the process, prevent potential
15 conflicts, and ensure that planning and water
16 resources project development decisions reflect
17 environmental values; and

18 “(B) the cooperation referred to in sub-
19 paragraph (A) should include the development
20 of policies and the designation of staff that ad-
21 vise planning agencies and non-Federal inter-
22 ests of studies or other information foreseeably
23 required for later Federal action and early con-
24 sultation with appropriate State and local agen-
25 cies and Indian tribes.

1 “(2) TECHNICAL ASSISTANCE.—If requested at
2 any time by a State or non-Federal interest, the
3 Secretary and other Federal agencies with relevant
4 jurisdiction in the environmental review process,
5 shall, to the maximum extent practicable and appro-
6 priate, as determined by the agencies, provide tech-
7 nical assistance to the State or non-Federal interest
8 in carrying out early coordination activities.

9 “(3) MEMORANDUM OF AGENCY AGREEMENT.—
10 If requested at any time by a State or non-Federal
11 interest, the lead agency, in consultation with other
12 Federal agencies with relevant jurisdiction in the en-
13 vironmental review process, may establish memo-
14 randa of agreement with the non-Federal interest,
15 State and local governments, and other appropriate
16 entities to carry out the early coordination activities,
17 including providing technical assistance in identi-
18 fying potential impacts and mitigation issues in an
19 integrated fashion.

20 “(n) LIMITATIONS.—Nothing in this section pre-
21 empts, supersedes, amends, modifies, or interferes with—

22 “(1) any statutory requirement for seeking pub-
23 lic comment;

24 “(2) any power, jurisdiction, or authority that
25 a Federal, State, or local government agency, Indian

1 tribe, or non-Federal interest has with respect to
2 carrying out a water resources project;

3 “(3) any obligation to comply with the provi-
4 sions of the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.) and the regulations
6 issued by the Council on Environmental Quality to
7 carry out that Act or any other Federal environ-
8 mental law;

9 “(4) the reviewability of any final Federal agen-
10 cy action in a court of the United States or in the
11 court of any State;

12 “(5) any practice of seeking, considering, or re-
13 sponding to public comment; or

14 “(6) any power, jurisdiction, responsibility, or
15 authority that a Federal, State, or local govern-
16 mental agency, Indian tribe, or non-Federal interest
17 has with respect to carrying out a water resources
18 project or any other provision of law applicable to
19 water resources development projects.

20 “(o) CATEGORICAL EXCLUSIONS.—

21 “(1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this subsection, the
23 Secretary shall—

1 “(A) survey the use by the Corps of Engi-
2 neers of categorical exclusions in water re-
3 sources projects since 2005;

4 “(B) publish a review of the survey that
5 includes a description of—

6 “(i) the types of actions categorically
7 excluded; and

8 “(ii) any requests previously received
9 by the Secretary for new categorical exclu-
10 sions; and

11 “(C) solicit requests from other Federal
12 agencies and non-Federal interests for new cat-
13 egorical exclusions.

14 “(2) NEW CATEGORICAL EXCLUSIONS.—Not
15 later than 1 year after the date of enactment of this
16 subsection, if the Secretary has identified a categor-
17 ical exclusion that did not exist on the day before
18 the date of enactment of this subsection based on
19 the review under paragraph (1), the Secretary shall
20 publish a notice of proposed rulemaking to propose
21 that new categorical exclusion, to the extent that the
22 categorical exclusion meets the criteria for a categor-
23 ical exclusion under section 1508.4 of title 40, Code
24 of Federal Regulations (or successor regulation).

1 “(p) REVIEW OF WATER RESOURCES PROJECT AC-
2 CELERATION REFORMS.—

3 “(1) IN GENERAL.—The Comptroller General of
4 the United States shall—

5 “(A) assess the reforms carried out under
6 this section; and

7 “(B) not later than 5 years after the date
8 of enactment of this subsection, submit to the
9 Committee on Transportation and Infrastruc-
10 ture of the House of Representatives and the
11 Committee on Environment and Public Works
12 of the Senate a report that describes the results
13 of the assessment.

14 “(2) INSPECTOR GENERAL REPORT.—The In-
15 specter General of the Corps of Engineers shall—

16 “(A) assess the reforms carried out under
17 this section; and

18 “(B) submit to the Committee on Trans-
19 portation and Infrastructure of the House of
20 Representatives and the Committee on Environ-
21 ment and Public Works of the Senate—

22 “(i) not later than 2 years after the
23 date of enactment of this subsection, an
24 initial report of the findings of the Inspec-
25 tor General; and

1 “(ii) not later than 4 years after the
2 date of enactment of this subsection, a
3 final report of the findings.”.

4 **SEC. 2034. FEASIBILITY STUDIES.**

5 Section 905 of the Water Resources Development Act
6 of 1986 (33 U.S.C. 2282) is amended by adding at the
7 end the following:

8 “(g) DETAILED PROJECT SCHEDULE.—

9 “(1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this subsection, the
11 Secretary shall determine a set of milestones needed
12 for the completion of a feasibility study under this
13 subsection, including all major actions, report sub-
14 missions and responses, reviews, and comment peri-
15 ods.

16 “(2) DETAILED PROJECT SCHEDULE MILE-
17 STONES.—Each District Engineer shall, to the max-
18 imum extent practicable, establish a detailed project
19 schedule, based on full funding capability, that lists
20 all deadlines for milestones relating to feasibility
21 studies in the District developed by the Secretary
22 under paragraph (1).

23 “(3) NON-FEDERAL INTEREST NOTIFICA-
24 TION.—Each District Engineer shall submit by cer-

1 tified mail the detailed project schedule under para-
2 graph (2) to each relevant non-Federal interest—

3 “(A) for projects that have received fund-
4 ing from the General Investigations Account of
5 the Corps of Engineers in the period beginning
6 on October 1, 2009, and ending on the date of
7 enactment of this section, not later than 180
8 days after the establishment of milestones
9 under paragraph (1); and

10 “(B) for projects for which a feasibility
11 cost-sharing agreement is executed after the es-
12 tablishment of milestones under paragraph (1),
13 not later than 90 days after the date on which
14 the agreement is executed.

15 “(4) CONGRESSIONAL AND PUBLIC NOTIFICA-
16 TION.—Beginning in the first full fiscal year after
17 the date of enactment of this Act, the Secretary
18 shall—

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

1 “(B) make publicly available, including on
2 the Internet, a copy of the annual report de-
3 scribed in subparagraph (A) not later than 14
4 days after date on which a report is submitted
5 to Congress.

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

10 “(A) not later than 30 days after each
11 missed deadline, submit to the non-Federal in-
12 terest a report detailing—

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

15 “(ii) a revised project schedule reflect-
16 ing amended deadlines for the feasibility
17 study; and

18 “(B) not later than 30 days after each
19 missed deadline, make publicly available, includ-
20 ing on the Internet, a copy of the amended
21 project schedule described in subparagraph
22 (A)(ii).”.

23 **SEC. 2035. ACCOUNTING AND ADMINISTRATIVE EXPENSES.**

24 (a) IN GENERAL.—On the request of a non-Federal
25 interest, the Secretary shall provide to the non-Federal in-

1 terest a detailed accounting of the Federal expenses asso-
2 ciated with a water resources project.

3 (b) STUDY.—

4 (1) IN GENERAL.—The Secretary shall contract
5 with the National Academy of Public Administration
6 to carry out a study on the efficiency of the Corps
7 Engineers current staff salaries and administrative
8 expense procedures as compared to using a separate
9 administrative expense account.

10 (2) CONTENTS.—The study under paragraph
11 (1) shall include any recommendations of the Na-
12 tional Academy of Public Administration for im-
13 provements to the budgeting and administrative
14 processes that will increase the efficiency of the
15 Corps of Engineers project delivery.

16 **SEC. 2036. DETERMINATION OF PROJECT COMPLETION.**

17 (a) IN GENERAL.—The Secretary shall transfer to
18 the non-Federal interest the responsibility for the oper-
19 ation and maintenance of any water resources project for
20 which operation and maintenance is required of the non-
21 Federal interest or separable element or functional portion
22 of that water resources project on such date that the Sec-
23 retary determines that the project is complete.

24 (b) NON-FEDERAL INTEREST APPEAL OF DETER-
25 MINATION.—

1 (1) IN GENERAL.—Not later than 7 days after
2 receiving a notification under subparagraph (a), the
3 non-Federal interest may appeal the completion de-
4 termination of the Secretary in writing.

5 (2) INDEPENDENT REVIEW.—

6 (A) IN GENERAL.—On notification that a
7 non-Federal interest has submitted an appeal
8 under paragraph (1), the Secretary shall con-
9 tract with 1 or more independent, non-Federal
10 experts to determine whether the applicable
11 water resources project or separable element or
12 functional portion of the water resources project
13 is complete.

14 (B) TIMELINE.—An independent review
15 carried out under subparagraph (A) shall be
16 completed not later than 180 days after the
17 date on which the Secretary receives an appeal
18 from a non-Federal interest under paragraph
19 (1).

20 **SEC. 2037. PROJECT PARTNERSHIP AGREEMENTS.**

21 (a) IN GENERAL.—The Secretary shall contract with
22 the National Academy of Public Administration to carry
23 out a comprehensive review of the process for preparing,
24 negotiating, and approving Project Partnership Agree-

1 ments and the Project Partnership Agreement template,
2 which shall include—

3 (1) a review of the process for preparing, nego-
4 tiating, and approving Project Partnership Agree-
5 ments, as in effect on the day before the date of en-
6 actment of this Act;

7 (2) an evaluation of how the concerns of a non-
8 Federal interest relating to the Project Partnership
9 Agreement and suggestions for modifications to the
10 Project Partnership Agreement made by a non-Fed-
11 eral interest are accommodated;

12 (3) recommendations for how the concerns and
13 modifications described in paragraph (2) can be bet-
14 ter accommodated;

15 (4) recommendations for how the Project Part-
16 nership Agreement template can be made more effi-
17 cient; and

18 (5) recommendations for how to make the proc-
19 ess for preparing, negotiating, and approving Project
20 Partnership Agreements more efficient.

21 (b) REPORT.—The Secretary shall submit a report
22 describing the findings of the National Academy of Public
23 Administration to the Committee on Environment and
24 Public Works of the Senate and the Committee on Trans-

1 portation and Infrastructure of the House of Representa-
2 tives.

3 **SEC. 2038. INTERAGENCY AND INTERNATIONAL SUPPORT**
4 **AUTHORITY.**

5 Section 234 of the Water Resources Development Act
6 of 1996 (33 U.S.C. 2323a) is amended—

7 (1) in subsection (a), by striking “other Federal
8 agencies,” and inserting “Federal departments or
9 agencies, nongovernmental organizations,”;

10 (2) in subsection (b), by inserting “or foreign
11 governments” after “organizations”;

12 (3) in subsection (c), by inserting “and restora-
13 tion” after “protection”; and

14 (4) in subsection (d)—

15 (A) in the first sentence—

16 (i) by striking “There is” and insert-
17 ing “(1) IN GENERAL.—There is”; and

18 (ii) by striking “2008” and inserting
19 “2014”; and

20 (B) in the second sentence—

21 (i) by striking “The Secretary” and
22 inserting “(2) ACCEPTANCE OF FUNDS.—
23 The Secretary”; and

24 (ii) by striking “other Federal agen-
25 cies” and inserting “Federal departments

1 or agencies, nongovernmental organiza-
2 tions”.

3 **SEC. 2039. ACCEPTANCE OF CONTRIBUTED FUNDS TO IN-**
4 **CREASE LOCK OPERATIONS.**

5 (a) IN GENERAL.—The Secretary, after providing
6 public notice, shall establish a pilot program for the ac-
7 ceptance and expenditure of funds contributed by non-
8 Federal interests to increase the hours of operation of
9 locks at water resources development projects.

10 (b) APPLICABILITY.—The establishment of the pilot
11 program under this section shall not affect the periodic
12 review and adjustment of hours of operation of locks based
13 on increases in commercial traffic carried out by the Sec-
14 retary.

15 (c) PUBLIC COMMENT.—Not later than 180 days be-
16 fore a proposed modification to the operation of a lock
17 at a water resources development project will be carried
18 out, the Secretary shall—

19 (1) publish the proposed modification in the
20 Federal Register; and

21 (2) accept public comment on the proposed
22 modification.

23 (d) REPORTS.—

24 (1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of this Act, the Secretary

1 shall submit to the Committee on Transportation
2 and Infrastructure of the House of Representatives
3 and the Committee on Environment and Public
4 Works of the Senate a report that evaluates the
5 cost-savings resulting from reduced lock hours and
6 any economic impacts of modifying lock operations.

7 (2) REVIEW OF PILOT PROGRAM.—Not later
8 than September 30, 2017 and each year thereafter,
9 the Secretary shall submit to the Committee on
10 Transportation and Infrastructure of the House of
11 Representatives and the Committee on Environment
12 and Public Works of the Senate a report that de-
13 scribes the effectiveness of the pilot program under
14 this section.

15 (e) ANNUAL REVIEW.—The Secretary shall carry out
16 an annual review of the commercial use of locks and make
17 any necessary adjustments to lock operations based on
18 that review.

19 (f) TERMINATION.—The authority to accept funds
20 under this section shall terminate 5 years after the date
21 of enactment of this Act.

22 **SEC. 2040. EMERGENCY RESPONSE TO NATURAL DISAS-**
23 **TERS.**

24 (a) IN GENERAL.—Section 5(a)(1) of the Act entitled
25 “An Act authorizing the construction of certain public

1 works on rivers and harbors for flood control, and for
2 other purposes”, approved August 18, 1941 (33 U.S.C.
3 701n(a)(1)), is amended in the first sentence by striking
4 “structure damaged or destroyed by wind, wave, or water
5 action of other than an ordinary nature when in the dis-
6 cretion of the Chief of Engineers such repair and restora-
7 tion is warranted for the adequate functioning of the
8 structure for hurricane or shore protection” and inserting
9 “structure or project damaged or destroyed by wind, wave,
10 or water action of other than an ordinary nature to the
11 design level of protection when, in the discretion of the
12 Chief of Engineers, such repair and restoration is war-
13 ranted for the adequate functioning of the structure or
14 project for hurricane or shore protection, subject to the
15 condition that the Chief of Engineers may include modi-
16 fications to the structure or project to address major defi-
17 ciencies”.

18 (b) REPORT.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act and every 2 years
21 thereafter, the Secretary shall submit to the Com-
22 mittee on Environment and Public Works of the
23 Senate and the Committee on Transportation and
24 Infrastructure of the House of Representatives a re-
25 port detailing the amounts expended in the previous

1 5 fiscal years to carry out Corps of Engineers
2 projects under section 5 of the Act entitled “An Act
3 authorizing the construction of certain public works
4 on rivers and harbors for flood control, and for other
5 purposes”, approved August 18, 1941 (33 U.S.C.
6 701n).

7 (2) INCLUSIONS.—A report under paragraph
8 (1) shall, at a minimum, include a description of—

9 (A) each project for which amounts are ex-
10 pended, including the type of project and cost
11 of the project; and

12 (B) how the Secretary has restored or in-
13 tends to restore the project to the design level
14 of protection for the project.

15 **SEC. 2041. SYSTEMWIDE IMPROVEMENT FRAMEWORKS.**

16 A levee system shall remain eligible for rehabilitation
17 assistance under the authority provided by section 5 of
18 the Act entitled “An Act authorizing the construction of
19 certain public works on rivers and harbors for flood con-
20 trol, and for other purposes” (33 U.S.C. 701n) as long
21 as the levee system sponsor continues to make satisfactory
22 progress, as determined by the Secretary, on an approved
23 systemwide improvement framework or letter of intent.

1 **SEC. 2042. FUNDING TO PROCESS PERMITS.**

2 Section 214 of the Water Resources Development Act
3 of 2000 (Public Law 106–541; 33 U.S.C. 2201 note) is
4 amended by striking subsections (d) and (e) and inserting
5 the following:

6 “(d) PUBLIC AVAILABILITY.—

7 “(1) IN GENERAL.—The Secretary shall ensure
8 that all final permit decisions carried out using
9 funds authorized under this section are made avail-
10 able to the public in a common format, including on
11 the Internet, and in a manner that distinguishes
12 final permit decisions under this section from other
13 final actions of the Secretary.

14 “(2) DECISION DOCUMENT.—The Secretary
15 shall—

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

19 “(B) make the standard decision docu-
20 ment, along with all final permit decisions,
21 available to the public, including on the Inter-
22 net.

23 “(3) AGREEMENTS.—The Secretary shall make
24 all active agreements to accept funds under this sec-
25 tion available on a single public Internet site.

26 “(e) REPORTING.—

1 “(1) IN GENERAL.—The Secretary shall pre-
2 pare an annual report on the implementation of this
3 section, which, at a minimum, shall include for each
4 district of the Corps of Engineers that accepts funds
5 under this section—

6 “(A) a comprehensive list of any funds ac-
7 cepted under this section during the previous
8 fiscal year;

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

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

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

22 “(A) submit to the Committee on Environ-
23 ment and Public Works of the Senate and the
24 Committee on Transportation and Infrastruc-

1 ture of the House of Representatives the annual
2 report described in paragraph (1); and

3 “(B) make each report received under sub-
4 paragraph (A) available on a single publicly ac-
5 cessible Internet site.”.

6 **SEC. 2043. NATIONAL RIVERBANK STABILIZATION AND**
7 **EROSION PREVENTION STUDY AND PILOT**
8 **PROGRAM.**

9 (a) **DEFINITION OF INLAND AND INTRACOASTAL WA-**
10 **TERWAY.**—In this section, the term “inland and intra-
11 coastal waterway” means the inland and intracoastal wa-
12 terways of the United States described in section 206 of
13 the Inland Waterways Revenue Act of 1978 (33 U.S.C.
14 1804).

15 (b) **PILOT PROGRAM.**—The Secretary—

16 (1) is authorized to study issues relating to riv-
17 erbank stabilization and erosion prevention along in-
18 land and intracoastal waterways; and

19 (2) shall establish and carry out for a period of
20 5 fiscal years a national riverbank stabilization and
21 erosion prevention pilot program to address river-
22 bank erosion along inland and intracoastal water-
23 ways.

24 (c) **STUDY.**—

1 (1) IN GENERAL.—The Secretary, in consulta-
2 tion with appropriate Federal, State, local, and non-
3 governmental entities, shall carry out a study of the
4 options and technologies available to prevent the ero-
5 sion and degradation of riverbanks along inland and
6 intracoastal waterways.

7 (2) CONTENTS.—The study shall—

8 (A) evaluate the nature and extent of the
9 damages resulting from riverbank erosion along
10 inland and intracoastal waterways throughout
11 the United States;

12 (B) identify specific inland and intra-
13 coastal waterways and affected wetland areas
14 with the most urgent need for restoration;

15 (C) analyze any legal requirements with re-
16 gard to maintenance of bank lines of inland and
17 intracoastal waterways, including a comparison
18 of Federal, State, and private obligations and
19 practices;

20 (D) assess and compare policies and man-
21 agement practices to protect surface areas adja-
22 cent to inland and intracoastal waterways ap-
23 plied by various Districts of the Corps of Engi-
24 neers; and

1 (E) make any recommendations the Sec-
2 retary determines to be appropriate.

3 (d) RIVERBANK STABILIZATION AND EROSION PRE-
4 VENTION PILOT PROGRAM.—

5 (1) IN GENERAL.—The Secretary shall develop
6 a pilot program for the construction of riverbank
7 stabilization and erosion prevention projects on pub-
8 lic land along inland and intracoastal waterways if
9 the Secretary determines that the projects are fea-
10 sible and lower maintenance costs of those inland
11 and intracoastal waterways.

12 (2) PILOT PROGRAM GOALS.—A project under
13 the pilot program shall, to the maximum extent
14 practicable—

15 (A) develop or demonstrate innovative
16 technologies;

17 (B) implement efficient designs to prevent
18 erosion at a riverbank site, taking into account
19 the lifecycle cost of the design, including clean-
20 up, maintenance, and amortization;

21 (C) prioritize natural designs, including
22 the use of native and naturalized vegetation or
23 temporary structures that minimize permanent
24 structural alterations to the riverbank;

1 (D) avoid negative impacts to adjacent
2 communities;

3 (E) identify the potential for long-term
4 protection afforded by the innovative tech-
5 nology; and

6 (F) provide additional benefits, including
7 reduction of flood risk.

8 (3) PROJECT SELECTIONS.—The Secretary
9 shall develop criteria for the selection of projects
10 under the pilot program, including criteria based
11 on—

12 (A) the extent of damage and land loss re-
13 sulting from riverbank erosion;

14 (B) the rate of erosion;

15 (C) the significant threat of future flood
16 risk to public or private property, public infra-
17 structure, or public safety;

18 (D) the destruction of natural resources or
19 habitats; and

20 (E) the potential cost-savings for mainte-
21 nance of the channel.

22 (4) CONSULTATION.—The Secretary shall carry
23 out the pilot program in consultation with—

24 (A) Federal, State, and local governments;

25 (B) nongovernmental organizations; and

1 (C) applicable university research facilities.

2 (5) REPORT.—Not later than 1 year after the
3 first fiscal year for which amounts to carry out this
4 section are appropriated, and every year thereafter,
5 the Secretary shall prepare and submit to the Com-
6 mittee on Environment and Public Works of the
7 Senate and the Committee on Transportation and
8 Infrastructure of the House of Representatives a re-
9 port describing—

10 (A) the activities carried out and accom-
11 plishments made under the pilot program since
12 the previous report under this paragraph; and

13 (B) any recommendations of the Secretary
14 relating to the program.

15 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to carry out this section
17 \$25,000,000 for each of fiscal years 2014 through 2019.

18 **SEC. 2044. HURRICANE AND STORM DAMAGE RISK REDUC-**
19 **TION PRIORITIZATION.**

20 (a) PURPOSES.—The purposes of this section are—

21 (1) to provide adequate levels of protection to
22 communities impacted by natural disasters, includ-
23 ing hurricanes, tropical storms, and other related ex-
24 treme weather events; and

1 (2) to expedite critical water resources projects
2 in communities that have historically been and con-
3 tinue to remain susceptible to extreme weather
4 events.

5 (b) PRIORITY.—For authorized projects and ongoing
6 feasibility studies with a primary purpose of hurricane and
7 storm damage risk reduction, the Secretary shall give
8 funding priority to projects and ongoing studies that—

9 (1) address an imminent threat to life and
10 property;

11 (2) prevent storm surge from inundating popu-
12 lated areas;

13 (3) prevent the loss of coastal wetlands that
14 help reduce the impact of storm surge;

15 (4) protect emergency hurricane evacuation
16 routes or shelters;

17 (5) prevent adverse impacts to publicly owned
18 or funded infrastructure and assets;

19 (6) minimize disaster relief costs to the Federal
20 Government; and

21 (7) address hurricane and storm damage risk
22 reduction in an area for which the President de-
23 clared a major disaster in accordance with section
24 401 of the Robert T. Stafford Disaster Relief and
25 Emergency Assistance Act (42 U.S.C. 5170).

1 (c) EXPEDITED CONSIDERATION OF CURRENTLY AU-
2 THORIZED PROJECTS.—Not later than 180 days after the
3 date of enactment of this Act, the Secretary shall—

4 (1) submit to the Committee on Environment
5 and Public Works of the Senate and the Committee
6 on Transportation and Infrastructure of the House
7 of Representatives a list of all—

8 (A) ongoing hurricane and storm damage
9 reduction feasibility studies that have signed
10 feasibility cost share agreements and have re-
11 ceived Federal funds since 2009; and

12 (B) authorized hurricane and storm dam-
13 age reduction projects that—

14 (i) have been authorized for more
15 than 20 years but are less than 75 percent
16 complete; or

17 (ii) are undergoing a post-authoriza-
18 tion change report, general reevaluation re-
19 port, or limited reevaluation report;

20 (2) identify those projects on the list required
21 under paragraph (1) that meet the criteria described
22 in subsection (b); and

23 (3) provide a plan for expeditiously completing
24 the projects identified under paragraph (2), subject
25 to available funding.

1 (d) PRIORITIZATION OF NEW STUDIES FOR HURRI-
2 CANE AND STORM DAMAGE RISK REDUCTION.—In select-
3 ing new studies for hurricane and storm damage reduction
4 to propose to Congress under section 4002, the Secretary
5 shall give priority to studies—

6 (1) that—

7 (A) have been recommended in a com-
8 prehensive hurricane protection study carried
9 out by the Corps of Engineers; or

10 (B) are included in a State plan or pro-
11 gram for hurricane, storm damage reduction,
12 flood control, coastal protection, conservation,
13 or restoration, that is created in consultation
14 with the Corps of Engineers or other relevant
15 Federal agencies; and

16 (2) for areas for which the President declared
17 a major disaster in accordance with section 401 of
18 the Robert T. Stafford Disaster Relief and Emer-
19 gency Assistance Act (42 U.S.C. 5170).

20 **SEC. 2045. PRIORITIZATION OF ECOSYSTEM RESTORATION**
21 **EFFORTS.**

22 For authorized projects with a primary purpose of
23 ecosystem restoration, the Secretary shall give funding
24 priority to projects—

25 (1) that—

1 (A) address an identified threat to public
2 health, safety, or welfare;

3 (B) preserve, establish, or restore habitats
4 of national significance; and

5 (C) preserve habitats of importance for
6 federally protected species, including migratory
7 birds; and

8 (2) for which the restoration activities will con-
9 tribute to other ongoing or planned Federal, State,
10 or local restoration initiatives.

11 **SEC. 2046. SPECIAL USE PERMITS.**

12 (a) SPECIAL USE PERMITS.—

13 (1) IN GENERAL.—The Secretary may issue
14 special permits for uses such as group activities,
15 recreation events, motorized recreation vehicles, and
16 such other specialized recreation uses as the Sec-
17 retary determines to be appropriate, subject to such
18 terms and conditions as the Secretary determines to
19 be in the best interest of the Federal Government.

20 (2) FEES.—

21 (A) IN GENERAL.—In carrying out this
22 subsection, the Secretary may—

23 (i) establish and collect fees associated
24 with the issuance of the permits described
25 in paragraph (1); or

1 (ii) accept in-kind services in lieu of
2 those fees.

3 (B) OUTDOOR RECREATION EQUIPMENT.—

4 The Secretary may establish and collect fees for
5 the provision of outdoor recreation equipment
6 and services at public recreation areas located
7 at lakes and reservoirs operated by the Corps of
8 Engineers.

9 (C) USE OF FEES.—Any fees generated
10 pursuant to this subsection shall be—

11 (i) retained at the site collected; and

12 (ii) available for use, without further
13 appropriation, solely for administering the
14 special permits under this subsection and
15 carrying out related operation and mainte-
16 nance activities at the site at which the
17 fees are collected.

18 (b) COOPERATIVE MANAGEMENT.—

19 (1) PROGRAM.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B), the Secretary may enter into an
22 agreement with a State or local government to
23 provide for the cooperative management of a
24 public recreation area if—

1 (i) the public recreation area is lo-
2 cated—

3 (I) at a lake or reservoir operated
4 by the Corps of Engineers; and

5 (II) adjacent to or near a State
6 or local park or recreation area; and

7 (ii) the Secretary determines that co-
8 operative management between the Corps
9 of Engineers and a State or local govern-
10 ment agency of a portion of the Corps of
11 Engineers recreation area or State or local
12 park or recreation area will allow for more
13 effective and efficient management of those
14 areas.

15 (B) RESTRICTION.—The Secretary may
16 not transfer administration responsibilities for
17 any public recreation area operated by the
18 Corps of Engineers.

19 (2) ACQUISITION OF GOODS AND SERVICES.—
20 The Secretary may acquire from or provide to a
21 State or local government with which the Secretary
22 has entered into a cooperative agreement under
23 paragraph (1) goods and services to be used by the
24 Secretary and the State or local government in the

1 cooperative management of the areas covered by the
2 agreement.

3 (3) ADMINISTRATION.—The Secretary may
4 enter into 1 or more cooperative management agree-
5 ments or such other arrangements as the Secretary
6 determines to be appropriate, including leases or li-
7 censes, with non-Federal interests to share the costs
8 of operation, maintenance, and management of
9 recreation facilities and natural resources at recre-
10 ation areas that are jointly managed and funded
11 under this subsection.

12 (c) FUNDING TRANSFER AUTHORITY.—

13 (1) IN GENERAL.—If the Secretary determines
14 that it is in the public interest for purposes of en-
15 hancing recreation opportunities at Corps of Engi-
16 neers water resources development projects, the Sec-
17 retary may transfer funds appropriated for resource
18 protection, research, interpretation, and maintenance
19 activities related to resource protection in the areas
20 at which outdoor recreation is available at those
21 Corps of Engineers water resource development
22 projects to State, local, and tribal governments and
23 such other public or private nonprofit entities as the
24 Secretary determines to be appropriate.

1 (2) COOPERATIVE AGREEMENTS.—Any transfer
2 of funds pursuant to this subsection shall be carried
3 out through the execution of a cooperative agree-
4 ment, which shall contain such terms and conditions
5 as the Secretary determines to be necessary in the
6 public interest.

7 (d) SERVICES OF VOLUNTEERS.—Chapter IV of title
8 I of Public Law 98–63 (33 U.S.C. 569c) is amended—

9 (1) in the first sentence, by inserting “, includ-
10 ing expenses relating to uniforms, transportation,
11 lodging, and the subsistence of those volunteers,
12 without regard to the place of residence of the volun-
13 teers,” after “incidental expenses”; and

14 (2) by inserting after the first sentence the fol-
15 lowing: “The Chief of Engineers may also provide
16 awards of up to \$100 in value to volunteers in rec-
17 ognition of the services of the volunteers.”

18 (e) TRAINING AND EDUCATIONAL ACTIVITIES.—Sec-
19 tion 213(a) of the Water Resources Development Act of
20 2000 (33 U.S.C. 2339) is amended by striking “at” and
21 inserting “about”.

22 **SEC. 2047. OPERATIONS AND MAINTENANCE ON FUEL**
23 **TAXED INLAND WATERWAYS.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, the Secretary shall have responsibility for 65

1 percent of the costs of the operation, maintenance, repair,
2 rehabilitation, and replacement of any flood gate, as well
3 as any pumping station constructed within the channel as
4 a single unit with that flood gate, that—

5 (1) was constructed as of the date of enactment
6 of this Act as a feature of an authorized hurricane
7 and storm damage reduction project; and

8 (2) crosses an inland or intracoastal waterway
9 described in section 206 of the Inland Waterways
10 Revenue Act of 1978 (33 U.S.C. 1804).

11 (b) PAYMENT OPTIONS.—For rehabilitation or re-
12 placement of any structure under this section, the Sec-
13 retary may apply to the full non-Federal contribution the
14 payment option provisions under section 103(k) of the
15 Water Resources Development Act of 1986 (33 U.S.C.
16 2213(k)).

17 **SEC. 2048. CORROSION PREVENTION.**

18 (a) GUIDANCE AND PROCEDURES.—The Secretary
19 shall develop guidance and procedures for the certification
20 of qualified contractors for—

21 (1) the application of protective coatings; and

22 (2) the removal of hazardous protective coat-
23 ings.

1 (b) REQUIREMENTS.—Except as provided in sub-
2 section (c), the Secretary shall use certified contractors
3 for—

4 (1) the application of protective coatings for
5 complex work involving steel and cementitious struc-
6 tures, including structures that will be exposed in
7 immersion;

8 (2) the removal of hazardous coatings or other
9 hazardous materials that are present in sufficient
10 concentrations to create an occupational or environ-
11 mental hazard; and

12 (3) any other activities the Secretary deter-
13 mines to be appropriate.

14 (c) EXCEPTION.—The Secretary may approve excep-
15 tions to the use of certified contractors under subsection
16 (b) only after public notice, with the opportunity for com-
17 ment, of any such proposal.

18 **SEC. 2049. PROJECT DEAUTHORIZATIONS.**

19 Section 1001(b) of the Water Resources Development
20 Act of 1986 (33 U.S.C. 579a(b)) is amended—

21 (1) by striking paragraph (2) and inserting the
22 following:

23 “(2) LIST OF PROJECTS.—

24 “(A) IN GENERAL.—Notwithstanding sec-
25 tion 3003 of Public Law 104–66 (31 U.S.C.

1 1113 note; 109 Stat. 734), each year, after the
2 submission of the list under paragraph (1), the
3 Secretary shall submit to Congress a list of
4 projects or separable elements of projects that
5 have been authorized but that have received no
6 obligations during the 5 full fiscal years pre-
7 ceding the submission of that list.

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

11 “(i) each Senator in whose State and
12 each Member of the House of Representa-
13 tives in whose district a project (including
14 any part of a project) on that list would be
15 located; and

16 “(ii) each applicable non-Federal in-
17 terest associated with a project (including
18 any part of a project) on that list.

19 “(C) DEAUTHORIZATION.—A project or
20 separable element included in the list under
21 subparagraph (A) is not authorized after the
22 last date of the fiscal year following the fiscal
23 year in which the list is submitted to Congress,
24 if funding has not been obligated for the plan-

1 ning, design, or construction of the project or
2 element of the project during that period.”; and

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

4 “(3) MINIMUM FUNDING LIST.—At the end of
5 each fiscal year, the Secretary shall submit to Con-
6 gress a list of—

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

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

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

15 “(D) the amount required to complete
16 those phases.

17 “(4) REPORT.—

18 “(A) IN GENERAL.—Not later than 180
19 days after the date of enactment of the Water
20 Resources Development Act of 2013, the Sec-
21 retary shall compile and publish a complete list
22 of all uncompleted, authorized projects of the
23 Corps of Engineers, including for each project
24 on that list—

1 “(i) the original budget authority for
2 the project;

3 “(ii) the status of the project;

4 “(iii) the estimated date of completion
5 of the project;

6 “(iv) the estimated cost of completion
7 of the project; and

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

10 “(B) PUBLICATION.—

11 “(i) IN GENERAL.—The Secretary
12 shall submit a copy of the list under sub-
13 paragraph (A) to—

14 “(I) the appropriate committees
15 of Congress; and

16 “(II) the Director of the Office of
17 Management and Budget.

18 “(ii) PUBLIC AVAILABILITY.—Not
19 later than 30 days after providing the re-
20 port to Congress under clause (i), the Sec-
21 retary shall make a copy of the list avail-
22 able on a publicly accessible Internet site,
23 in a manner that is downloadable, search-
24 able, and sortable.”.

1 **SEC. 2050. REPORTS TO CONGRESS.**

2 (a) IN GENERAL.—Subject to the availability of ap-
3 propriations, the Secretary shall complete and submit to
4 Congress by the applicable date required the reports that
5 address public safety and enhanced local participation in
6 project delivery described in subsection (b).

7 (b) REPORTS.—The reports referred to in subsection
8 (a) are the reports required under—

9 (1) section 2020;

10 (2) section 2022;

11 (3) section 2025;

12 (4) section 2026;

13 (5) section 2039;

14 (6) section 2040;

15 (7) section 6007; and

16 (8) section 10015.

17 (c) FAILURE TO PROVIDE A COMPLETED REPORT.—

18 (1) IN GENERAL.—Subject to subsection (d), if
19 the Secretary fails to provide a report listed under
20 subsection (b) by the date that is 180 days after the
21 applicable date required for that report, \$5,000 shall
22 be reprogrammed from the Office of the Assistant
23 Secretary of the Army for Civil Works into the ac-
24 count of the division of the Secretary of the Army
25 with responsibility for completing that report.

1 (2) SUBSEQUENT REPROGRAMMING.—Subject
2 to subsection (d), for each additional week after the
3 date described in paragraph (1) in which a report
4 described in that paragraph remains uncompleted
5 and unsubmitted to Congress, \$5,000 shall be repro-
6 grammed from the Office of the Assistant Secretary
7 of the Army for Civil Works into the account of the
8 division of the Secretary of the Army with responsi-
9 bility for completing that report.

10 (d) LIMITATIONS.—

11 (1) IN GENERAL.—For each report, the total
12 amounts reprogrammed under subsection (c) shall
13 not exceed, in any fiscal year, \$50,000.

14 (2) AGGREGATE LIMITATION.—The total
15 amount reprogrammed under subsection (c) in a fis-
16 cal year shall not exceed \$200,000.

17 (e) NO FAULT OF THE SECRETARY.—Amounts shall
18 not be reprogrammed under subsection (c) if the Secretary
19 certifies in a letter to the applicable committees of Con-
20 gress that—

21 (1) a major modification has been made to the
22 content of the report that requires additional anal-
23 ysis for the Secretary to make a final decision on the
24 report;

1 (2) amounts have not been appropriated to the
2 agency under this Act or any other Act to carry out
3 the report; or

4 (3) additional information is required from an
5 entity other than the Corps of Engineers and is not
6 available in a timely manner to complete the report
7 by the deadline.

8 (f) LIMITATION.—The Secretary shall not reprogram
9 funds to reimburse the Office of the Assistant Secretary
10 of the Army for Civil Works for the loss of the funds.

11 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$10,000,000.

14 **TITLE III—PROJECT** 15 **MODIFICATIONS**

16 **SEC. 3001. PURPOSE.**

17 The purpose of this title is to modify existing water
18 resource project authorizations, subject to the condition
19 that the modifications do not affect authorized costs.

20 **SEC. 3002. CHATFIELD RESERVOIR, COLORADO.**

21 Section 116 of the Energy and Water Development
22 and Related Agencies Appropriations Act, 2009 (123 Stat.
23 608), is amended in the matter preceding the proviso by
24 inserting “(or a designee of the Department)” after “Colo-
25 rado Department of Natural Resources”.

1 **SEC. 3003. MISSOURI RIVER RECOVERY IMPLEMENTATION**
2 **COMMITTEE EXPENSES REIMBURSEMENT.**

3 Section 5018(b)(5) of the Water Resources Develop-
4 ment Act of 2007 (121 Stat. 1200) is amended by striking
5 subparagraph (B) and inserting the following:

6 “(B) TRAVEL EXPENSES.—Subject to the
7 availability of funds, the Secretary may reim-
8 burse a member of the Committee for travel ex-
9 penses, including per diem in lieu of subsist-
10 ence, at rates authorized for an employee of a
11 Federal agency under subchapter I of chapter
12 57 of title 5, United States Code, while away
13 from the home or regular place of business of
14 the member in performance of services for the
15 Committee.”.

16 **SEC. 3004. HURRICANE AND STORM DAMAGE REDUCTION**
17 **STUDY.**

18 With respect to the study for flood and storm damage
19 reduction related to natural disasters to be carried out by
20 the Secretary and authorized under the heading “INVES-
21 TIGATIONS” under title II of division A of Public Law
22 113–2, the Secretary shall include, to the maximum extent
23 practicable, specific project recommendations in the report
24 developed for that study.

1 **SEC. 3005. LOWER YELLOWSTONE PROJECT, MONTANA.**

2 Section 3109 of the Water Resources Development
3 Act of 2007 (121 Stat. 1135) is amended—

4 (1) by striking “The Secretary may” and in-
5 serting the following:

6 “(a) IN GENERAL.—The Secretary may”; and

7 (2) by adding at the end the following:

8 “(b) LOCAL PARTICIPATION.—In carrying out sub-
9 section (a), the Secretary shall consult with, and consider
10 the activities being carried out by—

11 “(1) other Federal agencies;

12 “(2) conservation districts;

13 “(3) the Yellowstone River Conservation Dis-
14 trict Council; and

15 “(4) the State of Montana.”.

16 **SEC. 3006. PROJECT DEAUTHORIZATIONS.**

17 (a) GOOSE CREEK, SOMERSET COUNTY, MARY-
18 LAND.—The project for navigation, Goose Creek, Som-
19 erset County, Maryland, carried out pursuant to section
20 107 of the Rivers and Harbor Act of 1960 (33 U.S.C.
21 577), is realigned as follows: Beginning at Goose Creek
22 Channel Geometry Centerline of the 60-foot-wide main
23 navigational ship channel, Centerline Station No. 0+00,
24 coordinates North 157851.80, East 1636954.70, as stated
25 and depicted on the Condition Survey Goose Creek, Sheet
26 1 of 1, prepared by the United States Army Corps of En-

1 gineers, Baltimore District, July 2003; thence departing
2 the aforementioned centerline traveling the following
3 courses and distances: S. 64 degrees 49 minutes 06 sec-
4 onds E., 1583.82 feet to a point, on the outline of said
5 60-foot-wide channel thence binding on said out-line the
6 following four courses and distances: S. 63 degrees 26
7 minutes 06 seconds E., 1460.05 feet to a point, thence;
8 N. 50 degrees 38 minutes 26 seconds E., 973.28 feet to
9 a point, thence; N. 26 degrees 13 minutes 09 seconds W.,
10 240.39 feet to a point on the Left Toe of the 60-foot-
11 wide main navigational channel at computed Centerline
12 Station No. 42+57.54, coordinates North 157357.84,
13 East 1640340.23. Geometry Left Toe of the 60-foot-wide
14 main navigational ship channel, Left Toe Station No.
15 0+00, coordinates North 157879.00, East 1636967.40,
16 as stated and depicted on the Condition Survey Goose
17 Creek, Sheet 1 of 1, prepared by the United States Army
18 Corps of Engineers, Baltimore District, August 2010;
19 thence departing the aforementioned centerline traveling
20 the following courses and distances: S. 64 degrees 49 min-
21 utes 12 seconds E., 1583.91 feet to a point, on the outline
22 of said 60-foot-wide channel thence binding on said out-
23 line the following eight courses and distances: S. 63 de-
24 grees 25 minutes 38 seconds E., 1366.25 feet to a point,
25 thence; N. 83 degrees 36 minutes 24 seconds E., 125.85

1 feet to a point, thence; N. 50 degrees 38 minutes 26 sec-
2 onds E., 805.19 feet to a point, thence; N. 12 degrees
3 12 minutes 29 seconds E., 78.33 feet to a point thence;
4 N. 26 degrees 13 minutes 28 seconds W., 46.66 feet to
5 a point thence; S. 63 degrees 45 minutes 41 seconds W.,
6 54.96 feet to a point thence; N. 26 degrees 13 minutes
7 24 seconds W., 119.94 feet to a point on the Left Toe
8 of the 60-foot-wide main navigational channel at computed
9 Centerline Station No. 41+81.10, coordinates North
10 157320.30, East 1640264.00. Geometry Right Toe of the
11 60-foot-wide main navigational ship channel, Right Toe
12 Station No. 0+00, coordinates North 157824.70, East
13 1636941.90, as stated and depicted on the Condition Sur-
14 vey Goose Creek, Sheet 1 of 1, prepared by the United
15 States Army Corps of Engineers, Baltimore District, Au-
16 gust 2010; thence departing the aforementioned centerline
17 traveling the following courses and distances: S. 64 de-
18 grees 49 minutes 06 seconds E., 1583.82 feet to a point,
19 on the outline of said 60-foot-wide channel thence binding
20 on said out-line the following six courses and distances:
21 S. 63 degrees 25 minutes 47 seconds E., 1478.79 feet to
22 a point, thence; N. 50 degrees 38 minutes 26 seconds E.,
23 1016.69 feet to a point, thence; N. 26 degrees 14 minutes
24 49 seconds W., 144.26 feet to a point, thence; N. 63 de-
25 grees 54 minutes 03 seconds E., 55.01 feet to a point

1 thence; N. 26 degrees 12 minutes 08 seconds W., 120.03
2 feet to a point a point on the Right Toe of the 60-foot-
3 wide main navigational channel at computed Centerline
4 Station No. 43+98.61, coordinates North 157395.40,
5 East 1640416.50.

6 (b) LOWER THOROUGHFARE, DEAL ISLAND, MARY-
7 LAND.—Beginning on the date of enactment of this Act,
8 the Secretary is no longer authorized to carry out the por-
9 tion of the project for navigation, Lower Thoroughfare,
10 Maryland, authorized by the Act of June 25, 1910 (36
11 Stat. 630, chapter 382) (commonly known as the “River
12 and Harbor Act of 1910”), that begins at Lower Thor-
13 oughfare Channel Geometry Centerline of the 60-foot-wide
14 main navigational ship channel, Centerline Station No.
15 44+88, coordinates North 170435.62, East 1614588.93,
16 as stated and depicted on the Condition Survey Lower
17 Thoroughfare, Deal Island, Sheet 1 of 3, prepared by the
18 United States Army Corps of Engineers, Baltimore Dis-
19 trict, August 2010; thence departing the aforementioned
20 centerline traveling the following courses and distances: S.
21 42 degrees 20 minutes 44 seconds W., 30.00 feet to a
22 point, on the outline of said 60-foot-wide channel thence
23 binding on said out-line the following four courses and dis-
24 tances: N. 64 degrees 08 minutes 55 seconds W., 53.85
25 feet to a point, thence; N. 42 degrees 20 minutes 43 sec-

1 onds W., 250.08 feet to a point, thence; N. 47 degrees
2 39 minutes 03 seconds E., 20.00 feet to a point, thence;
3 S. 42 degrees 20 minutes 44 seconds E., 300.07 feet to
4 a point binding on the Left Toe of the 60-foot-wide main
5 navigational channel at computed Centerline Station No.
6 43+92.67, coordinates North 170415.41, 1614566.76;
7 thence; continuing with the aforementioned centerline the
8 following courses and distances: S. 42 degrees 20 minutes
9 42 seconds W., 30.00 feet to a point, on the outline of
10 said 60-foot-wide channel thence binding on said out-line
11 the following four courses and distances: N. 20 degrees
12 32 minutes 06 seconds W., 53.85 feet to a point, thence;
13 N. 42 degrees 20 minutes 49 seconds W., 250.08 feet to
14 a point, thence; S. 47 degrees 39 minutes 03 seconds W.,
15 20.00 feet to a point, thence; S. 42 degrees 20 minutes
16 46 seconds E., 300.08 feet to a point binding on the Left
17 Toe of the 60-foot-wide main navigational channel at com-
18 puted Centerline Station No. 43+92.67, coordinates
19 North 170415.41, 1614566.76.

20 (c) THOMASTON HARBOR, GEORGES RIVER,
21 MAINE.—Beginning on the date of enactment of this Act,
22 the Secretary is no longer authorized to carry out the por-
23 tion of the project for navigation, Georges River, Maine
24 (Thomaston Harbor), authorized by the first section of the
25 Act of June 3, 1896 (29 Stat. 215, chapter 314), and

1 modified by section 317 of the Water Resources Develop-
2 ment Act of 2000 (Public Law 106–541; 114 Stat. 2604),
3 that lies northwesterly of a line commencing at point
4 N87,220.51, E321,065.80 thence running northeasterly
5 about 125 feet to a point N87,338.71, E321,106.46.

6 (d) WARWICK COVE, RHODE ISLAND.—Beginning on
7 the date of enactment of this Act, the Secretary is no
8 longer authorized to carry out the portion of the project
9 for navigation, Warwick Cove, Rhode Island, authorized
10 by section 107 of the River and Harbor Act of 1960 (33
11 U.S.C. 577) that is located within the 5 acre anchorage
12 area east of the channel and lying east of the line begin-
13 ning at a point with coordinates N220,349.79,
14 E357,664.90 thence running north 9 degrees 10 minutes
15 21.5 seconds west 170.38 feet to a point N220,517.99,
16 E357,637.74 thence running north 17 degrees 44 minutes
17 30.4 seconds west 165.98 feet to a point N220,676.08,
18 E357,587.16 thence running north 0 degrees 46 minutes
19 0.9 seconds east 138.96 feet to a point N220,815.03,
20 E357,589.02 thence running north 8 degrees 36 minutes
21 22.9 seconds east 101.57 feet to a point N220,915.46,
22 E357,604.22 thence running north 18 degrees 18 minutes
23 27.3 seconds east 168.20 feet to a point N221,075.14,
24 E357,657.05 thence running north 34 degrees 42 minutes
25 7.2 seconds east 106.4 feet to a point N221,162.62,

1 E357,717.63 thence running south 29 degrees 14 minutes
2 17.4 seconds east 26.79 feet to a point N221,139.24,
3 E357,730.71 thence running south 30 degrees 45 minutes
4 30.5 seconds west 230.46 feet to a point N220,941.20,
5 E357,612.85 thence running south 10 degrees 49 minutes
6 12.0 seconds west 95.46 feet to a point N220,847.44,
7 E357,594.93 thence running south 9 degrees 13 minutes
8 44.5 seconds east 491.68 feet to a point N220,362.12,
9 E357,673.79 thence running south 35 degrees 47 minutes
10 19.4 seconds west 15.20 feet to the point of origin.

11 **SEC. 3007. RARITAN RIVER BASIN, GREEN BROOK SUB-**
12 **BASIN, NEW JERSEY.**

13 Title I of the Energy and Water Development Appro-
14 priations Act, 1998 (Public Law 105–62; 111 Stat. 1327)
15 is amended by striking section 102.

16 **SEC. 3008. RED RIVER BASIN, OKLAHOMA, TEXAS, ARKAN-**
17 **SAS, LOUISIANA.**

18 (a) IN GENERAL.—The Secretary is authorized to re-
19 assign unused irrigation storage within a reservoir on the
20 Red River Basin to municipal and industrial water supply
21 for use by a non-Federal interest if that non-Federal inter-
22 est has already contracted for a share of municipal and
23 industrial water supply on the same reservoir.

24 (b) NON-FEDERAL INTEREST.—A reassignment of
25 storage under subsection (a) shall be contingent upon the

1 execution of an agreement between the Secretary and the
2 applicable non-Federal interest.

3 **TITLE IV—WATER RESOURCE**
4 **STUDIES**

5 **SEC. 4001. PURPOSE.**

6 The purpose of this title is to direct the Corps of En-
7 gineers to study and recommend solutions for water re-
8 source issues relating to flood risk and storm damage re-
9 duction, navigation, and ecosystem restoration.

10 **SEC. 4002. INITIATION OF NEW WATER RESOURCES STUD-**
11 **IES.**

12 (a) IN GENERAL.—Subject to subsections (b), (c),
13 and (d), the Secretary may initiate a study—

14 (1) to determine the feasibility of carrying out
15 1 or more projects for flood risk management, storm
16 damage reduction, ecosystem restoration, navigation,
17 hydropower, or related purposes; or

18 (2) to carry out watershed and river basin as-
19 sessments in accordance with section 729 of the
20 Water Resources Development Act of 1986 (33
21 U.S.C. 2267a).

22 (b) CRITERIA.—The Secretary may only initiate a
23 study under subsection (a) if—

24 (1) the study—

1 (A) has been requested by an eligible non-
2 Federal interest;

3 (B) is for an area that is likely to include
4 a project with a Federal interest; and

5 (C) addresses a high-priority water re-
6 source issue necessary for the protection of
7 human life and property, the environment, or
8 the national security interests of the United
9 States; and

10 (2) the non-Federal interest has dem-
11 onstrated—

12 (A) that local support exists for addressing
13 the water resource issue; and

14 (B) the financial ability to provide the re-
15 quired non-Federal cost-share.

16 (c) CONGRESSIONAL APPROVAL.—

17 (1) SUBMISSION TO CONGRESS.—Prior to initi-
18 ating a study under subsection (a), the Secretary
19 shall submit to the Committees on Environment and
20 Public Works and Appropriations of the Senate and
21 the Committees on Transportation and Infrastruc-
22 ture and Appropriations of the House—

23 (A) a description of the study, including
24 the geographical area addressed by the study;

1 (B) a description of how the study meets
2 each of the requirements of subsection (b); and

3 (C) a certification that the proposed study
4 can be completed within 3 years and for a Fed-
5 eral cost of not more than \$3,000,000.

6 (2) EXPENDITURE OF FUNDS.—No funds may
7 be spent on a study initiated under subsection (a)
8 unless—

9 (A) the required information is submitted
10 to Congress under paragraph (1); and

11 (B) after such submission, amounts are
12 appropriated to continue construction of the
13 project in an appropriations or other Act to ini-
14 tiate the study.

15 (3) ADDITIONAL NOTIFICATION.—The Sec-
16 retary shall notify each Senator or Member of Con-
17 gress with a State or congressional district in the
18 study area described in paragraph (1)(A).

19 (d) LIMITATIONS.—

20 (1) IN GENERAL.—Subsection (a) shall not
21 apply to a project for which a study has been au-
22 thorized prior to the date of enactment of this Act.

23 (2) NEW STUDIES AND PROJECTS.—In each fis-
24 cal year, the Secretary may initiate not more than—

1 (A) 3 new studies in each of the primary
2 areas of responsibility of the Corps of Engi-
3 neers; and

4 (B) 3 projects from any 1 division of the
5 Corps of Engineers.

6 (e) TERMINATION.—The authority under subsection
7 (a) expires on the date that is 3 years after the date of
8 enactment of this Act.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the Secretary to carry
11 out this section \$25,000,000 for each of fiscal years 2014
12 through 2017.

13 **SEC. 4003. APPLICABILITY.**

14 (a) IN GENERAL.—Nothing in this title authorizes
15 the construction of a water resources project.

16 (b) NEW AUTHORIZATION REQUIRED.—New author-
17 ization from Congress is required before any project evalu-
18 ated in a study under this title is constructed.

19 **TITLE V—REGIONAL AND**
20 **NONPROJECT PROVISIONS**

21 **SEC. 5001. PURPOSE.**

22 The purpose of this title is to authorize regional,
23 multistate authorities to address water resource needs and
24 other non-project provisions.

1 **SEC. 5002. NORTHEAST COASTAL REGION ECOSYSTEM RES-**
2 **TORATION.**

3 (a) IN GENERAL.—The Secretary shall plan, design,
4 and construct projects for aquatic ecosystem restoration
5 within the coastal waters of the Northeastern United
6 States from the State of Virginia to the State of Maine,
7 including associated bays, estuaries, and critical riverine
8 areas.

9 (b) GENERAL COASTAL MANAGEMENT PLAN.—

10 (1) ASSESSMENT.—The Secretary, in coordina-
11 tion with the Administrator of the Environmental
12 Protection Agency, the heads of other appropriate
13 Federal agencies, the Governors of the coastal
14 States from Virginia to Maine, nonprofit organiza-
15 tions, and other interested parties, shall assess the
16 needs regarding, and opportunities for, aquatic eco-
17 system restoration within the coastal waters of the
18 Northeastern United States.

19 (2) PLAN.—The Secretary shall develop a gen-
20 eral coastal management plan based on the assess-
21 ment carried out under paragraph (1), maximizing
22 the use of existing plans and investigation, which
23 plan shall include—

24 (A) an inventory and evaluation of coastal
25 habitats;

1 (B) identification of aquatic resources in
2 need of improvement;

3 (C) identification and prioritization of po-
4 tential aquatic habitat restoration projects; and

5 (D) identification of geographical and eco-
6 logical areas of concern, including—

7 (i) finfish habitats;

8 (ii) diadromous fisheries migratory
9 corridors;

10 (iii) shellfish habitats;

11 (iv) submerged aquatic vegetation;

12 (v) wetland; and

13 (vi) beach dune complexes and other
14 similar habitats.

15 (c) ELIGIBLE PROJECTS.—The Secretary may carry
16 out an aquatic ecosystem restoration project under this
17 section if the project—

18 (1) is consistent with the management plan de-
19 veloped under subsection (b); and

20 (2) provides for—

21 (A) the restoration of degraded aquatic
22 habitat (including coastal, saltmarsh, benthic,
23 and riverine habitat);

1 (B) the restoration of geographical or eco-
2 logical areas of concern, including the restora-
3 tion of natural river and stream characteristics;

4 (C) the improvement of water quality; or

5 (D) other projects or activities determined
6 to be appropriate by the Secretary.

7 (d) COST SHARING.—

8 (1) MANAGEMENT PLAN.—The management
9 plan developed under subsection (b) shall be com-
10 pleted at Federal expense.

11 (2) RESTORATION PROJECTS.—The non-Fed-
12 eral share of the cost of a project carried out under
13 this section shall be 35 percent.

14 (e) COST LIMITATION.—Not more than \$10,000,000
15 in Federal funds may be allocated under this section for
16 an eligible project.

17 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section (in-
19 cluding funds for the completion of the management plan)
20 \$25,000,000 for each of fiscal years 2014 through 2018.

21 **SEC. 5003. CHESAPEAKE BAY ENVIRONMENTAL RESTORA-**
22 **TION AND PROTECTION PROGRAM.**

23 Section 510 of the Water Resources Development Act
24 of 1996 (Public Law 104–303; 110 Stat. 3759; 121 Stat.
25 1202) is amended—

- 1 (1) in subsection (a)—
- 2 (A) in paragraph (1)—
- 3 (i) by striking “pilot program” and
- 4 inserting “program”; and
- 5 (ii) by inserting “in the basin States
- 6 described in subsection (f) and the District
- 7 of Columbia” after “interests”; and
- 8 (B) by striking paragraph (2) and insert-
- 9 ing the following:
- 10 “(2) FORM.—The assistance under paragraph
- 11 (1) shall be in the form of design and construction
- 12 assistance for water-related resource protection and
- 13 restoration projects affecting the Chesapeake Bay
- 14 estuary, based on the comprehensive plan under sub-
- 15 section (b), including projects for—
- 16 “(A) sediment and erosion control;
- 17 “(B) protection of eroding shorelines;
- 18 “(C) ecosystem restoration, including res-
- 19 toration of submerged aquatic vegetation;
- 20 “(D) protection of essential public works;
- 21 “(E) beneficial uses of dredged material;
- 22 and
- 23 “(F) other related projects that may en-
- 24 hance the living resources of the estuary.”;

1 (2) by striking subsection (b) and inserting the
2 following:

3 “(b) COMPREHENSIVE PLAN.—

4 “(1) IN GENERAL.—Not later than 2 years
5 after the date of enactment of the Water Resources
6 Development Act of 2013, the Secretary, in coopera-
7 tion with State and local governmental officials and
8 affected stakeholders, shall develop a comprehensive
9 Chesapeake Bay restoration plan to guide the imple-
10 mentation of projects under subsection (a)(2).

11 “(2) COORDINATION.—The restoration plan de-
12 scribed in paragraph (1) shall, to the maximum ex-
13 tent practicable, consider and avoid duplication of
14 any ongoing or planned actions of other Federal,
15 State, and local agencies and nongovernmental orga-
16 nizations.

17 “(3) PRIORITIZATION.—The restoration plan
18 described in paragraph (1) shall give priority to
19 projects eligible under subsection (a)(2) that will
20 also improve water quality or quantity or use nat-
21 ural hydrological features and systems.

22 “(4) ADMINISTRATION.—The Federal share of
23 the costs of carrying out paragraph (1) shall be 75
24 percent.”;

25 (3) in subsection (c)—

1 (A) in paragraph (1), by striking “to pro-
2 vide” and all that follows through the period at
3 the end and inserting “for the design and con-
4 struction of a project carried out pursuant to
5 the comprehensive Chesapeake Bay restoration
6 plan described in subsection (b).”;

7 (B) in paragraph (2)(A), by striking “fa-
8 cilities or resource protection and development
9 plan” and inserting “resource protection and
10 restoration plan”; and

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

12 “(3) PROJECTS ON FEDERAL LAND.—A project
13 carried out pursuant to the comprehensive Chesa-
14 peake Bay restoration plan described in subsection
15 (b) that is located on Federal land shall be carried
16 out at the expense of the Federal agency that owns
17 the land on which the project will be a carried out.

18 “(4) NON-FEDERAL CONTRIBUTIONS.—A Fed-
19 eral agency carrying out a project described in para-
20 graph (3) may accept contributions of funds from
21 non-Federal entities to carry out that project.”;

22 (4) by striking subsection (e) and inserting the
23 following:

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

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

3 “(A) the Administrator of the Environ-
4 mental Protection Agency;

5 “(B) the Secretary of Commerce, acting
6 through the Administrator of the National
7 Oceanographic and Atmospheric Administra-
8 tion;

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

12 “(D) the heads of such other Federal
13 agencies as the Secretary determines to be ap-
14 propriate; and

15 “(2) agencies of a State or political subdivision
16 of a State, including the Chesapeake Bay Commis-
17 sion.”;

18 (5) by striking subsection (f) and inserting the
19 following:

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

23 “(1) regions within the Chesapeake Bay water-
24 shed of each of the basin States of Delaware, Mary-

1 land, New York, Pennsylvania, Virginia, and West
2 Virginia; and

3 “(2) the District of Columbia.”;

4 (6) by striking subsection (h); and

5 (7) by redesignating subsection (i) as subsection
6 (h).

7 **SEC. 5004. RIO GRANDE ENVIRONMENTAL MANAGEMENT**
8 **PROGRAM, COLORADO, NEW MEXICO, TEXAS.**

9 Section 5056 of the Water Resources Development
10 Act of 2007 (121 Stat. 1213) is amended—

11 (1) in subsection (b)(2)—

12 (A) in the matter preceding subparagraph
13 (A), by striking “2008” and inserting “2014”;
14 and

15 (B) in subparagraph (C), by inserting
16 “and an assessment of needs for other related
17 purposes in the Rio Grande Basin, including
18 flood damage reduction” after “assessment”;

19 (2) in subsection (c)(2)—

20 (A) by striking “an interagency agreement
21 with” and inserting “1 or more interagency
22 agreements with the Secretary of State and”;
23 and

24 (B) by inserting “or the U.S. Section of
25 the International Boundary and Water Com-

1 mission” after “the Department of the Inte-
2 rior”; and

3 (3) in subsection (f), by striking “2011” and
4 inserting “2024”.

5 **SEC. 5005. LOWER COLUMBIA RIVER AND TILLAMOOK BAY**
6 **ECOSYSTEM RESTORATION, OREGON AND**
7 **WASHINGTON.**

8 Section 536(g) of the Water Resources Development
9 Act of 2000 (114 Stat. 2661) is amended by striking
10 “\$30,000,000” and inserting “\$75,000,000”.

11 **SEC. 5006. ARKANSAS RIVER, ARKANSAS AND OKLAHOMA.**

12 (a) PROJECT GOAL.—The goal for operation of the
13 McClellan-Kerr Arkansas River navigation system, Arkan-
14 sas and Oklahoma, shall be to maximize the use of the
15 system in a balanced approach that incorporates advice
16 from representatives from all project purposes to ensure
17 that the full value of the system is realized by the United
18 States.

19 (b) McCLELLAN-KERR ARKANSAS RIVER NAVIGA-
20 TION SYSTEM ADVISORY COMMITTEE.—

21 (1) IN GENERAL.—In accordance with the Fed-
22 eral Advisory Committee Act (5 U.S.C. App.), the
23 Secretary shall establish an advisory committee for
24 the McClellan-Kerr Arkansas River navigation sys-
25 tem, Arkansas and Oklahoma, project authorized by

1 the Act of July 24, 1946 (60 Stat. 635, chapter
2 595).

3 (2) DUTIES.—The advisory committee shall—

4 (A) serve in an advisory capacity only; and

5 (B) provide information and recommenda-
6 tions to the Corps of Engineers relating to the
7 efficiency, reliability, and availability of the op-
8 erations of the McClellan-Kerr Arkansas River
9 navigation system.

10 (3) SELECTION AND COMPOSITION.—The advi-
11 sory committee shall be—

12 (A) selected jointly by the Little Rock dis-
13 trict engineer and the Tulsa district engineer;
14 and

15 (B) composed of members that equally rep-
16 resent the McClellan-Kerr Arkansas River navi-
17 gation system project purposes.

18 (4) AGENCY RESOURCES.—The Little Rock dis-
19 trict and the Tulsa district of the Corps of Engi-
20 neers, under the supervision of the southwestern di-
21 vision, shall jointly provide the advisory committee
22 with adequate staff assistance, facilities, and re-
23 sources.

24 (5) TERMINATION.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the advisory committee shall termi-
3 nate on the date on which the Secretary sub-
4 mits a report to Congress demonstrating in-
5 creases in the efficiency, reliability, and avail-
6 ability of the McClellan-Kerr Arkansas River
7 navigation system.

8 (B) RESTRICTION.—The advisory com-
9 mittee shall terminate not less than 2 calendar
10 years after the date on which the advisory com-
11 mittee is established.

12 **SEC. 5007. AQUATIC INVASIVE SPECIES PREVENTION AND**
13 **MANAGEMENT; COLUMBIA RIVER BASIN.**

14 (a) IN GENERAL.—The Secretary may establish a
15 program to prevent and manage aquatic invasive species
16 in the Columbia River Basin in the States of Idaho, Mon-
17 tana, Oregon, and Washington.

18 (b) WATERCRAFT INSPECTION STATIONS.—

19 (1) IN GENERAL.—In carrying out this section,
20 the Secretary shall establish watercraft inspection
21 stations in the Columbia River Basin to be located
22 in the States of Idaho, Montana, Oregon, and Wash-
23 ington at locations, as determined by the Secretary,
24 with the highest likelihood of preventing the spread

1 of aquatic invasive species into reservoirs operated
2 and maintained by the Secretary.

3 (2) INCLUSIONS.—Locations identified under
4 paragraph (1) may include—

5 (A) State border crossings;

6 (B) international border crossings; and

7 (C) highway entry points that are used by
8 owners of watercraft to access boat launch fa-
9 cilities owned or managed by the Secretary.

10 (3) COST-SHARE.—The non-Federal share of
11 the cost of operating and maintaining watercraft in-
12 spection stations described in paragraph (1) (includ-
13 ing personnel costs) shall be 50 percent.

14 (4) OTHER INSPECTION SITES.—The Secretary
15 may establish watercraft inspection stations using
16 amounts made available to carry out this section in
17 States other than those described in paragraph (1)
18 at or near boat launch facilities that the Secretary
19 determines are regularly used by watercraft to enter
20 the States described in paragraph (1).

21 (c) MONITORING AND CONTINGENCY PLANNING.—

22 The Secretary shall—

23 (1) carry out risk assessments of each major
24 public and private water resources facility in the Co-
25 lumbia River Basin;

1 (2) establish an aquatic invasive species moni-
2 toring program in the Columbia River Basin;

3 (3) establish a Columbia River Basin water-
4 shed-wide plan for expedited response to an infesta-
5 tion of aquatic invasive species; and

6 (4) monitor water quality, including sediment
7 cores and fish tissue samples, at facilities owned or
8 managed by the Secretary in the Columbia River
9 Basin.

10 (d) COORDINATION.—In carrying out this section, the
11 Secretary shall consult and coordinate with—

12 (1) the States described in subsection (a);

13 (2) Indian tribes; and

14 (3) other Federal agencies, including—

15 (A) the Department of Agriculture;

16 (B) the Department of Energy;

17 (C) the Department of Homeland Security;

18 (D) the Department of Commerce; and

19 (E) the Department of the Interior.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the Secretary to carry
22 out this section \$30,000,000, of which \$5,000,000 may
23 be used to carry out subsection (c).

1 **SEC. 5008. UPPER MISSOURI BASIN FLOOD AND DROUGHT**
2 **MONITORING.**

3 (a) IN GENERAL.—The Secretary, in coordination
4 with the Administrator of the National Oceanic and At-
5 mospheric Administration, the Chief of the Natural Re-
6 sources Conservation Service, the Director of the United
7 States Geological Survey, and the Commissioner of the
8 Bureau of Reclamation, shall establish a program to pro-
9 vide for—

10 (1) soil moisture and snowpack monitoring in
11 the Upper Missouri River Basin to reduce flood risk
12 and improve river and water resource management
13 in the Upper Missouri River Basin, as outlined in
14 the February 2013 report entitled “Upper Missouri
15 Basin Monitoring Committee—Snow Sampling and
16 Instrumentation Recommendations”;

17 (2) restoring and maintaining existing mid- and
18 high-elevation snowpack monitoring sites operated
19 under the SNOTEL program of the Natural Re-
20 sources Conservation Service; and

21 (3) operating streamflow gages and related in-
22 terpretive studies in the Upper Missouri River Basin
23 under the cooperative water program and the na-
24 tional streamflow information program of the United
25 States Geological Service.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to carry
3 out this section \$11,250,000.

4 (c) USE OF FUNDS.—Amounts made available to the
5 Secretary under this section shall be used to complement
6 other related activities of Federal agencies that are carried
7 out within the Missouri River Basin.

8 (d) REPORT.—Not later than 1 year after the date
9 of enactment of this Act, the Comptroller General of the
10 United States, in consultation with the Secretary, shall
11 submit to the Committee on Environment and Public
12 Works of the Senate and the Committee on Transpor-
13 tation and Infrastructure of the House of Representatives
14 a report that—

15 (1) identifies progress made by the Secretary
16 and other Federal agencies to implement the rec-
17 ommendations contained in the report described in
18 subsection (a)(1) with respect to enhancing soil
19 moisture and snowpack monitoring in the Upper
20 Missouri Basin; and

21 (2) includes recommendations to enhance soil
22 moisture and snowpack monitoring in the Upper
23 Missouri Basin.

1 **SEC. 5009. NORTHERN ROCKIES HEADWATERS EXTREME**
2 **WEATHER MITIGATION.**

3 (a) IN GENERAL.—Subject to subsection (b), the Sec-
4 retary shall establish a program to mitigate the impacts
5 of extreme weather events, such as floods and droughts,
6 on communities, water users, and fish and wildlife located
7 in and along the headwaters of the Columbia, Missouri,
8 and Yellowstone Rivers (including the tributaries of those
9 rivers) in the States of Idaho and Montana by carrying
10 out river, stream, and floodplain protection and restora-
11 tion projects, including—

- 12 (1) floodplain restoration and reconnection;
13 (2) floodplain and riparian area protection
14 through the use of conservation easements;
15 (3) instream flow restoration projects;
16 (4) fish passage improvements;
17 (5) channel migration zone mapping; and
18 (6) invasive weed management.

19 (b) RESTRICTION.—All projects carried out using
20 amounts made available to carry out this section shall em-
21 phasize the protection and enhancement of natural
22 riverine processes.

23 (c) NON-FEDERAL COST SHARE.—The non-Federal
24 share of the costs of carrying out a project under this sec-
25 tion shall not exceed 35 percent of the total cost of the
26 project.

1 (d) COORDINATION.—In carrying out this section, the
2 Secretary—

3 (1) shall consult and coordinate with the appro-
4 priate State natural resource agency in each State;
5 and

6 (2) may—

7 (A) delegate any authority or responsibility
8 of the Secretary under this section to those
9 State natural resource agencies; and

10 (B) provide amounts made available to the
11 Secretary to carry out this section to those
12 State natural resource agencies.

13 (e) LIMITATIONS.—Nothing in this section invali-
14 dates, preempts, or creates any exception to State water
15 law, State water rights, or Federal or State permitted ac-
16 tivities or agreements in the States of Idaho and Montana
17 or any State containing tributaries to rivers in those
18 States.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary to carry
21 out this section \$30,000,000.

22 **TITLE VI—LEVEE SAFETY**

23 **SEC. 6001. SHORT TITLE.**

24 This title may be cited as the “National Levee Safety
25 Program Act”.

1 **SEC. 6002. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) there is a need to establish a national levee
4 safety program to provide national leadership and
5 encourage the establishment of State and tribal levee
6 safety programs;

7 (2) according to the National Committee on
8 Levee Safety, “the level of protection and robustness
9 of design and construction of levees vary consider-
10 ably across the country”;

11 (3) knowing the location, condition, and owner-
12 ship of levees, as well as understanding the popu-
13 lation and infrastructure at risk in leveed areas, is
14 necessary for identification and prioritization of ac-
15 tivities associated with levees;

16 (4) levees are an important tool for reducing
17 flood risk and should be considered in the context of
18 broader flood risk management efforts;

19 (5) States and Indian tribes—

20 (A) are uniquely positioned to oversee, co-
21 ordinate, and regulate local and regional levee
22 systems; and

23 (B) should be encouraged to participate in
24 a national levee safety program by establishing
25 individual levee safety programs; and

1 (6) States, Indian tribes, and local governments
2 that do not invest in protecting the individuals and
3 property located behind levees place those individuals
4 and property at risk.

5 (b) PURPOSES.—The purposes of this title are—

6 (1) to promote sound technical practices in
7 levee design, construction, operation, inspection, as-
8 sessment, security, and maintenance;

9 (2) to ensure effective public education and
10 awareness of risks involving levees;

11 (3) to establish and maintain a national levee
12 safety program that emphasizes the protection of
13 human life and property; and

14 (4) to implement solutions and incentives that
15 encourage the establishment of effective State and
16 tribal levee safety programs.

17 **SEC. 6003. DEFINITIONS.**

18 In this title:

19 (1) BOARD.—The term “Board” means the Na-
20 tional Levee Safety Advisory Board established
21 under section 6005.

22 (2) CANAL STRUCTURE.—

23 (A) IN GENERAL.—The term “canal struc-
24 ture” means an embankment, wall, or structure
25 along a canal or manmade watercourse that—

- 1 (i) constrains water flows;
- 2 (ii) is subject to frequent water load-
- 3 ing; and
- 4 (iii) is an integral part of a flood risk
- 5 reduction system that protects the leveed
- 6 area from flood waters associated with
- 7 hurricanes, precipitation events, seasonal
- 8 high water, and other weather-related
- 9 events.

10 (B) EXCLUSION.—The term “canal struc-

11 ture” does not include a barrier across a water-

12 course.

13 (3) FEDERAL AGENCY.—The term “Federal

14 agency” means a Federal agency that designs, fi-

15 nances, constructs, owns, operates, maintains, or

16 regulates the construction, operation, or mainte-

17 nance of a levee.

18 (4) FLOOD DAMAGE REDUCTION SYSTEM.—The

19 term “flood damage reduction system” means a sys-

20 tem designed and constructed to have appreciable

21 and dependable effects in reducing damage by flood-

22 waters.

23 (5) FLOOD MITIGATION.—The term “flood miti-

24 gation” means any structural or nonstructural meas-

25 ure that reduces risks of flood damage by reducing

1 the probability of flooding, the consequences of
2 flooding, or both.

3 (6) FLOODPLAIN MANAGEMENT.—The term
4 “floodplain management” means the operation of a
5 community program of corrective and preventative
6 measures for reducing flood damage.

7 (7) INDIAN TRIBE.—The term “Indian tribe”
8 has the meaning given the term in section 4 of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b).

11 (8) LEVEE.—

12 (A) IN GENERAL.—The term “levee”
13 means a manmade barrier (such as an embank-
14 ment, floodwall, or other structure)—

15 (i) the primary purpose of which is to
16 provide hurricane, storm, or flood protec-
17 tion relating to seasonal high water, storm
18 surges, precipitation, or other weather
19 events; and

20 (ii) that is normally subject to water
21 loading for only a few days or weeks dur-
22 ing a calendar year.

23 (B) INCLUSIONS.—The term “levee” in-
24 cludes a levee system, including—

25 (i) levees and canal structures that—

195

1 (I) constrain water flows;

2 (II) are subject to more frequent
3 water loading; and

4 (III) do not constitute a barrier
5 across a watercourse; and

6 (ii) roadway and railroad embank-
7 ments, but only to the extent that the em-
8 bankments are integral to the performance
9 of a flood damage reduction system.

10 (C) EXCLUSIONS.—The term “levee” does
11 not include—

12 (i) a roadway or railroad embankment
13 that is not integral to the performance of
14 a flood damage reduction system;

15 (ii) a canal constructed completely
16 within natural ground without any man-
17 made structure (such as an embankment
18 or retaining wall to retain water or a case
19 in which water is retained only by natural
20 ground);

21 (iii) a canal regulated by a Federal or
22 State agency in a manner that ensures
23 that applicable Federal safety criteria are
24 met;

25 (iv) a levee or canal structure—

1 (I) that is not a part of a Fed-
2 eral flood damage reduction system;

3 (II) that is not recognized under
4 the National Flood Insurance Pro-
5 gram as providing protection from the
6 1-percent-annual-chance or greater
7 flood;

8 (III) that is not greater than 3
9 feet high;

10 (IV) the population in the leveed
11 area of which is less than 50 individ-
12 uals; and

13 (V) the leveed area of which is
14 less than 1,000 acres; or

15 (v) any shoreline protection or river
16 bank protection system (such as revet-
17 ments or barrier islands).

18 (9) LEVEE FEATURE.—The term “levee fea-
19 ture” means a structure that is critical to the func-
20 tioning of a levee, including—

21 (A) an embankment section;

22 (B) a floodwall section;

23 (C) a closure structure;

24 (D) a pumping station;

25 (E) an interior drainage work; and

1 (F) a flood damage reduction channel.

2 (10) LEVEE SAFETY GUIDELINES.—The term
3 “levee safety guidelines” means the guidelines estab-
4 lished by the Secretary under section 6004(c)(1).

5 (11) LEVEE SEGMENT.—The term “levee seg-
6 ment” means a discrete portion of a levee system
7 that is owned, operated, and maintained by a single
8 entity or discrete set of entities.

9 (12) LEVEE SYSTEM.—The term “levee sys-
10 tem” means 1 or more levee segments, including all
11 levee features that are interconnected and necessary
12 to ensure protection of the associated leveed areas—

13 (A) that collectively provide flood damage
14 reduction to a defined area; and

15 (B) the failure of 1 of which may result in
16 the failure of the entire system.

17 (13) LEVEED AREA.—The term “leveed area”
18 means the land from which flood water in the adja-
19 cent watercourse is excluded by the levee system.

20 (14) NATIONAL LEVEE DATABASE.—The term
21 “national levee database” means the levee database
22 established under section 9004 of the Water Re-
23 sources Development Act of 2007 (33 U.S.C. 3303).

24 (15) PARTICIPATING PROGRAM.—The term
25 “participating program” means a levee safety pro-

1 gram developed by a State or Indian tribe that in-
2 cludes the minimum components necessary for rec-
3 ognition by the Secretary.

4 (16) REHABILITATION.—The term “rehabilita-
5 tion” means the repair, replacement, reconstruction,
6 or removal of a levee that is carried out to meet na-
7 tional levee safety guidelines.

8 (17) RISK.—The term “risk” means a measure
9 of the probability and severity of undesirable con-
10 sequences.

11 (18) SECRETARY.—The term “Secretary”
12 means the Secretary of the Army, acting through
13 the Chief of Engineers.

14 (19) STATE.—The term “State” means—

15 (A) each of the several States of the
16 United States;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 (D) Guam;

20 (E) American Samoa;

21 (F) the Commonwealth of the Northern
22 Mariana Islands;

23 (G) the Federated States of Micronesia;

24 (H) the Republic of the Marshall Islands;

25 (I) the Republic of Palau; and

1 (J) the United States Virgin Islands.

2 **SEC. 6004. NATIONAL LEVEE SAFETY PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary, in consulta-
4 tion with the Administrator of the Federal Emergency
5 Management Agency, shall establish a national levee safe-
6 ty program to provide national leadership and consistent
7 approaches to levee safety, including—

8 (1) a national levee database;

9 (2) an inventory and inspection of Federal and
10 non-Federal levees;

11 (3) national levee safety guidelines;

12 (4) a hazard potential classification system for
13 Federal and non-Federal levees;

14 (5) research and development;

15 (6) a national public education and awareness
16 program, with an emphasis on communication re-
17 garding the residual risk to communities protected
18 by levees and levee systems;

19 (7) coordination of levee safety, floodplain man-
20 agement, and environmental protection activities;

21 (8) development of State and tribal levee safety
22 programs; and

23 (9) the provision of technical assistance and
24 materials to States and Indian tribes relating to—

25 (A) developing levee safety programs;

1 (B) identifying and reducing flood risks as-
2 sociated with residual risk to communities pro-
3 tected by levees and levee systems;

4 (C) identifying local actions that may be
5 carried out to reduce flood risks in leveed areas;
6 and

7 (D) rehabilitating, improving, replacing,
8 reconfiguring, modifying, and removing levees
9 and levee systems.

10 (b) MANAGEMENT.—

11 (1) IN GENERAL.—The Secretary shall ap-
12 point—

13 (A) an administrator of the national levee
14 safety program; and

15 (B) such staff as is necessary to implement
16 the program.

17 (2) ADMINISTRATOR.—The sole duty of the ad-
18 ministrator appointed under paragraph (1)(A) shall
19 be the management of the national levee safety pro-
20 gram.

21 (c) LEVEE SAFETY GUIDELINES.—

22 (1) ESTABLISHMENT.—Not later than 1 year
23 after the date of enactment of this Act, the Sec-
24 retary, in coordination with State and local govern-
25 ments and organizations with expertise in levee safe-

1 ty, shall establish a set of voluntary, comprehensive,
2 national levee safety guidelines that—

3 (A) are available for common, uniform use
4 by all Federal, State, tribal, and local agencies;

5 (B) incorporate policies, procedures, stand-
6 ards, and criteria for a range of levee types,
7 canal structures, and related facilities and fea-
8 tures; and

9 (C) provide for adaptation to local, re-
10 gional, or watershed conditions.

11 (2) REQUIREMENT.—The policies, procedures,
12 standards, and criteria under paragraph (1)(B) shall
13 be developed taking into consideration the levee haz-
14 ard potential classification system established under
15 subsection (d).

16 (3) ADOPTION BY FEDERAL AGENCIES.—All
17 Federal agencies shall consider the levee safety
18 guidelines in activities relating to the management
19 of levees.

20 (4) PUBLIC COMMENT.—Prior to finalizing the
21 guidelines under this subsection, the Secretary
22 shall—

23 (A) issue draft guidelines for public com-
24 ment; and

1 (B) consider any comments received in the
2 development of final guidelines.

3 (d) HAZARD POTENTIAL CLASSIFICATION SYSTEM.—

4 (1) ESTABLISHMENT.—The Secretary shall es-
5 tablish a hazard potential classification system for
6 use under the national levee safety program and
7 participating programs.

8 (2) REVISION.—The Secretary shall review and,
9 as necessary, revise the hazard potential classifica-
10 tion system not less frequently than once every 5
11 years.

12 (3) CONSISTENCY.—The hazard potential clas-
13 sification system established pursuant to this sub-
14 section shall be consistent with and incorporated
15 into the levee safety action classification tool devel-
16 oped by the Corps of Engineers.

17 (e) TECHNICAL ASSISTANCE AND MATERIALS.—

18 (1) ESTABLISHMENT.—The Secretary, in co-
19 ordination with the Board, shall establish a national
20 levee safety technical assistance and training pro-
21 gram to develop and deliver technical support and
22 technical assistance materials, curricula, and train-
23 ing in order to promote levee safety and assist
24 States, communities, and levee owners in—

25 (A) developing levee safety programs;

1 (B) identifying and reducing flood risks as-
2 sociated with levees;

3 (C) identifying local actions that may be
4 carried out to reduce flood risks in leveed areas;
5 and

6 (D) rehabilitating, improving, replacing,
7 reconfiguring, modifying, and removing levees
8 and levee systems.

9 (2) USE OF SERVICES.—In establishing the na-
10 tional levee safety training program under para-
11 graph (1), the Secretary may use the services of—

12 (A) the Corps of Engineers;

13 (B) the Federal Emergency Management
14 Agency;

15 (C) the Bureau of Reclamation; and

16 (D) other appropriate Federal agencies, as
17 determined by the Secretary.

18 (f) COMPREHENSIVE NATIONAL PUBLIC EDUCATION
19 AND AWARENESS CAMPAIGN.—

20 (1) ESTABLISHMENT.—The Secretary, in co-
21 ordination with the Administrator of the Federal
22 Emergency Management Agency and the Board,
23 shall establish a national public education and
24 awareness campaign relating to the national levee
25 safety program.

1 (2) PURPOSES.—The purposes of the campaign
2 under paragraph (1) are—

3 (A) to educate individuals living in leveed
4 areas regarding the risks of living in those
5 areas;

6 (B) to promote consistency in the trans-
7 mission of information regarding levees among
8 government agencies; and

9 (C) to provide national leadership regard-
10 ing risk communication for implementation at
11 the State and local levels.

12 (g) COORDINATION OF LEVEE SAFETY, FLOODPLAIN
13 MANAGEMENT, AND ENVIRONMENTAL CONCERNS.—The
14 Secretary, in coordination with the Board, shall evaluate
15 opportunities to coordinate—

16 (1) public safety, floodplain management, and
17 environmental protection activities relating to levees;
18 and

19 (2) environmental permitting processes for op-
20 eration and maintenance activities at existing levee
21 projects in compliance with all applicable laws.

22 (h) LEVEE INSPECTION.—

23 (1) IN GENERAL.—The Secretary shall carry
24 out a one-time inventory and inspection of all levees
25 identified in the national levee database.

1 (2) NO FEDERAL INTEREST.—The inventory
2 and inspection under paragraph (1) does not create
3 a Federal interest in the construction, operation, or
4 maintenance any levee that is included in the inven-
5 tory or inspected under this subsection.

6 (3) INSPECTION CRITERIA.—In carrying out the
7 inventory and inspection, the Secretary shall use the
8 levee safety action classification criteria to determine
9 whether a levee should be classified in the inventory
10 as requiring a more comprehensive inspection.

11 (4) STATE AND TRIBAL PARTICIPATION.—At
12 the request of a State or Indian tribe with respect
13 to any levee subject to inspection under this sub-
14 section, the Secretary shall—

15 (A) allow an official of the State or Indian
16 tribe to participate in the inspection of the
17 levee; and

18 (B) provide information to the State or In-
19 dian tribe relating to the location, construction,
20 operation, or maintenance of the levee.

21 (5) EXCEPTIONS.—In carrying out the inven-
22 tory and inspection under this subsection, the Sec-
23 retary shall not be required to inspect any levee that
24 has been inspected by a State or Indian tribe using
25 the same methodology described in paragraph (3)

1 during the 1-year period immediately preceding the
2 date of enactment of this Act if the Governor of the
3 State or tribal government, as applicable, requests
4 an exemption from the inspection.

5 (i) STATE AND TRIBAL LEVEE SAFETY PROGRAM.—

6 (1) GUIDELINES.—

7 (A) IN GENERAL.—Not later than 1 year
8 after the date of enactment of this Act, in co-
9 ordination with the Board, the Secretary shall
10 issue guidelines that establish the minimum
11 components necessary for recognition of a State
12 or tribal levee safety program as a participating
13 program.

14 (B) GUIDELINE CONTENTS.—The guide-
15 lines under subparagraph (A) shall include pro-
16 visions and procedures requiring each partici-
17 pating State and Indian tribe to certify to the
18 Secretary that the State or Indian tribe, as ap-
19 plicable—

20 (i) has the authority to participate in
21 the national levee safety program;

22 (ii) can receive funds under this title;

23 (iii) has adopted any national levee
24 safety guidelines developed under this title;

25 (iv) will carry out levee inspections;

1 (v) will carry out, consistent with ap-
2 plicable requirements, flood risk manage-
3 ment and any emergency action planning
4 procedures the Secretary determines to be
5 necessary relating to levees;

6 (vi) will carry out public education
7 and awareness activities consistent with
8 the national public education and aware-
9 ness campaign established under sub-
10 section (f); and

11 (vii) will collect and share information
12 regarding the location and condition of lev-
13 ees.

14 (C) PUBLIC COMMENT.—Prior to finalizing
15 the guidelines under this paragraph, the Sec-
16 retary shall—

17 (i) issue draft guidelines for public
18 comment; and

19 (ii) consider any comments received in
20 the development of final guidelines.

21 (2) GRANT PROGRAM.—

22 (A) ESTABLISHMENT.—The Secretary
23 shall establish a program under which the Sec-
24 retary shall provide grants to assist States and
25 Indian tribes in establishing participating pro-

1 grams, conducting levee inventories, and car-
2 rying out this title.

3 (B) REQUIREMENTS.—To be eligible to re-
4 ceive grants under this section, a State or In-
5 dian tribe shall—

6 (i) meet the requirements of a partici-
7 pating program established by the guide-
8 lines issued under paragraph (1);

9 (ii) use not less than 25 percent of
10 any amounts received to identify and as-
11 sess non-Federal levees within the State or
12 on land of the Indian tribe;

13 (iii) submit to the Secretary any infor-
14 mation collected by the State or Indian
15 tribe in carrying out this subsection for in-
16 clusion in the national levee safety data-
17 base; and

18 (iv) identify actions to address hazard
19 mitigation activities associated with levees
20 and leveed areas identified in the hazard
21 mitigation plan of the State approved by
22 the Administrator of the Federal Emer-
23 gency Management Agency under the Rob-
24 ert T. Stafford Disaster Relief and Emer-

1 agency Assistance Act (42 U.S.C. 5121 et
2 seq.).

3 (j) LEVEE REHABILITATION ASSISTANCE PRO-
4 GRAM.—

5 (1) ESTABLISHMENT.—The Secretary shall es-
6 tablish a program under which the Secretary shall
7 provide assistance to States, Indian tribes, and local
8 governments in addressing flood mitigation activities
9 that result in an overall reduction in flood risk.

10 (2) REQUIREMENTS.—To be eligible to receive
11 assistance under this subsection, a State, Indian
12 tribe, or local government shall—

13 (A) participate in, and comply with, all ap-
14 plicable Federal floodplain management and
15 flood insurance programs;

16 (B) have in place a hazard mitigation plan
17 that—

18 (i) includes all levee risks; and

19 (ii) complies with the Disaster Mitiga-
20 tion Act of 2000 (Public Law 106–390;
21 114 Stat. 1552);

22 (C) submit to the Secretary an application
23 at such time, in such manner, and containing
24 such information as the Secretary may require;
25 and

1 (D) comply with such minimum eligibility
2 requirements as the Secretary, in consultation
3 with the Board, may establish to ensure that
4 each owner and operator of a levee under a par-
5 ticipating State or tribal levee safety program—

6 (i) acts in accordance with the guide-
7 lines developed in subsection (c); and

8 (ii) carries out activities relating to
9 the public in the leveed area in accordance
10 with the hazard mitigation plan described
11 in subparagraph (B).

12 (3) FLOODPLAIN MANAGEMENT PLANS.—

13 (A) IN GENERAL.—Not later than 1 year
14 after the date of execution of a project agree-
15 ment for assistance under this subsection, a
16 State, Indian tribe, or local government shall
17 prepare a floodplain management plan in ac-
18 cordance with the guidelines under subpara-
19 graph (D) to reduce the impacts of future flood
20 events in each applicable leveed area.

21 (B) INCLUSIONS.—A plan under subpara-
22 graph (A) shall address potential measures,
23 practices, and policies to reduce loss of life, in-
24 juries, damage to property and facilities, public

1 expenditures, and other adverse impacts of
2 flooding in each applicable leveed area.

3 (C) IMPLEMENTATION.—Not later than 1
4 year after the date of completion of construc-
5 tion of the applicable project, a floodplain man-
6 agement plan prepared under subparagraph (A)
7 shall be implemented.

8 (D) GUIDELINES.—Not later than 180
9 days after the date of enactment of this Act,
10 the Secretary shall develop such guidelines for
11 the preparation of floodplain management plans
12 prepared under this paragraph as the Secretary
13 determines to be appropriate.

14 (E) TECHNICAL SUPPORT.—The Secretary
15 may provide technical support for the develop-
16 ment and implementation of floodplain manage-
17 ment plans prepared under this paragraph.

18 (4) USE OF FUNDS.—

19 (A) IN GENERAL.—Assistance provided
20 under this subsection may be used—

21 (i) for any rehabilitation activity to
22 maximize overall risk reduction associated
23 with a levee under a participating State or
24 tribal levee safety program; and

1 (ii) only for a levee that is not feder-
2 ally operated and maintained.

3 (B) PROHIBITION.—Assistance provided
4 under this subsection shall not be used—

5 (i) to perform routine operation or
6 maintenance for a levee; or

7 (ii) to make any modification to a
8 levee that does not result in an improve-
9 ment to public safety.

10 (5) NO PROPRIETARY INTEREST.—A contract
11 for assistance provided under this subsection shall
12 not be considered to confer any proprietary interest
13 on the United States.

14 (6) COST-SHARE.—The maximum Federal
15 share of the cost of any assistance provided under
16 this subsection shall be 65 percent.

17 (7) PROJECT LIMIT.—The maximum amount of
18 Federal assistance for a project under this sub-
19 section shall be \$10,000,000.

20 (8) OTHER LAWS.—Assistance provided under
21 this subsection shall be subject to all applicable laws
22 (including regulations) that apply to the construc-
23 tion of a civil works project of the Corps of Engi-
24 neers.

1 (k) EFFECT OF SECTION.—Nothing in this section
2 confers any regulatory authority on—

3 (1) the Secretary; or

4 (2) the Director of the Federal Emergency
5 Management Agency.

6 **SEC. 6005. NATIONAL LEVEE SAFETY ADVISORY BOARD.**

7 (a) ESTABLISHMENT.—The Secretary, in coordina-
8 tion with the Administrator of the Federal Emergency
9 Management Agency, shall establish a board, to be known
10 as the “National Levee Safety Advisory Board”—

11 (1) to advise the Secretary and Congress re-
12 garding consistent approaches to levee safety;

13 (2) to monitor the safety of levees in the United
14 States;

15 (3) to assess the effectiveness of the national
16 levee safety program; and

17 (4) to ensure that the national levee safety pro-
18 gram is carried out in a manner that is consistent
19 with other Federal flood risk management efforts.

20 (b) MEMBERSHIP.—

21 (1) VOTING MEMBERS.—The Board shall be
22 composed of the following 14 voting members, each
23 of whom shall be appointed by the Secretary, with
24 priority consideration given to representatives from

1 those States that have the most Corps of Engineers
2 levees in the State, based on mileage:

3 (A) 8 representatives of State levee safety
4 programs, 1 from each of the civil works divi-
5 sions of the Corps of Engineers.

6 (B) 2 representatives of the private sector
7 who have expertise in levee safety.

8 (C) 2 representatives of local and regional
9 governmental agencies who have expertise in
10 levee safety.

11 (D) 2 representatives of Indian tribes who
12 have expertise in levee safety.

13 (2) NONVOTING MEMBERS.—The Secretary (or
14 a designee of the Secretary), the Administrator of
15 the Federal Emergency Management Agency (or a
16 designee of the Administrator), and the adminis-
17 trator of the national levee safety program appointed
18 under section 6004(b)(1)(A) shall serve as nonvoting
19 members of the Board.

20 (3) CHAIRPERSON.—The voting members of the
21 Board shall appoint a chairperson from among the
22 voting members of the Board, to serve a term of not
23 more than 2 years.

24 (c) QUALIFICATIONS.—

1 (1) INDIVIDUALS.—Each voting member of the
2 Board shall be knowledgeable in the field of levee
3 safety, including water resources and flood risk man-
4 agement.

5 (2) AS A WHOLE.—The membership of the
6 Board, considered as a whole, shall represent the di-
7 versity of skills required to advise the Secretary re-
8 garding levee issues relating to—

9 (A) engineering;

10 (B) public communications;

11 (C) program development and oversight;

12 (D) with respect to levees, flood risk man-
13 agement and hazard mitigation; and

14 (E) public safety and the environment.

15 (d) TERMS OF SERVICE.—

16 (1) IN GENERAL.—A voting member of the
17 Board shall be appointed for a term of 3 years, ex-
18 cept that, of the members first appointed—

19 (A) 5 shall be appointed for a term of 1
20 year;

21 (B) 5 shall be appointed for a term of 2
22 years; and

23 (C) 4 shall be appointed for a term of 3
24 years.

1 (2) REAPPOINTMENT.—A voting member of the
2 Board may be reappointed to the Board, as the Sec-
3 retary determines to be appropriate.

4 (3) VACANCIES.—A vacancy on the Board shall
5 be filled in the same manner as the original appoint-
6 ment was made.

7 (e) STANDING COMMITTEES.—

8 (1) IN GENERAL.—The Board shall be sup-
9 ported by Standing Committees, which shall be com-
10 prised of volunteers from all levels of government
11 and the private sector, to advise the Board regard-
12 ing the national levee safety program.

13 (2) ESTABLISHMENT.—The Standing Commit-
14 tees of the Board shall include—

15 (A) the Standing Committee on Partici-
16 pating Programs, which shall advise the Board
17 regarding—

18 (i) the development and implementa-
19 tion of State and tribal levee safety pro-
20 grams; and

21 (ii) appropriate incentives (including
22 financial assistance) to be provided to
23 States, Indian tribes, and local and re-
24 gional entities;

1 (B) the Standing Committee on Technical
2 Issues, which shall advise the Board regard-
3 ing—

4 (i) the management of the national
5 levee database;

6 (ii) the development and maintenance
7 of levee safety guidelines;

8 (iii) processes and materials for devel-
9 oping levee-related technical assistance and
10 training; and

11 (iv) research and development activi-
12 ties relating to levee safety;

13 (C) the Standing Committee on Public
14 Education and Awareness, which shall advise
15 the Board regarding the development, imple-
16 mentation, and evaluation of targeted public
17 outreach programs—

18 (i) to gather public input;

19 (ii) to educate and raise awareness in
20 leveed areas of levee risks;

21 (iii) to communicate information re-
22 garding participating programs; and

23 (iv) to track the effectiveness of public
24 education efforts relating to levee risks;

1 (D) the Standing Committee on Safety and
2 Environment, which shall advise the Board re-
3 garding—

4 (i) operation and maintenance activi-
5 ties for existing levee projects;

6 (ii) opportunities to coordinate public
7 safety, floodplain management, and envi-
8 ronmental protection activities relating to
9 levees;

10 (iii) opportunities to coordinate envi-
11 ronmental permitting processes for oper-
12 ation and maintenance activities at existing
13 levee projects in compliance with all appli-
14 cable laws; and

15 (iv) opportunities for collaboration by
16 environmental protection and public safety
17 interests in leveed areas and adjacent
18 areas; and

19 (E) such other standing committees as the
20 Secretary, in consultation with the Board, de-
21 termines to be necessary.

22 (3) MEMBERSHIP.—

23 (A) IN GENERAL.—The Board shall rec-
24 ommend to the Secretary for approval individ-

1 uals for membership on the Standing Commit-
2 tees.

3 (B) QUALIFICATIONS.—

4 (i) INDIVIDUALS.—Each member of a
5 Standing Committee shall be knowledge-
6 able in the issue areas for which the Com-
7 mittee is charged with advising the Board.

8 (ii) AS A WHOLE.—The membership
9 of each Standing Committee, considered as
10 a whole, shall represent, to the maximum
11 extent practicable, broad geographical di-
12 versity.

13 (C) LIMITATION.—Each Standing Com-
14 mittee shall be comprised of not more than 10
15 members.

16 (f) DUTIES AND POWERS.—The Board—

17 (1) shall submit to the Secretary and Congress
18 an annual report regarding the effectiveness of the
19 national levee safety program in accordance with
20 section 6007; and

21 (2) may secure from other Federal agencies
22 such services, and enter into such contracts, as the
23 Board determines to be necessary to carry out this
24 subsection.

1 (g) TASK FORCE COORDINATION.—The Board shall,
2 to the maximum extent practicable, coordinate the activi-
3 ties of the Board with the Federal Interagency Floodplain
4 Management Task Force.

5 (h) COMPENSATION.—

6 (1) FEDERAL EMPLOYEES.—Each member of
7 the Board who is an officer or employee of the
8 United States shall serve without compensation in
9 addition to compensation received for the services of
10 the member as an officer or employee of the United
11 States, but shall be allowed a per diem allowance for
12 travel expenses, at rates authorized for an employee
13 of an agency under subchapter I of chapter 57 of
14 title 5, United States Code, while away from the
15 home or regular place of business of the member in
16 the performance of the duties of the Board.

17 (2) NON-FEDERAL EMPLOYEES.—To the extent
18 amounts are made available to carry out this section
19 in appropriations Acts, the Secretary shall provide to
20 each member of the Board who is not an officer or
21 employee of the United States a stipend and a per
22 diem allowance for travel expenses, at rates author-
23 ized for an employee of an agency under subchapter
24 I of chapter 57 of title 5, United States Code, while
25 away from the home or regular place of business of

1 the member in performance of services for the
2 Board.

3 (3) **STANDING COMMITTEE MEMBERS.**—Each
4 member of a Standing Committee shall—

5 (A) serve in a voluntary capacity; but

6 (B) receive a per diem allowance for travel
7 expenses, at rates authorized for an employee of
8 an agency under subchapter I of chapter 57 of
9 title 5, United States Code, while away from
10 the home or regular place of business of the
11 member in performance of services for the
12 Board.

13 (i) **NONAPPLICABILITY OF FACA.**—The Federal Advi-
14 sory Committee Act (5 U.S.C. App.) shall not apply to
15 the Board or the Standing Committees.

16 **SEC. 6006. INVENTORY AND INSPECTION OF LEVEES.**

17 Section 9004(a)(2)(A) of the Water Resources Devel-
18 opment Act of 2007 (33 U.S.C. 3303(a)(2)(A)) is amend-
19 ed by striking “and, for non-Federal levees, such informa-
20 tion on levee location as is provided to the Secretary by
21 State and local governmental agencies” and inserting
22 “and updated levee information provided by States, Indian
23 tribes, Federal agencies, and other entities”.

24 **SEC. 6007. REPORTS.**

25 (a) **STATE OF LEVEES.**—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, and biennially
3 thereafter, the Secretary in coordination with the
4 Board, shall submit to Congress a report describing
5 the state of levees in the United States and the ef-
6 fectiveness of the national levee safety program, in-
7 cluding—

8 (A) progress achieved in implementing the
9 national levee safety program;

10 (B) State and tribal participation in the
11 national levee safety program;

12 (C) recommendations to improve coordina-
13 tion of levee safety, floodplain management, and
14 environmental protection concerns, including—

15 (i) identifying and evaluating opportu-
16 nities to coordinate public safety, flood-
17 plain management, and environmental pro-
18 tection activities relating to levees; and

19 (ii) evaluating opportunities to coordi-
20 nate environmental permitting processes
21 for operation and maintenance activities at
22 existing levee projects in compliance with
23 all applicable laws; and

1 (D) any recommendations for legislation
2 and other congressional actions necessary to en-
3 sure national levee safety.

4 (2) INCLUSION.—Each report under paragraph
5 (1) shall include a report of the Board that describes
6 the independent recommendations of the Board for
7 the implementation of the national levee safety pro-
8 gram.

9 (b) NATIONAL DAM AND LEVEE SAFETY PRO-
10 GRAM.—Not later than 3 years after the date of enactment
11 of this Act, to the maximum extent practicable, the Sec-
12 retary, in coordination with the Board, shall submit to
13 Congress a report that includes recommendations regard-
14 ing the advisability and feasibility of, and potential ap-
15 proaches for, establishing a joint national dam and levee
16 safety program.

17 (c) ALIGNMENT OF FEDERAL PROGRAMS RELATING
18 TO LEVEES.—Not later than 2 years after the date of en-
19 actment of this Act, the Comptroller General shall submit
20 to Congress a report on opportunities for alignment of
21 Federal programs to provide incentives to State, tribal,
22 and local governments and individuals and entities—

23 (1) to promote shared responsibility for levee
24 safety;

1 (2) to encourage the development of strong
2 State and tribal levee safety programs;

3 (3) to better align the national levee safety pro-
4 gram with other Federal flood risk management pro-
5 grams; and

6 (4) to promote increased levee safety through
7 other Federal programs providing assistance to
8 State and local governments.

9 (d) **LIABILITY FOR CERTAIN LEVEE ENGINEERING**
10 **PROJECTS.**—Not later than 1 year after the date of enact-
11 ment of this Act, the Secretary shall submit to Congress
12 a report that includes recommendations that identify and
13 address any legal liability associated with levee engineer-
14 ing projects that prevent—

15 (1) levee owners from obtaining needed levee
16 engineering services; or

17 (2) development and implementation of a State
18 or tribal levee safety program.

19 **SEC. 6008. EFFECT OF TITLE.**

20 Nothing in this title—

21 (1) establishes any liability of the United States
22 or any officer or employee of the United States (in-
23 cluding the Board and the Standing Committees of
24 the Board) for any damages caused by any action or
25 failure to act; or

1 (2) relieves an owner or operator of a levee of
2 any legal duty, obligation, or liability incident to the
3 ownership or operation of the levee.

4 **SEC. 6009. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated to the Sec-
6 retary to carry out this title—

7 (1) for funding the administration and staff of
8 the national levee safety program, the Board, the
9 Standing Committees of the Board, and partici-
10 pating programs, \$5,000,000 for each of fiscal years
11 2014 through 2023;

12 (2) for technical programs, including the devel-
13 opment of levee safety guidelines, publications, train-
14 ing, and technical assistance—

15 (A) \$5,000,000 for each of fiscal years
16 2014 through 2018;

17 (B) \$7,500,000 for each of fiscal years
18 2019 and 2020; and

19 (C) \$10,000,000 for each of fiscal years
20 2021 through 2023;

21 (3) for public involvement and education pro-
22 grams, \$3,000,000 for each of fiscal years 2014
23 through 2023;

24 (4) to carry out the levee inventory and inspec-
25 tions under section 9004 of the Water Resources

1 Development Act of 2007 (33 U.S.C. 3303),
2 \$30,000,000 for each of fiscal years 2014 through
3 2018;

4 (5) for grants to State and tribal levee safety
5 programs, \$300,000,000 for fiscal years 2014
6 through 2023; and

7 (6) for levee rehabilitation assistance grants,
8 \$300,000,000 for fiscal years 2014 through 2023.

9 **TITLE VII—INLAND WATERWAYS**

10 **SEC. 7001. PURPOSES.**

11 The purposes of this title are—

12 (1) to improve program and project manage-
13 ment relating to the construction and major rehabili-
14 tation of navigation projects on inland waterways;

15 (2) to optimize inland waterways navigation
16 system reliability;

17 (3) to minimize the size and scope of inland wa-
18 terways navigation project completion schedules;

19 (4) to eliminate preventable delays in inland
20 waterways navigation project completion schedules;
21 and

22 (5) to make inland waterways navigation capital
23 investments through the use of prioritization criteria
24 that seek to maximize systemwide benefits and mini-
25 mize overall system risk.

1 **SEC. 7002. DEFINITIONS.**

2 In this title:

3 (1) INLAND WATERWAYS TRUST FUND.—The
4 term “Inland Waterways Trust Fund” means the
5 Inland Waterways Trust Fund established by section
6 9506(a) of the Internal Revenue Code of 1986.

7 (2) QUALIFYING PROJECT.—The term “quali-
8 fying project” means any construction or major re-
9 habilitation project for navigation infrastructure of
10 the inland and intracoastal waterways that is—

11 (A) authorized before, on, or after the date
12 of enactment of this Act;

13 (B) not completed on the date of enact-
14 ment of this Act; and

15 (C) funded at least in part from the Inland
16 Waterways Trust Fund.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of the Army, acting through the Chief
19 of Engineers.

20 **SEC. 7003. PROJECT DELIVERY PROCESS REFORMS.**

21 (a) REQUIREMENTS FOR QUALIFYING PROJECTS.—
22 With respect to each qualifying project, the Secretary shall
23 require—

24 (1) formal project management training and
25 certification for each project manager;

1 (iv) for a qualified project with a com-
2 pleted Chief of Engineers report that has
3 not yet been authorized, during design for
4 the qualified project.

5 (b) ADDITIONAL PROJECT DELIVERY PROCESS RE-
6 FORMS.—Not later than 18 months after the date of en-
7 actment of this Act, the Secretary shall—

8 (1) establish a system to identify and apply on
9 a continuing basis lessons learned from prior or on-
10 going qualifying projects to improve the likelihood of
11 on-time and on-budget completion of qualifying
12 projects;

13 (2) evaluate early contractor involvement acqui-
14 sition procedures to improve on-time and on-budget
15 project delivery performance; and

16 (3) implement any additional measures that the
17 Secretary determines will achieve the purposes of
18 this title and the amendments made by this title, in-
19 cluding, as the Secretary determines to be appro-
20 priate—

21 (A) the implementation of applicable prac-
22 tices and procedures developed pursuant to
23 management by the Secretary of an applicable
24 military construction program;

1 (B) the establishment of 1 or more centers
2 of expertise for the design and review of quali-
3 fying projects;

4 (C) the development and use of a portfolio
5 of standard designs for inland navigation locks;

6 (D) the use of full-funding contracts or
7 formulation of a revised continuing contracts
8 clause; and

9 (E) the establishment of procedures for
10 recommending new project construction starts
11 using a capital projects business model.

12 (c) PILOT PROJECTS.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the Secretary may carry out 1 or more pilot projects
15 to evaluate processes or procedures for the study,
16 design, or construction of qualifying projects.

17 (2) INCLUSIONS.—At a minimum, the Secretary
18 shall carry out pilot projects under this subsection to
19 evaluate—

20 (A) early contractor involvement in the de-
21 velopment of features and components;

22 (B) an appropriate use of continuing con-
23 tracts for the construction of features and com-
24 ponents; and

1 (C) applicable principles, procedures, and
2 processes used for military construction
3 projects.

4 (d) INLAND WATERWAYS USER BOARD.—Section
5 302 of the Water Resources Development Act of 1986 (33
6 U.S.C. 2251) is amended—

7 (1) by striking subsection (b) and inserting the
8 following:

9 “(b) DUTIES OF USERS BOARD.—

10 “(1) IN GENERAL.—The Users Board shall
11 meet not less frequently than semiannually to de-
12 velop and make recommendations to the Secretary
13 and Congress regarding the inland waterways and
14 inland harbors of the United States.

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

19 “(A) prior to the development of the budg-
20 et proposal of the President for a given fiscal
21 year, advice and recommendations to the Sec-
22 retary regarding construction and rehabilitation
23 priorities and spending levels;

24 “(B) advice and recommendations to Con-
25 gress regarding any report of the Chief of Engi-

1 neers relating to those features and compo-
2 nents;

3 “(C) advice and recommendations to Con-
4 gress regarding an increase in the authorized
5 cost of those features and components;

6 “(D) not later than 60 days after the date
7 of the submission of the budget proposal of the
8 President to Congress, advice and recommenda-
9 tions to Congress regarding construction and
10 rehabilitation priorities and spending levels; and

11 “(E) a long-term capital investment pro-
12 gram in accordance with subsection (d).

13 “(3) PROJECT DEVELOPMENT TEAMS.—The
14 chairperson of the Users Board shall appoint a rep-
15 resentative of the Users Board to serve on the
16 project development team for a qualifying project or
17 the study or design of a commercial navigation fea-
18 ture or component of the inland waterways and in-
19 land harbors of the United States.

20 “(4) INDEPENDENT JUDGMENT.—Any advice or
21 recommendation made by the Users Board to the
22 Secretary shall reflect the independent judgment of
23 the Users Board.”;

24 (2) by redesignating subsection (c) as sub-
25 section (f); and

1 (3) by inserting after subsection (b) the fol-
2 lowing:

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

4 “(1) communicate not less than once each quar-
5 ter to the Users Board the status of the study, de-
6 sign, or construction of all commercial navigation
7 features or components of the inland waterways or
8 inland harbors of the United States; and

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

14 “(d) CAPITAL INVESTMENT PROGRAM.—

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

23 “(2) CONSIDERATION.—In developing the pro-
24 gram under paragraph (1), the Secretary shall take
25 into consideration the 20-year capital investment

1 strategy contained in the Inland Marine Transpor-
2 tation System (IMTS) Capital Projects Business
3 Model, Final Report published on April 13, 2010, as
4 approved by the Users Board.

5 “(3) CRITERIA.—In developing the plan and
6 prioritization criteria under paragraph (1), the Sec-
7 retary shall ensure, to the maximum extent prac-
8 ticable, that investments made under the 20-year
9 program described in paragraph (1)—

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

12 “(B) ensure efficient funding of inland wa-
13 terways projects.

14 “(4) STRATEGIC REVIEW AND UPDATE.—Not
15 later than 5 years after the date of enactment of
16 this subsection, and not less frequently than once
17 every 5 years thereafter, the Secretary, in conjunc-
18 tion with the Users Board, shall—

19 “(A) submit to Congress a strategic review
20 of the 20-year program in effect under this sub-
21 section, which shall identify and explain any
22 changes to the project-specific recommendations
23 contained in the previous 20-year program (in-
24 cluding any changes to the prioritization cri-

1 teria used to develop the updated recommenda-
2 tions); and

3 “(B) make such revisions to the program
4 as the Secretary and Users Board jointly con-
5 sider to be appropriate.

6 “(e) **PROJECT MANAGEMENT PLANS.**—The chair-
7 person of the Users Board and the project development
8 team member appointed by the chairperson under sub-
9 section (b)(3) shall sign the project management plan for
10 the qualifying project or the study or design of a commer-
11 cial navigation feature or component of the inland water-
12 ways and inland harbors of the United States.”.

13 **SEC. 7004. MAJOR REHABILITATION STANDARDS.**

14 (a) **IN GENERAL.**—The Secretary shall develop a
15 methodology for applying standard accounting principles
16 when classifying activities as major rehabilitation projects.

17 (b) **EVALUATIONS.**—The Secretary shall evaluate the
18 effect of applying the methodology developed under sub-
19 section (a) to not less than 3 qualifying projects.

20 (c) **REPORT.**—The Secretary shall submit to Con-
21 gress a report on the evaluation under subsection (b).

22 **SEC. 7005. INLAND WATERWAYS SYSTEM REVENUES.**

23 (a) **FINDINGS.**—Congress finds that—

24 (1) there are approximately 12,000 miles of
25 Federal waterways, known as the inland waterways

1 system, that are supported by user fees and man-
2 aged by the Corps of Engineers;

3 (2) the inland waterways system spans 38
4 States and handles approximately one-half of all in-
5 land waterway freight;

6 (3) according to the final report of the Inland
7 Marine Transportation System Capital Projects
8 Business Model, freight traffic on the Federal fuel-
9 taxed inland waterways system accounts for
10 546,000,000 tons of freight each year;

11 (4) expenditures for construction and major re-
12 habilitation projects on the inland waterways system
13 are equally cost-shared between the Federal Govern-
14 ment and the Inland Waterways Trust Fund;

15 (5) the Inland Waterways Trust Fund is fi-
16 nanced through a fee of \$0.20 per gallon on fuel
17 used by commercial barges;

18 (6) the balance of the Inland Waterways Trust
19 Fund has declined significantly in recent years;

20 (7) according to the final report of the Inland
21 Marine Transportation System Capital Projects
22 Business Model, the estimated financial need for
23 construction and major rehabilitation projects on the
24 inland waterways system for fiscal years 2011

1 through 2030 is approximately \$18,000,000,000;
2 and

3 (8) users of the inland waterways system are
4 supportive of an increase in the existing revenue
5 sources for inland waterways system construction
6 and major rehabilitation activities to expedite the
7 most critical of those construction and major reha-
8 bilitation projects.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) the existing revenue sources for inland wa-
12 terways system construction and rehabilitation ac-
13 tivities are insufficient to cover the costs of non-Fed-
14 eral interests of construction and major rehabilita-
15 tion projects on the inland waterways system; and

16 (2) the issue described in paragraph (1) should
17 be addressed.

18 **SEC. 7006. EFFICIENCY OF REVENUE COLLECTION.**

19 Not later than 2 years after the date of enactment
20 of this Act, the Comptroller General shall prepare a report
21 on the efficiency of collecting the fuel tax for the Inland
22 Waterways Trust Fund, which shall include—

23 (1) an evaluation of whether current methods of
24 collection of the fuel tax result in full compliance
25 with requirements of the law;

1 (2) whether alternative methods of collection
2 would result in increased revenues into the Inland
3 Waterways Trust Fund; and

4 (3) an evaluation of alternative collection op-
5 tions.

6 **TITLE VIII—HARBOR** 7 **MAINTENANCE**

8 **SEC. 8001. SHORT TITLE.**

9 This title may be cited as the “Harbor Maintenance
10 Trust Fund Act of 2013”.

11 **SEC. 8002. PURPOSES.**

12 The purposes of this title are—

13 (1) to ensure that revenues collected into the
14 Harbor Maintenance Trust Fund are used for the
15 intended purposes of those revenues;

16 (2) to increase investment in the operation and
17 maintenance of United States ports, which are crit-
18 ical for the economic competitiveness of the United
19 States;

20 (3) to promote equity among ports nationwide;
21 and

22 (4) to ensure United States ports are prepared
23 to meet modern shipping needs, including the capa-
24 bility to receive large ships that require deeper
25 drafts.

1 **SEC. 8003. FUNDING FOR HARBOR MAINTENANCE PRO-**
2 **GRAMS.**

3 (a) HARBOR MAINTENANCE TRUST FUND GUAR-
4 ANTEE.—

5 (1) IN GENERAL.—The total budget resources
6 made available from the Harbor Maintenance Trust
7 Fund each fiscal year pursuant to section 9505(c) of
8 the Internal Revenue Code of 1986 (relating to ex-
9 penditures from the Harbor Maintenance Trust
10 Fund) shall be equal to the level of receipts plus in-
11 terest credited to the Harbor Maintenance Trust
12 Fund for that fiscal year. Such amounts may be
13 used only for harbor maintenance programs de-
14 scribed in section 9505(c) of such Code.

15 (2) GUARANTEE.—No funds may be appro-
16 priated for harbor maintenance programs described
17 in such section unless the amount described in para-
18 graph (1) has been provided.

19 (b) DEFINITIONS.—In this section, the following defi-
20 nitions apply:

21 (1) TOTAL BUDGET RESOURCES.—The term
22 “total budget resources” means the total amount
23 made available by appropriations Acts from the Har-
24 bor Maintenance Trust Fund for a fiscal year for
25 making expenditures under section 9505(c) of the
26 Internal Revenue Code of 1986.

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

6 “(A) In any fiscal year in which all
7 projects subject to the harbor maintenance fee
8 under section 24.24 of title 19, Code of Federal
9 Regulations (or successor regulation) are not
10 maintained to their authorized width and depth,
11 the Secretary shall prioritize amounts made
12 available under this section for those projects—

13 “(i) that are high-use deep draft; and

14 “(ii) for which construction is com-
15 pleted.

16 “(B) In any fiscal year in which the
17 projects described in subparagraph (A) are
18 maintained to their authorized width and depth,
19 the Secretary shall prioritize not more than 20
20 percent of remaining amounts made available
21 under this section for projects—

22 “(i) that have been maintained below
23 their authorized width and depth during
24 the preceding 5 fiscal years; and

1 “(ii) for which significant Federal,
2 State, and local investments in infrastruc-
3 ture have been made at those projects.

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

10 (b) OPERATION AND MAINTENANCE.—Section
11 101(b) of the Water Resources Development Act of 1986
12 (33 U.S.C. 2211(b)) is amended—

13 (1) in paragraph (1), by striking “45 feet” and
14 inserting “50 feet”; and

15 (2) by adding at the end the following:

16 “(3) OPERATION AND MAINTENANCE ACTIVI-
17 TIES DEFINED.—

18 “(A) SCOPE OF OPERATION AND MAINTENANCE
19 ACTIVITIES.—Notwithstanding any
20 other provision of law (including regulations
21 and guidelines) and subject to subparagraph
22 (B), for purposes of this subsection, operation
23 and maintenance activities that are eligible for
24 the Federal cost share under paragraph (1)
25 shall include—

1 “(I) contributes not less than 2.5
2 percent annually of the total funding
3 of the Harbor Maintenance Trust
4 Fund established under section 9505
5 of the Internal Revenue Code of 1986;
6 and

7 “(II) received less than 50 per-
8 cent of the total amounts collected in
9 the State pursuant to section 9505 of
10 the Internal Revenue Code of 1986 in
11 the previous 3 fiscal years.

12 “(iii) PRIORITIZATION.—In allocating
13 amounts made available under this para-
14 graph, the Secretary shall give priority to
15 projects that have received the lowest rate
16 of funding from the Harbor Maintenance
17 Trust fund in previous fiscal years.”.

18 (c) CONFORMING AMENDMENT.—Section 9505(c)(1)
19 of the Internal Revenue Code of 1986 is amended by strik-
20 ing “as in effect on the date of the enactment of the Water
21 Resources Development Act of 1996” and inserting “as
22 in effect on the date of the enactment of the Harbor Main-
23 tenance Trust Fund Act of 2013”.

1 **SEC. 8005. CIVIL WORKS PROGRAM OF THE CORPS OF ENGI-**
2 **NEERS.**

3 (a) POINT OF ORDER.—

4 (1) IN GENERAL.—Subject to subsections (b)
5 and (c), it shall not be in order in the House of Rep-
6 resentatives or the Senate to consider any bill, joint
7 resolution, amendment, motion, or conference report
8 that would result in making the amounts made
9 available for a given fiscal year to carry out all pro-
10 grams, projects, and activities of the civil works pro-
11 gram of the Corps of Engineers other than the har-
12 bor maintenance programs to be less than the
13 amounts made available for those purposes in the
14 previous fiscal year.

15 (2) CALCULATION OF AMOUNTS.—For each fis-
16 cal year, the amounts made available to carry out all
17 programs, projects, and activities of the civil works
18 program of the Corps of Engineers shall not include
19 any amounts that are designated by Congress—

20 (A) as being for emergency requirements
21 pursuant to section 251(b)(2)(A)(i) of the Bal-
22 anced Budget and Emergency Deficit Control
23 Act of 1985 (2 U.S.C. 901(b)(2)(A)(i)); or

24 (B) as being for disaster relief pursuant to
25 section 251(b)(2)(D) of the Balanced Budget

1 and Emergency Deficit Control Act of 1985 (2
2 U.S.C. 901(b)(2)(D)).

3 (b) EXCEPTIONS.—Subsection (a) shall not apply if
4 amounts made available for the civil works program of the
5 Corps of Engineers for a fiscal year is less than the
6 amounts made available for the civil works program in the
7 previous fiscal year if the reduction in amounts made
8 available—

9 (1) applies to all discretionary funds and pro-
10 grams of the Federal Government; and

11 (2) is applied to the civil works program in the
12 same percentage and manner as other discretionary
13 funds and programs.

14 (c) WAIVER AND APPEAL.—

15 (1) SENATE.—

16 (A) IN GENERAL.—Subsection (a) may be
17 waived or suspended in the Senate only by an
18 affirmative vote of 3/5 of the Members of the
19 Senate, duly chosen and sworn.

20 (B) APPEAL.—An affirmative vote of 3/5
21 of the Members of the Senate, duly chosen and
22 sworn, shall be required to sustain an appeal of
23 the ruling of the Chair on a point of order
24 raised under subsection (a).

1 (2) HOUSE OF REPRESENTATIVES.—The Com-
2 mittee on Rules of the House of Representatives
3 may not report a rule or order that would waive a
4 point of order to a bill or joint resolution from being
5 made under subsection (a).

6 **TITLE IX—DAM SAFETY**

7 **SEC. 9001. SHORT TITLE.**

8 This title may be cited as the “Dam Safety Act of
9 2013”.

10 **SEC. 9002. PURPOSE.**

11 The purpose of this title and the amendments made
12 by this title is to reduce the risks to life and property from
13 dam failure in the United States through the reauthoriza-
14 tion of an effective national dam safety program that
15 brings together the expertise and resources of the Federal
16 Government and non-Federal interests in achieving na-
17 tional dam safety hazard reduction.

18 **SEC. 9003. ADMINISTRATOR.**

19 (a) IN GENERAL.—The National Dam Safety Pro-
20 gram Act (33 U.S.C. 467 et seq.) is amended by striking
21 “Director” each place it appears and inserting “Adminis-
22 trator”.

23 (b) CONFORMING AMENDMENT.—Section 2 of the
24 National Dam Safety Program Act (33 U.S.C. 467) is
25 amended—

1 (1) by striking paragraph (3);

2 (2) by redesignating paragraphs (1) and (2) as
3 paragraphs (2) and (3), respectively; and

4 (3) by inserting before paragraph (2) (as redesi-
5 gnated by paragraph (2)) the following:

6 “(1) ADMINISTRATOR.—The term ‘Adminis-
7 trator’ means the Administrator of the Federal
8 Emergency Management Agency.”.

9 **SEC. 9004. INSPECTION OF DAMS.**

10 Section 3(b)(1) of the National Dam Safety Program
11 Act (33 U.S.C. 467a(b)(1)) is amended by striking “or
12 maintenance” and inserting “maintenance, condition, or
13 provisions for emergency operations”.

14 **SEC. 9005. NATIONAL DAM SAFETY PROGRAM.**

15 (1) OBJECTIVES.—Section 8(c) of the National
16 Dam Safety Program Act (33 U.S.C. 467f(c)) is
17 amended by striking paragraph (4) and inserting the
18 following:

19 “(4) develop and implement a comprehensive
20 dam safety hazard education and public awareness
21 program to assist the public in preparing for, miti-
22 gating, responding to, and recovering from dam inci-
23 dents;”.

24 (2) BOARD.—Section 8(f)(4) of the National
25 Dam Safety Program Act (33 U.S.C. 467f(f)(4)) is

1 amended by inserting “, representatives from non-
2 governmental organizations,” after “State agencies”.

3 **SEC. 9006. PUBLIC AWARENESS AND OUTREACH FOR DAM**
4 **SAFETY.**

5 The National Dam Safety Program Act (33 U.S.C.
6 467 et seq.) is amended—

7 (1) by redesignating sections 11, 12, and 13 as
8 sections 12, 13, and 14, respectively; and

9 (2) by inserting after section 10 (33 U.S.C.
10 467g–1) the following:

11 **“SEC. 11. PUBLIC AWARENESS AND OUTREACH FOR DAM**
12 **SAFETY.**

13 “The Administrator, in consultation with other Fed-
14 eral agencies, State and local governments, dam owners,
15 the emergency management community, the private sec-
16 tor, nongovernmental organizations and associations, in-
17 stitutions of higher education, and any other appropriate
18 entities shall carry out a nationwide public awareness and
19 outreach program to assist the public in preparing for,
20 mitigating, responding to, and recovering from dam inci-
21 dents.”.

22 **SEC. 9007. AUTHORIZATION OF APPROPRIATIONS.**

23 (1) NATIONAL DAM SAFETY PROGRAM.—

24 (A) ANNUAL AMOUNTS.—Section 14(a)(1)
25 of the National Dam Safety Program Act (33

1 U.S.C. 467j(a)(1)) (as so redesignated) is
2 amended by striking “\$6,500,000” and all that
3 follows through “2011” and inserting
4 “\$9,200,000 for each of fiscal years 2014
5 through 2018”.

6 (B) MAXIMUM AMOUNT OF ALLOCATION.—
7 Section 14(a)(2)(B) of the National Dam Safe-
8 ty Program Act (33 U.S.C. 467j(a)(2)(B)) (as
9 so redesignated) is amended—

10 (i) by striking “The amount” and in-
11 serting the following:

12 “(i) IN GENERAL.—The amount”; and

13 (ii) by adding at the end the fol-
14 lowing:

15 “(ii) FISCAL YEAR 2014 AND SUBSE-
16 QUENT FISCAL YEARS.—For fiscal year
17 2014 and each subsequent fiscal year, the
18 amount of funds allocated to a State under
19 this paragraph may not exceed the amount
20 of funds committed by the State to imple-
21 ment dam safety activities.”.

22 (2) NATIONAL DAM INVENTORY.—Section 14(b)
23 of the National Dam Safety Program Act (33
24 U.S.C. 467j(b)) (as so redesignated) is amended by
25 striking “\$650,000” and all that follows through

1 “2011” and inserting “\$500,000 for each of fiscal
2 years 2014 through 2018”.

3 (3) PUBLIC AWARENESS.—Section 14 of the
4 National Dam Safety Program Act (33 U.S.C. 467j)
5 (as so redesignated) is amended—

6 (A) by redesignating subsections (c)
7 through (f) as subsections (d) through (g), re-
8 spectively; and

9 (B) by inserting after subsection (b) the
10 following:

11 “(c) PUBLIC AWARENESS.—There is authorized to be
12 appropriated to carry out section 11 \$1,000,000 for each
13 of fiscal years 2014 through 2018.”.

14 (4) RESEARCH.—Section 14(d) of the National
15 Dam Safety Program Act (as so redesignated) is
16 amended by striking “\$1,600,000” and all that fol-
17 lows through “2011” and inserting “\$1,450,000 for
18 each of fiscal years 2014 through 2018”.

19 (5) DAM SAFETY TRAINING.—Section 14(e) of
20 the National Dam Safety Program Act (as so redesi-
21 gnated) is amended by striking “\$550,000” and all
22 that follows through “2011” and inserting
23 “\$750,000 for each of fiscal years 2014 through
24 2018”.

1 (6) STAFF.—Section 14(f) of the National Dam
2 Safety Program Act (as so redesignated) is amended
3 by striking “\$700,000” and all that follows through
4 “2011” and inserting “\$1,000,000 for each of fiscal
5 years 2014 through 2018”.

6 **TITLE X—INNOVATIVE**
7 **FINANCING PILOT PROJECTS**

8 **SEC. 10001. SHORT TITLE.**

9 This title may be cited as the “Water Infrastructure
10 Finance and Innovation Act of 2013”.

11 **SEC. 10002. PURPOSES.**

12 The purpose of this title is to establish a pilot pro-
13 gram to assess the ability of innovative financing tools
14 to—

15 (1) promote increased development of critical
16 water resources infrastructure by establishing addi-
17 tional opportunities for financing water resources
18 projects that complement but do not replace or re-
19 duce existing Federal infrastructure financing tools
20 such as the State water pollution control revolving
21 loan funds established under title VI of the Federal
22 Water Pollution Control Act (33 U.S.C. 1381 et
23 seq.) and the State drinking water treatment revol-
24 ving loan funds established under section 1452 of the
25 Safe Drinking Water Act (42 U.S.C. 300j–12);

1 (2) attract new investment capital to infrastruc-
2 ture projects that are capable of generating revenue
3 streams through user fees or other dedicated fund-
4 ing sources;

5 (3) complement existing Federal funding
6 sources and address budgetary constraints on the
7 Corps of Engineers civil works program and existing
8 wastewater and drinking water infrastructure fi-
9 nancing programs;

10 (4) leverage private investment in water re-
11 sources infrastructure;

12 (5) align investments in water resources infra-
13 structure to achieve multiple benefits; and

14 (6) assist communities facing significant water
15 quality, drinking water, or flood risk challenges with
16 the development of water infrastructure projects.

17 **SEC. 10003. DEFINITIONS.**

18 In this title:

19 (1) ADMINISTRATOR.—The term “Adminis-
20 trator” means the Administrator of the Environ-
21 mental Protection Agency.

22 (2) COMMUNITY WATER SYSTEM.—The term
23 “community water system” has the meaning given
24 the term in section 1401 of the Safe Drinking Water
25 Act (42 U.S.C. 300f).

1 (3) FEDERAL CREDIT INSTRUMENT.—The term
2 “Federal credit instrument” means a secured loan
3 or loan guarantee authorized to be made available
4 under this title with respect to a project.

5 (4) INVESTMENT-GRADE RATING.—The term
6 “investment-grade rating” means a rating of BBB
7 minus, Baa3, bbb minus, BBB (low), or higher as-
8 signed by a rating agency to project obligations.

9 (5) LENDER.—

10 (A) IN GENERAL.—The term “lender”
11 means any non-Federal qualified institutional
12 buyer (as defined in section 230.144A(a) of
13 title 17, Code of Federal Regulations (or a suc-
14 cessor regulation), known as Rule 144A(a) of
15 the Securities and Exchange Commission and
16 issued under the Securities Act of 1933 (15
17 U.S.C. 77a et seq.)).

18 (B) INCLUSIONS.—The term “lender” in-
19 cludes—

20 (i) a qualified retirement plan (as de-
21 fined in section 4974(c) of the Internal
22 Revenue Code of 1986) that is a qualified
23 institutional buyer; and

24 (ii) a governmental plan (as defined in
25 section 414(d) of the Internal Revenue

1 Code of 1986) that is a qualified institu-
2 tional buyer.

3 (6) LOAN GUARANTEE.—The term “loan guar-
4 antee” means any guarantee or other pledge by the
5 Secretary or the Administrator to pay all or part of
6 the principal of, and interest on, a loan or other debt
7 obligation issued by an obligor and funded by a lend-
8 er.

9 (7) OBLIGOR.—The term “obligor” means an
10 eligible entity that is primarily liable for payment of
11 the principal of, or interest on, a Federal credit in-
12 strument.

13 (8) PROJECT OBLIGATION.—

14 (A) IN GENERAL.—The term “project obli-
15 gation” means any note, bond, debenture, or
16 other debt obligation issued by an obligor in
17 connection with the financing of a project.

18 (B) EXCLUSION.—The term “project obli-
19 gation” does not include a Federal credit in-
20 strument.

21 (9) RATING AGENCY.—The term “rating agen-
22 cy” means a credit rating agency registered with the
23 Securities and Exchange Commission as a nationally
24 recognized statistical rating organization (as defined

1 in section 3(a) of the Securities Exchange Act of
2 1934 (15 U.S.C. 78c(a)).

3 (10) SECURED LOAN.—The term “secured
4 loan” means a direct loan or other debt obligation
5 issued by an obligor and funded by the Secretary in
6 connection with the financing of a project under sec-
7 tion 10010.

8 (11) STATE.—The term “State” means—

9 (A) a State;

10 (B) the District of Columbia;

11 (C) the Commonwealth of Puerto Rico;

12 and

13 (D) any other territory or possession of the
14 United States.

15 (12) STATE INFRASTRUCTURE FINANCING AU-
16 THORITY.—The term “State infrastructure financing
17 authority” means the State entity established or des-
18 ignated by the Governor of a State to receive a cap-
19 italization grant provided by, or otherwise carry out
20 the requirements of, title VI of the Federal Water
21 Pollution Control Act (33 U.S.C. 1381 et. seq.) or
22 section 1452 of the Safe Drinking Water Act (42
23 U.S.C. 300j–12).

24 (13) SUBSIDY AMOUNT.—The term “subsidy
25 amount” means the amount of budget authority suf-

1 ficient to cover the estimated long-term cost to the
2 Federal Government of a Federal credit instrument,
3 as calculated on a net present value basis, excluding
4 administrative costs and any incidental effects on
5 governmental receipts or outlays in accordance with
6 the Federal Credit Reform Act of 1990 (2 U.S.C.
7 661 et seq.).

8 (14) SUBSTANTIAL COMPLETION.—The term
9 “substantial completion”, with respect to a project,
10 means the earliest date on which a project is consid-
11 ered to perform the functions for which the project
12 is designed.

13 (15) TREATMENT WORKS.—The term “treat-
14 ment works” has the meaning given the term in sec-
15 tion 212 of the Federal Water Pollution Control Act
16 (33 U.S.C. 1292).

17 **SEC. 10004. AUTHORITY TO PROVIDE ASSISTANCE.**

18 (a) IN GENERAL.—The Secretary and the Adminis-
19 trator may provide financial assistance under this title to
20 carry out pilot projects, which shall be selected to ensure
21 a diversity of project types and geographical locations.

22 (b) RESPONSIBILITY.—

23 (1) SECRETARY.—The Secretary shall carry out
24 all pilot projects under this title that are eligible
25 projects under section 10007(1).

1 (2) ADMINISTRATOR.—The Administrator shall
2 carry out all pilot projects under this title that are
3 eligible projects under paragraphs (2), (3), (4), (5),
4 (6), and (8) of section 10007.

5 (3) OTHER PROJECTS.—The Secretary or the
6 Administrator, as applicable, may carry out eligible
7 projects under paragraph (7) or (9) of section
8 10007.

9 **SEC. 10005. APPLICATIONS.**

10 (a) IN GENERAL.—To receive assistance under this
11 title, an eligible entity shall submit to the Secretary or
12 the Administrator, as applicable, an application at such
13 time, in such manner, and containing such information as
14 the Secretary or the Administrator may require.

15 (b) COMBINED PROJECTS.—In the case of an eligible
16 project described in paragraph (8) or (9) of section 10007,
17 the Secretary or the Administrator, as applicable, shall re-
18 quire the eligible entity to submit a single application for
19 the combined group of projects.

20 **SEC. 10006. ELIGIBLE ENTITIES.**

21 The following entities are eligible to receive assistance
22 under this title:

23 (1) A corporation.

24 (2) A partnership.

25 (3) A joint venture.

1 (4) A trust.

2 (5) A Federal, State, or local governmental en-
3 tity, agency, or instrumentality.

4 (6) A tribal government or consortium of tribal
5 governments.

6 (7) A State infrastructure financing authority.

7 **SEC. 10007. PROJECTS ELIGIBLE FOR ASSISTANCE.**

8 The following projects may be carried out with
9 amounts made available under this title:

10 (1) A project for flood control or hurricane and
11 storm damage reduction that the Secretary has de-
12 termined is technically sound, economically justified,
13 and environmentally acceptable, including—

14 (A) a structural or nonstructural measure
15 to reduce flood risk, enhance stream flow, or
16 protect natural resources; and

17 (B) a levee, dam, tunnel, aqueduct, res-
18 ervoir, or other related water infrastructure.

19 (2) 1 or more activities that are eligible for as-
20 sistance under section 603(c) of the Federal Water
21 Pollution Control Act (33 U.S.C. 1383(c)), notwith-
22 standing the public ownership requirement under
23 paragraph (1) of that subsection.

1 (3) 1 or more activities described in section
2 1452(a)(2) of the Safe Drinking Water Act (42
3 U.S.C. 300j-12(a)(2)).

4 (4) A project for enhanced energy efficiency in
5 the operation of a public water system.

6 (5) A project for repair, rehabilitation, or re-
7 placement of a treatment works, community water
8 system, or aging water distribution facility.

9 (6) A brackish or sea water desalination
10 project, a managed aquifer recharge project, or a
11 water recycling project.

12 (7) Acquisition of real property or an interest
13 in real property—

14 (A) if the acquisition is integral to a
15 project described in paragraphs (1) through (6);

16 or

17 (B) pursuant to an existing plan that, in
18 the judgment of the Administrator or the Sec-
19 retary, as applicable, would mitigate the envi-
20 ronmental impacts of water resources infra-
21 structure projects otherwise eligible for assist-
22 ance under this section.

23 (8) A combination of projects, each of which is
24 eligible under paragraph (2) or (3), for which a

1 State infrastructure financing authority submits to
2 the Administrator a single application.

3 (9) A combination of projects secured by a com-
4 mon security pledge, each of which is eligible under
5 paragraph (1), (2), (3), (4), (5), (6), or (7), for
6 which an eligible entity, or a combination of eligible
7 entities, submits a single application.

8 **SEC. 10008. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

9 For purposes of this title, an eligible activity with re-
10 spect to an eligible project includes the cost of—

11 (1) development-phase activities, including plan-
12 ning, feasibility analysis (including any related anal-
13 ysis necessary to carry out an eligible project), rev-
14 enue forecasting, environmental review, permitting,
15 preliminary engineering and design work, and other
16 preconstruction activities;

17 (2) construction, reconstruction, rehabilitation,
18 and replacement activities;

19 (3) the acquisition of real property or an inter-
20 est in real property (including water rights, land re-
21 lating to the project, and improvements to land), en-
22 vironmental mitigation (including acquisitions pursu-
23 ant to section 10007(7)), construction contingencies,
24 and acquisition of equipment;

1 (4) capitalized interest necessary to meet mar-
2 ket requirements, reasonably required reserve funds,
3 capital issuance expenses, and other carrying costs
4 during construction; and

5 (5) refinancing interim construction funding,
6 long-term project obligations, or a secured loan or
7 loan guarantee made under this title.

8 **SEC. 10009. DETERMINATION OF ELIGIBILITY AND**
9 **PROJECT SELECTION.**

10 (a) **ELIGIBILITY REQUIREMENTS.**—To be eligible to
11 receive financial assistance under this title, a project shall
12 meet the following criteria, as determined by the Secretary
13 or Administrator, as applicable:

14 (1) **CREDITWORTHINESS.**—

15 (A) **IN GENERAL.**—Subject to subpara-
16 graph (B), the project shall be creditworthy,
17 which shall be determined by the Secretary or
18 the Administrator, as applicable, who shall en-
19 sure that any financing for the project has ap-
20 propriate security features, such as a rate cov-
21 enant, to ensure repayment.

22 (B) **PRELIMINARY RATING OPINION LET-**
23 **TER.**—The Secretary or the Administrator, as
24 applicable, shall require each project applicant
25 to provide a preliminary rating opinion letter

1 from at least 1 rating agency indicating that
2 the senior obligations of the project (which may
3 be the Federal credit instrument) have the po-
4 tential to achieve an investment-grade rating.

5 (C) SPECIAL RULE FOR CERTAIN COM-
6 BINED PROJECTS.—The Administrator shall de-
7 velop a credit evaluation process for a Federal
8 credit instrument provided to a State infra-
9 structure financing authority for a project
10 under section 10007(8) or an entity for a
11 project under section 10007(9), which may in-
12 clude requiring the provision of a preliminary
13 rating opinion letter from at least 1 rating
14 agency.

15 (2) ELIGIBLE PROJECT COSTS.—The eligible
16 project costs of a project shall be reasonably antici-
17 pated to be not less than \$20,000,000.

18 (3) DEDICATED REVENUE SOURCES.—The Fed-
19 eral credit instrument for the project shall be repay-
20 able, in whole or in part, from dedicated revenue
21 sources that also secure the project obligations.

22 (4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
23 TIES.—In the case of a project carried out by an en-
24 tity that is not a State or local government or an

1 agency or instrumentality of a State or local govern-
2 ment, the project shall be publicly sponsored.

3 (b) SELECTION CRITERIA.—

4 (1) ESTABLISHMENT.—The Secretary or the
5 Administrator, as applicable, shall establish criteria
6 for the selection of projects that meet the eligibility
7 requirements of subsection (a), in accordance with
8 paragraph (2).

9 (2) CRITERIA.—The selection criteria shall in-
10 clude the following:

11 (A) The extent to which the project is na-
12 tionally or regionally significant, with respect to
13 the generation of economic and public benefits,
14 such as—

15 (i) the reduction of flood risk;
16 (ii) the improvement of water quality;
17 (iii) the protection of drinking water;

18 and

19 (iv) the support of international com-
20 merce.

21 (B) The extent to which the project financ-
22 ing plan includes public or private financing in
23 addition to assistance under this title.

24 (C) The likelihood that assistance under
25 this title would enable the project to proceed at

1 an earlier date than the project would otherwise
2 be able to proceed.

3 (D) The extent to which the project uses
4 new or innovative approaches.

5 (E) The amount of budget authority re-
6 quired to fund the Federal credit instrument
7 made available under this title.

8 (F) The extent to which the project—

9 (i) protects against extreme weather
10 events, such as floods or hurricanes; or

11 (ii) helps maintain or protect the envi-
12 ronment.

13 (G) The extent to which a project serves
14 regions with significant energy exploration, de-
15 velopment, or production areas.

16 (H) The extent to which a project serves
17 regions with significant water resource chal-
18 lenges, including the need to address—

19 (i) water quality concerns in areas of
20 regional, national, or international signifi-
21 cance;

22 (ii) water quantity concerns related to
23 groundwater, surface water, or other water
24 sources;

25 (iii) significant flood risk;

1 (iv) water resource challenges identi-
2 fied in existing regional, State, or
3 multistate agreements; or

4 (v) water resources with exceptional
5 recreational value or ecological importance.

6 (I) The extent to which assistance under
7 this title reduces the contribution of Federal as-
8 sistance to the project.

9 (3) SPECIAL RULE FOR CERTAIN COMBINED
10 PROJECTS.—For a project described in section
11 10007(8), the Administrator shall only consider the
12 criteria described in subparagraphs (B) through (I)
13 of paragraph (2).

14 (c) FEDERAL REQUIREMENTS.—Nothing in this sec-
15 tion supersedes the applicability of other requirements of
16 Federal law (including regulations).

17 **SEC. 10010. SECURED LOANS.**

18 (a) AGREEMENTS.—

19 (1) IN GENERAL.—Subject to paragraphs (2)
20 through (4), the Secretary or the Administrator, as
21 applicable, may enter into agreements with 1 or
22 more obligors to make secured loans, the proceeds of
23 which shall be used—

24 (A) to finance eligible project costs of any
25 project selected under section 10009;

1 (B) to refinance interim construction fi-
2 nancing of eligible project costs of any project
3 selected under section 10009; or

4 (C) to refinance long-term project obliga-
5 tions or Federal credit instruments, if that refi-
6 nancing provides additional funding capacity for
7 the completion, enhancement, or expansion of
8 any project that—

9 (i) is selected under section 10009; or

10 (ii) otherwise meets the requirements
11 of section 10009.

12 (2) LIMITATION ON REFINANCING OF INTERIM
13 CONSTRUCTION FINANCING.—A secured loan under
14 paragraph (1) shall not be used to refinance interim
15 construction financing under paragraph (1)(B) later
16 than 1 year after the date of substantial completion
17 of the applicable project.

18 (3) FINANCIAL RISK ASSESSMENT.—Before en-
19 tering into an agreement under this subsection for
20 a secured loan, the Secretary or the Administrator,
21 as applicable, in consultation with the Director of
22 the Office of Management and Budget and each rat-
23 ing agency providing a preliminary rating opinion
24 letter under section 10009(a)(1)(B), shall determine
25 an appropriate capital reserve subsidy amount for

1 the secured loan, taking into account each such pre-
2 liminary rating opinion letter.

3 (4) INVESTMENT-GRADE RATING REQUIRE-
4 MENT.—The execution of a secured loan under this
5 section shall be contingent on receipt by the senior
6 obligations of the project of an investment-grade rat-
7 ing.

8 (b) TERMS AND LIMITATIONS.—

9 (1) IN GENERAL.—A secured loan provided for
10 a project under this section shall be subject to such
11 terms and conditions, and contain such covenants,
12 representations, warranties, and requirements (in-
13 cluding requirements for audits), as the Secretary or
14 the Administrator, as applicable, determines to be
15 appropriate.

16 (2) MAXIMUM AMOUNT.—The amount of a se-
17 cured loan under this section shall not exceed the
18 lesser of—

19 (A) an amount equal to 49 percent of the
20 reasonably anticipated eligible project costs; and

21 (B) if the secured loan does not receive an
22 investment-grade rating, the amount of the sen-
23 ior project obligations of the project.

24 (3) PAYMENT.—A secured loan under this sec-
25 tion—

1 (A) shall be payable, in whole or in part,
2 from State or local taxes, user fees, or other
3 dedicated revenue sources that also secure the
4 senior project obligations of the relevant
5 project;

6 (B) shall include a rate covenant, coverage
7 requirement, or similar security feature sup-
8 porting the project obligations; and

9 (C) may have a lien on revenues described
10 in subparagraph (A), subject to any lien secur-
11 ing project obligations.

12 (4) INTEREST RATE.—The interest rate on a
13 secured loan under this section shall be not less than
14 the yield on United States Treasury securities of a
15 similar maturity to the maturity of the secured loan
16 on the date of execution of the loan agreement.

17 (5) MATURITY DATE.—

18 (A) IN GENERAL.—The final maturity date
19 of a secured loan under this section shall be not
20 later than 35 years after the date of substantial
21 completion of the relevant project.

22 (B) SPECIAL RULE FOR STATE INFRA-
23 STRUCTURE FINANCING AUTHORITIES.—The
24 final maturity date of a secured loan to a State
25 infrastructure financing authority under this

1 section shall be not later than 35 years after
2 the date on which amounts are first disbursed.

3 (6) NONSUBORDINATION.—A secured loan
4 under this section shall not be subordinated to the
5 claims of any holder of project obligations in the
6 event of bankruptcy, insolvency, or liquidation of the
7 obligor of the project.

8 (7) FEES.—The Secretary or the Adminis-
9 trator, as applicable, may establish fees at a level
10 sufficient to cover all or a portion of the costs to the
11 Federal Government of making a secured loan under
12 this section.

13 (8) NON-FEDERAL SHARE.—The proceeds of a
14 secured loan under this section may be used to pay
15 any non-Federal share of project costs required if
16 the loan is repayable from non-Federal funds.

17 (9) MAXIMUM FEDERAL INVOLVEMENT.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), for each project for which
20 assistance is provided under this title, the total
21 amount of Federal assistance shall not exceed
22 80 percent of the total project cost.

23 (B) EXCEPTION.—Subparagraph (A) shall
24 not apply to any rural water project—

1 (i) that is authorized to be carried out
2 by the Secretary of the Interior;

3 (ii) that includes among its bene-
4 ficiaries a federally recognized Indian tribe;
5 and

6 (iii) for which the authorized Federal
7 share of the total project costs is greater
8 than the amount described in subpara-
9 graph (A).

10 (c) REPAYMENT.—

11 (1) SCHEDULE.—The Secretary or the Admin-
12 istrator, as applicable, shall establish a repayment
13 schedule for each secured loan provided under this
14 section, based on the projected cash flow from
15 project revenues and other repayment sources.

16 (2) COMMENCEMENT.—

17 (A) IN GENERAL.—Scheduled loan repay-
18 ments of principal or interest on a secured loan
19 under this section shall commence not later
20 than 5 years after the date of substantial com-
21 pletion of the project.

22 (B) SPECIAL RULE FOR STATE INFRA-
23 STRUCTURE FINANCING AUTHORITIES.—Sched-
24 uled loan repayments of principal or interest on
25 a secured loan to a State infrastructure financ-

1 tingent on the project meeting such cri-
2 teria as the Secretary or the Adminis-
3 trator, as applicable, may establish.

4 (ii) REPAYMENT STANDARDS.—The
5 criteria established under clause (i) shall
6 include standards for reasonable assurance
7 of repayment.

8 (4) PREPAYMENT.—

9 (A) USE OF EXCESS REVENUES.—Any ex-
10 cess revenues that remain after satisfying
11 scheduled debt service requirements on the
12 project obligations and secured loan and all de-
13 posit requirements under the terms of any trust
14 agreement, bond resolution, or similar agree-
15 ment securing project obligations may be ap-
16 plied annually to prepay a secured loan under
17 this section without penalty.

18 (B) USE OF PROCEEDS OF REFI-
19 NANCING.—A secured loan under this section
20 may be prepaid at any time without penalty
21 from the proceeds of refinancing from non-Fed-
22 eral funding sources.

23 (d) SALE OF SECURED LOANS.—

24 (1) IN GENERAL.—Subject to paragraph (2), as
25 soon as practicable after the date of substantial

1 completion of a project and after providing a notice
2 to the obligor, the Secretary or the Administrator, as
3 applicable, may sell to another entity or reoffer into
4 the capital markets a secured loan for a project
5 under this section, if the Secretary or the Adminis-
6 trator, as applicable, determines that the sale or re-
7 offering can be made on favorable terms.

8 (2) CONSENT OF OBLIGOR.—In making a sale
9 or reoffering under paragraph (1), the Secretary or
10 the Administrator, as applicable, may not change the
11 original terms and conditions of the secured loan
12 without the written consent of the obligor.

13 (e) LOAN GUARANTEES.—

14 (1) IN GENERAL.—The Secretary or the Admin-
15 istrator, as applicable, may provide a loan guarantee
16 to a lender in lieu of making a secured loan under
17 this section, if the Secretary or the Administrator,
18 as applicable, determines that the budgetary cost of
19 the loan guarantee is substantially the same as that
20 of a secured loan.

21 (2) TERMS.—The terms of a loan guarantee
22 provided under this subsection shall be consistent
23 with the terms established in this section for a se-
24 cured loan, except that the rate on the guaranteed
25 loan and any prepayment features shall be nego-

1 tiated between the obligor and the lender, with the
2 consent of the Secretary or the Administrator, as
3 applicable.

4 **SEC. 10011. PROGRAM ADMINISTRATION.**

5 (a) **REQUIREMENT.**—The Secretary or the Adminis-
6 trator, as applicable, shall establish a uniform system to
7 service the Federal credit instruments made available
8 under this title.

9 (b) **FEEES.**—

10 (1) **IN GENERAL.**—The Secretary or the Admin-
11 istrator, as applicable, may collect and spend fees,
12 contingent on authority being provided in appropria-
13 tions Acts, at a level that is sufficient to cover—

14 (A) the costs of services of expert firms re-
15 tained pursuant to subsection (d); and

16 (B) all or a portion of the costs to the
17 Federal Government of servicing the Federal
18 credit instruments provided under this title.

19 (c) **SERVICER.**—

20 (1) **IN GENERAL.**—The Secretary or the Admin-
21 istrator, as applicable, may appoint a financial entity
22 to assist the Secretary or the Administrator in serv-
23 icing the Federal credit instruments provided under
24 this title.

1 (2) DUTIES.—A servicer appointed under para-
2 graph (1) shall act as the agent for the Secretary or
3 the Administrator, as applicable.

4 (3) FEE.—A servicer appointed under para-
5 graph (1) shall receive a servicing fee, subject to ap-
6 proval by the Secretary or the Administrator, as ap-
7 plicable.

8 (d) ASSISTANCE FROM EXPERTS.—The Secretary or
9 the Administrator, as applicable, may retain the services,
10 including counsel, of organizations and entities with exper-
11 tise in the field of municipal and project finance to assist
12 in the underwriting and servicing of Federal credit instru-
13 ments provided under this title.

14 (e) APPLICABILITY OF OTHER LAWS.—Section 513
15 of the Federal Water Pollution Control Act (33 U.S.C.
16 1372) applies to the construction of a project carried out,
17 in whole or in part, with assistance made available through
18 a Federal credit instrument under this title in the same
19 manner that section applies to a treatment works for
20 which a grant is made available under that Act.

21 **SEC. 10012. STATE AND LOCAL PERMITS.**

22 The provision of financial assistance for project under
23 this title shall not—

1 (1) relieve any recipient of the assistance of any
2 obligation to obtain any required State or local per-
3 mit or approval with respect to the project;

4 (2) limit the right of any unit of State or local
5 government to approve or regulate any rate of re-
6 turn on private equity invested in the project; or

7 (3) otherwise supersede any State or local law
8 (including any regulation) applicable to the construc-
9 tion or operation of the project.

10 **SEC. 10013. REGULATIONS.**

11 The Secretary or the Administrator, as applicable,
12 may promulgate such regulations as the Secretary or Ad-
13 ministrator determines to be appropriate to carry out this
14 title.

15 **SEC. 10014. FUNDING.**

16 (a) IN GENERAL.—There is authorized to be appro-
17 priated to each of the Secretary and the Administrator
18 to carry out this title \$50,000,000 for each of fiscal years
19 2014 through 2018, to remain available until expended.

20 (b) ADMINISTRATIVE COSTS.—Of the funds made
21 available to carry out this title, the Secretary or the Ad-
22 ministrator, as applicable, may use for the administration
23 of this title, including for the provision of technical assist-
24 ance to aid project sponsors in obtaining the necessary ap-

1 provals for the project, not more than \$2,200,000 for each
2 of fiscal years 2014 through 2018.

3 **SEC. 10015. REPORT TO CONGRESS.**

4 Not later than 2 years after the date of enactment
5 of this Act, and every 2 years thereafter, the Secretary
6 or the Administrator, as applicable, shall submit to the
7 Committee on Environment and Public Works of the Sen-
8 ate and the Committee on Transportation and Infrastruc-
9 ture of the House of Representatives a report summa-
10 rizing for the projects that are receiving, or have received,
11 assistance under this title—

12 (1) the financial performance of those projects,
13 including a recommendation as to whether the objec-
14 tives of this title are being met; and

15 (2) the public benefit provided by those
16 projects, including, as applicable, water quality im-
17 provement, the protection of drinking water, and the
18 reduction of flood risk.

19 **TITLE XI—EXTREME WEATHER**

20 **SEC. 11001. IMPROVING MANAGEMENT OF FLOOD AND**
21 **DROUGHT.**

22 (a) IN GENERAL.—Not later than 18 months after
23 the date of enactment of this Act, the Secretary shall enter
24 into an arrangement with the National Academy of
25 Sciences to carry out a study and make recommendations

1 relating to options for reducing risk to human life and
2 property from extreme weather events, such as hurricanes,
3 coastal storms, and inland flooding.

4 (b) CONSIDERATIONS.—The study under subsection
5 (a) shall include—

6 (1) an analysis of strategies and projects, in-
7 cluding authorized water resources projects that
8 have not yet been constructed, implemented in the
9 United States and worldwide to respond to risk asso-
10 ciated with extreme weather events;

11 (2) an analysis of historical extreme weather
12 events and the ability of existing infrastructure to
13 mitigate risks associated with those events;

14 (3) an estimation of the funding necessary to
15 improve infrastructure in the United States to re-
16 duce risk associated with extreme weather events;

17 (4) an analysis of the adequacy of current fund-
18 ing sources and the identification of potential new
19 funding sources to finance the necessary infrastruc-
20 ture improvements referred to in paragraph (3); and

21 (5) an analysis of the Federal, State, and local
22 costs of natural disasters and the potential cost-sav-
23 ings associated with implementing mitigation meas-
24 ures.

1 (c) COORDINATION.—The National Academy of
2 Sciences may cooperate with the National Academy of
3 Public Administration to carry out 1 or more aspects of
4 the study under subsection (a).

5 (d) PUBLICATION.—Not later than 30 days after
6 completion of the study under subsection (a), the National
7 Academy of Sciences shall—

8 (1) submit a copy of the study to the Com-
9 mittee on Environment and Public Works of the
10 Senate and the Committee on Transportation and
11 Infrastructure of the House of Representatives; and

12 (2) make a copy of the study available on a
13 publicly accessible Internet site.

14 **SEC. 11002. GAO STUDY ON MANAGEMENT OF FLOOD AND**
15 **DROUGHT.**

16 (a) IN GENERAL.—Not later than 1 year after the
17 date of enactment of this Act, the Comptroller General
18 shall submit to the Committee on Environment and Public
19 Works of the Senate and the Committee on Transpor-
20 tation and Infrastructure of the House of Representatives
21 a study of the strategies used by the Corps of Engineers
22 for the comprehensive management of water resources in
23 response to floods, storms, and droughts, including an his-
24 torical review of the ability of the Corps of Engineers to

1 manage and respond to historical drought, storm, and
2 flood events.

3 (b) CONSIDERATIONS.—The study under subsection
4 (a) shall address—

5 (1) the extent to which existing water manage-
6 ment activities of the Corps of Engineers can better
7 address and mitigate flood, storm damage, and
8 drought impacts on a national basis;

9 (2) whether existing water resources projects
10 built or maintained by the Corps of Engineers, in-
11 cluding dams, levees, floodwalls, flood gates, and
12 other appurtenant infrastructure were designed to
13 adequately address flood, storm, and drought im-
14 pacts and the extent to which the water resources
15 projects have been successful at addressing those im-
16 pacts;

17 (3) whether a reevaluation of existing manage-
18 ment approaches of the Corps of Engineers could re-
19 sult in greater efficiencies in water management and
20 project delivery that would enable the Corps of Engi-
21 neers to better prepare for, contain, and respond to
22 flood, storm, and drought conditions;

23 (4) any recommendations for improving the
24 planning processes of the Corps of Engineers to pro-
25 vide opportunities for comprehensive management of

1 water resources that increases efficiency and im-
2 proves response to flood, storm, and drought condi-
3 tions; and

4 (5) any recommendations for improving ap-
5 proaches to rebuilding or restoring infrastructure
6 and natural resources that contribute to risk reduc-
7 tion, such as coastal wetlands, to prepare for flood
8 and drought.

9 **SEC. 11003. POST-DISASTER WATERSHED ASSESSMENTS.**

10 (a) WATERSHED ASSESSMENTS.—

11 (1) IN GENERAL.—In an area that the Presi-
12 dent has declared a major disaster in accordance
13 with section 401 of the Robert T. Stafford Disaster
14 Relief and Emergency Assistance Act (42 U.S.C.
15 5170), the Secretary may carry out a watershed as-
16 sessment to identify, to the maximum extent prac-
17 ticable, specific flood risk reduction, hurricane and
18 storm damage reduction, or ecosystem restoration
19 project recommendations that will help to rehabili-
20 tate damaged infrastructure and reduce risks to
21 human life and property from future natural disas-
22 ters.

23 (2) EXISTING PROJECTS.—A watershed assess-
24 ment carried out paragraph (1) may identify existing

1 projects being carried out under 1 or more of the
2 authorities referred to in subsection (b) (1).

3 (3) DUPLICATE WATERSHED ASSESSMENTS.—

4 In carrying out a watershed assessment under para-
5 graph (1), the Secretary shall use all existing water-
6 shed assessments and related information developed
7 by the Secretary or other Federal, State, or local en-
8 tities.

9 (b) PROJECTS.—

10 (1) IN GENERAL.—The Secretary may carry out
11 1 or more small projects identified in a watershed
12 assessment under subsection (a) that the Secretary
13 would otherwise be authorized to carry out under—

14 (A) section 205 of the Flood Control Act
15 of 1948 (33 U.S.C. 701s);

16 (B) section 111 of the River and Harbor
17 Act of 1968 (33 U.S.C. 426i);

18 (C) section 206 of the Water Resources
19 Development Act of 1996 (33 U.S.C. 2330);

20 (D) section 1135 of the Water Resources
21 Development Act of 1986 (33 U.S.C. 2309a);

22 (E) section 107 of the River and Harbor
23 Act of 1960 (33 U.S.C. 577); or

24 (F) section 3 of the Act of August 13,
25 1946 (33 U.S.C. 426g).

1 (2) EXISTING PROJECTS.—In carrying out a
2 project under paragraph (1), the Secretary shall—

3 (A) to the maximum extent practicable,
4 use all existing information and studies avail-
5 able for the project; and

6 (B) not require any element of a study
7 completed for the project prior to the disaster
8 to be repeated.

9 (c) REQUIREMENTS.—All requirements applicable to
10 a project under the Acts described in subsection (b) shall
11 apply to the project.

12 (d) LIMITATIONS ON ASSESSMENTS.—

13 (1) IN GENERAL.—A watershed assessment
14 under subsection (a) shall be initiated not later than
15 2 years after the date on which the major disaster
16 declaration is issued.

17 (2) FEDERAL SHARE.—The Federal share of
18 the cost of carrying out a watershed assessment
19 under subsection (a) shall not exceed \$1,000,000.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to carry out this section
22 \$25,000,000 for each of fiscal years 2014 through 2018.