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## Water Resources Development Acts: Primer and Action in the 118<sup>th</sup> Congress

The U.S. Army Corps of Engineers (USACE) is a Department of Defense agency that, among other missions, develops water resource projects, principally to improve navigable channels, reduce flood and storm damage, and restore aquatic ecosystems. Congress often considers, on a biennial schedule, omnibus legislation to authorize USACE water resource activities. Congress regularly refers to this legislation as a Water Resources Development Act (WRDA). WRDAs are distinguished from each other by the year of enactment (e.g., WRDA 1986). Authorization is generally a precondition for USACE activities to be eligible for federal appropriations. For more information on USACE civil works activities, particularly for water resource projects, see CRS Report R47946, *Process for U.S. Army Corps of Engineers (USACE) Projects*.

WRDA provisions generally add to or amend existing USACE authorizations and provide congressional policy direction to the agency. Drivers for enactment of a new WRDA typically include nonfederal and congressional interest in new USACE studies and projects as well as adjustments to existing USACE projects, programmatic authorities, and policies. Events such as droughts and floods, along with congressional deliberations on infrastructure investments and other policy initiatives, may shape deliberations of USACE authorization legislation in the 118<sup>th</sup> Congress.

### Consideration and Enactment of WRDAs

Congress typically consolidates USACE authorization proposals into a WRDA bill rather than deliberating on multiple bills of smaller scope. Historically, most WRDA provisions have focused on USACE's water resource activities; however, on some occasions, provisions have addressed the agency's other responsibilities (such as its regulatory responsibilities).

WRDAs have been enacted as stand-alone bills (e.g., in 2000, 2007, and 2014) and as part of broader bills (e.g., in 2016, 2018, 2020 and 2022). WRDA 2022 was enacted in December 2022 as Title LXXXI of Division H of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (FY2023 NDAA; P.L. 117-263). For more on WRDA 2022, see CRS Insight IN11965, *Water Resources Development Act of 2022 (WRDA 2022)*.

In the 118<sup>th</sup> Congress, Members in the Senate and the House introduced WRDA 2024 bills—S. 4367 and H.R. 8812, respectively. On May 22, 2024, the Senate Committee on Environment and Public Works reported S. 4367 with an amendment in the nature of a substitute. On June 26, 2024, the House Committee on Transportation and Infrastructure ordered to report H.R. 8812, as amended by

the committee. On July 22, 2024, the House of Representatives voted to pass the bill under suspension of the rules, and the Senate passed S. 4367 by unanimous consent on August 1, 2024. Congress may consider which provisions to include in a negotiated WRDA 2024 bill and the process through which to enact such a bill.

### USACE Activities and WRDA Authorizations

Although the three primary purposes of USACE studies and projects historically have been improving navigation, reducing flood risk, and restoring aquatic ecosystems, many USACE projects are multipurpose—that is, they might provide water supply storage, recreation, and hydropower, among other benefits, in addition to one or more of the three primary purposes. USACE is directly engaged in the planning and construction of water resource projects.

In WRDAs, Congress generally establishes a general framework and guidelines for implementing USACE water resource projects and activities (e.g., setting standard federal and nonfederal cost shares). WRDAs also authorize USACE to perform specific studies and projects. Most USACE water resource projects require two types of congressional authorization, which are provided at different points in time: (1) authority to study the feasibility of the project and (2) authority to construct (and operate and maintain, as applicable) the project. Authorizations for most USACE studies and projects are geographically specific (e.g., a flood risk reduction project for a specific community along a river or coast).

WRDAs also may adjust the required cost sharing for specific projects or activities, or they may authorize USACE to provide specific financial assistance. For example, in WRDAs since 1992, Congress has authorized USACE to assist with *environmental infrastructure* (e.g., design and construction assistance for drinking water and wastewater infrastructure) in designated communities, counties, and states. For more on this assistance, see CRS Report R47162, *Overview of U.S. Army Corps of Engineers Environmental Infrastructure (EI) Assistance*.

Authorization for a project or activity on its own is not sufficient for USACE to proceed; once Congress authorizes an activity in a WRDA, USACE must still receive funding for that activity (e.g., Investigation account funding to complete an authorized study). Congress provides appropriations for USACE through the annual Energy and Water Development appropriations process and, at times, through supplemental appropriations. Most USACE appropriations are directed toward specific USACE studies and projects authorized by Congress. For more on USACE funding, see CRS Report R46320, *U.S. Army Corps of*

*Engineers: Annual Appropriations Process*, and CRS In Focus IF11945, *U.S. Army Corps of Engineers: Supplemental Appropriations*.

Although most USACE authorizations do not expire, Congress has limited the duration of some WRDA provisions (e.g., a 10-year pilot program). WRDA provisions may extend or remove the time limitations on these authorities. WRDA provisions also may rescind authority for (i.e., deauthorize) unconstructed projects or projects no longer serving their authorized purposes.

### **WRDA Development and Process to Propose Activities for Authorization**

To develop WRDAs, the authorizing committees for USACE—the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works—typically hold hearings to receive testimony from stakeholders, review reports transmitted by the Administration, and solicit input from Members. In Section 7001 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014; P.L. 113-121), Congress established a process that may assist congressional authorizing committees in identifying USACE studies, projects, and project modifications for authorization. In Section 7001, as amended, Congress requires the Administration to transmit an annual report to the authorizing committees on publicly submitted USACE study and project proposals, along with USACE-developed project decision documents that require congressional authorization. WRDAs in 2016, 2018, 2020, and 2022 drew upon Section 7001 reports as the basis for authorizing various geographically specific USACE activities. For more on the Section 7001 process, see CRS Insight IN11118, *Army Corps of Engineers: Section 7001 Report on Future Studies and Projects*.

### **Nonfederal Responsibilities**

Although USACE projects authorized in WRDAs are federal projects, they often require nonfederal sponsors to share costs and assume other responsibilities. Nonfederal sponsors generally are required to provide land and other real estate interests needed for a project and to share study and construction costs. Most studies are cost shared 50% federal and 50% nonfederal. For various USACE project purposes, Congress has set standard cost shares for construction and for the nonfederal responsibilities following construction. For instance, Congress set the construction cost sharing for restoration projects at a fixed 65% federal and 35% nonfederal, unless otherwise specified. For most USACE flood control and restoration projects, nonfederal sponsors are 100% responsible for operation, maintenance, and rehabilitation costs.

### **Investing in USACE Backlogged Projects**

Numerous activities authorized for construction in previous WRDAs remain unfunded. USACE has a construction backlog exceeding \$100 billion, as well as numerous authorized but unfunded studies and operation and maintenance activities. Nonfederal sponsors often remain interested in pursuing these unfunded studies and construction activities. A challenge for federal policymakers is whether, and if so how, to advance these

projects. One way is to expand opportunities for greater nonfederal roles in development, construction, and financing of backlogged projects. In WRRDA 2014, WRDA 2016 (Title I of P.L. 114-322, Water Infrastructure Improvements for the Nation Act [WIIN Act]), and WRDA 2018 (Title I of P.L. 115-270, America's Water Infrastructure Act of 2018 [AWIA 2018]), Congress expanded the opportunities for interested nonfederal entities, including private entities, to advance authorized studies and projects. A limited number of private-public partnerships and multiple nonfederally led studies and projects have proceeded under these authorities.

Another option to facilitate project construction is to expand project financing opportunities. In WRRDA 2014, Congress authorized the Water Infrastructure Finance and Innovation Act (WIFIA). WIFIA includes authority for both USACE and the Environmental Protection Agency (EPA) to implement programs to provide credit assistance (i.e., direct loans or loan guarantees) for various types of water projects. For USACE, WIFIA authorizes the agency to financially assist a broad range of water resource projects, potentially including some projects in the USACE construction backlog. Since FY2021, when Congress created an account for USACE to initiate its WIFIA program—the Corps Water Infrastructure Financing Program (CWIFP)—Congress has limited CWIFP financial assistance to safety projects for nonfederally owned dams, a project type that is not part of the USACE construction backlog. For more on CWIFP, see CRS Insight IN12021, *Corps Water Infrastructure Financing Program (CWIFP)*. Other approaches for Congress to address the project backlog include increasing federal funding for this infrastructure and deauthorizing unconstructed projects with older authorizations.

### **USACE Oversight**

After a WRDA is enacted, Congress may oversee its implementation or provide additional implementation direction through the appropriations process. Congress may be interested in the status of USACE guidance describing how the agency plans to implement selected WRDA 2022 and other prior WRDA provisions. After WRDA 2022 enactment, USACE indicated the agency would develop implementation guidance for 12 WRDA 2022 provisions. To date, USACE has released implementation guidance for some of these provisions but has not done so for others.

Congress also may seek information from USACE on certain enacted activities. This may include how USACE addresses water resource projects for tribes, integration of natural and nature-based features in USACE projects, and activities related to small water storage projects, including for water supply and water conservation. In addition, Congress may conduct oversight on project implementation challenges for previously authorized projects, such as cost increases and real estate requirements.

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**Nicole T. Carter**, Acting Section Research Manager  
**Anna E. Normand**, Specialist in Natural Resources Policy

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