

1 **DIVISION D—ENERGY AND WATER DEVEL-**
2 **OPMENT AND RELATED AGENCIES AP-**
3 **PROPRIATIONS ACT, 2017**

4 TITLE I

5 CORPS OF ENGINEERS—CIVIL

6 DEPARTMENT OF THE ARMY

7 CORPS OF ENGINEERS—CIVIL

8 The following appropriations shall be expended under
9 the direction of the Secretary of the Army and the super-
10 vision of the Chief of Engineers for authorized civil func-
11 tions of the Department of the Army pertaining to river
12 and harbor, flood and storm damage reduction, shore pro-
13 tection, aquatic ecosystem restoration, and related efforts.

14 INVESTIGATIONS

15 For expenses necessary where authorized by law for
16 the collection and study of basic information pertaining
17 to river and harbor, flood and storm damage reduction,
18 shore protection, aquatic ecosystem restoration, and re-
19 lated needs; for surveys and detailed studies, and plans
20 and specifications of proposed river and harbor, flood and
21 storm damage reduction, shore protection, and aquatic
22 ecosystem restoration projects, and related efforts prior to
23 construction; for restudy of authorized projects; and for
24 miscellaneous investigations, and, when authorized by law,
25 surveys and detailed studies, and plans and specifications

1 of projects prior to construction, \$121,000,000, to remain
2 available until expended: *Provided*, That the Secretary
3 may initiate up to, but not more than, six new study starts
4 during fiscal year 2017: *Provided further*, That the new
5 study starts will consist of five studies where the majority
6 of the benefits are derived from navigation transportation
7 savings or from flood and storm damage reduction and
8 one study where the majority of benefits are derived from
9 environmental restoration: *Provided further*, That the Sec-
10 retary shall not deviate from the new starts proposed in
11 the work plan, once the plan has been submitted to the
12 Committees on Appropriations of both Houses of Con-
13 gress.

14 CONSTRUCTION

15 For expenses necessary for the construction of river
16 and harbor, flood and storm damage reduction, shore pro-
17 tection, aquatic ecosystem restoration, and related
18 projects authorized by law; for conducting detailed studies,
19 and plans and specifications, of such projects (including
20 those involving participation by States, local governments,
21 or private groups) authorized or made eligible for selection
22 by law (but such detailed studies, and plans and specifica-
23 tions, shall not constitute a commitment of the Govern-
24 ment to construction); \$1,876,000,000, to remain avail-
25 able until expended; of which such sums as are necessary

1 to cover the Federal share of construction costs for facili-
2 ties under the Dredged Material Disposal Facilities pro-
3 gram shall be derived from the Harbor Maintenance Trust
4 Fund as authorized by Public Law 104–303; and of which
5 such sums as are necessary to cover one-half of the costs
6 of construction, replacement, rehabilitation, and expansion
7 of inland waterways projects shall be derived from the In-
8 land Waterways Trust Fund, except as otherwise specifi-
9 cally provided for in law: *Provided*, That the Secretary
10 may initiate up to, but not more than, six new construc-
11 tion starts during fiscal year 2017: *Provided further*, That
12 the new construction starts will consist of five projects
13 where the majority of the benefits are derived from naviga-
14 tion transportation savings or from flood and storm dam-
15 age reduction and one project where the majority of the
16 benefits are derived from environmental restoration: *Pro-*
17 *vided further*, That for new construction projects, project
18 cost sharing agreements shall be executed as soon as prac-
19 ticable but no later than September 30, 2017: *Provided*
20 *further*, That no allocation for a new start shall be consid-
21 ered final and no work allowance shall be made until the
22 Secretary provides to the Committees on Appropriations
23 of both Houses of Congress an out-year funding scenario
24 demonstrating the affordability of the selected new starts
25 and the impacts on other projects: *Provided further*, That

1 the Secretary may not deviate from the new starts pro-
2 posed in the work plan, once the plan has been submitted
3 to the Committees on Appropriations of both Houses of
4 Congress.

5 MISSISSIPPI RIVER AND TRIBUTARIES

6 For expenses necessary for flood damage reduction
7 projects and related efforts in the Mississippi River allu-
8 vial valley below Cape Girardeau, Missouri, as authorized
9 by law, \$362,000,000, to remain available until expended,
10 of which such sums as are necessary to cover the Federal
11 share of eligible operation and maintenance costs for in-
12 land harbors shall be derived from the Harbor Mainte-
13 nance Trust Fund.

14 OPERATION AND MAINTENANCE

15 For expenses necessary for the operation, mainte-
16 nance, and care of existing river and harbor, flood and
17 storm damage reduction, aquatic ecosystem restoration,
18 and related projects authorized by law; providing security
19 for infrastructure owned or operated by the Corps, includ-
20 ing administrative buildings and laboratories; maintaining
21 harbor channels provided by a State, municipality, or
22 other public agency that serve essential navigation needs
23 of general commerce, where authorized by law; surveying
24 and charting northern and northwestern lakes and con-
25 necting waters; clearing and straightening channels; and

1 removing obstructions to navigation, \$3,149,000,000, to
2 remain available until expended, of which such sums as
3 are necessary to cover the Federal share of eligible oper-
4 ation and maintenance costs for coastal harbors and chan-
5 nels, and for inland harbors shall be derived from the Har-
6 bor Maintenance Trust Fund; of which such sums as be-
7 come available from the special account for the Corps of
8 Engineers established by the Land and Water Conserva-
9 tion Fund Act of 1965 shall be derived from that account
10 for resource protection, research, interpretation, and
11 maintenance activities related to resource protection in the
12 areas at which outdoor recreation is available; and of
13 which such sums as become available from fees collected
14 under section 217 of Public Law 104–303 shall be used
15 to cover the cost of operation and maintenance of the
16 dredged material disposal facilities for which such fees
17 have been collected: *Provided*, That 1 percent of the total
18 amount of funds provided for each of the programs,
19 projects, or activities funded under this heading shall not
20 be allocated to a field operating activity prior to the begin-
21 ning of the fourth quarter of the fiscal year and shall be
22 available for use by the Chief of Engineers to fund such
23 emergency activities as the Chief of Engineers determines
24 to be necessary and appropriate, and that the Chief of En-
25 gineers shall allocate during the fourth quarter any re-

1 maining funds which have not been used for emergency
2 activities proportionally in accordance with the amounts
3 provided for the programs, projects, or activities.

4 REGULATORY PROGRAM

5 For expenses necessary for administration of laws
6 pertaining to regulation of navigable waters and wetlands,
7 \$200,000,000, to remain available until September 30,
8 2018.

9 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

10 For expenses necessary to clean up contamination
11 from sites in the United States resulting from work per-
12 formed as part of the Nation's early atomic energy pro-
13 gram, \$112,000,000, to remain available until expended.

14 FLOOD CONTROL AND COASTAL EMERGENCIES

15 For expenses necessary to prepare for flood, hurri-
16 cane, and other natural disasters and support emergency
17 operations, repairs, and other activities in response to
18 such disasters as authorized by law, \$32,000,000, to re-
19 main available until expended.

20 EXPENSES

21 For expenses necessary for the supervision and gen-
22 eral administration of the civil works program in the head-
23 quarters of the Corps of Engineers and the offices of the
24 Division Engineers; and for costs of management and op-
25 eration of the Humphreys Engineer Center Support Activ-

1 ity, the Institute for Water Resources, the United States
2 Army Engineer Research and Development Center, and
3 the United States Army Corps of Engineers Finance Cen-
4 ter allocable to the civil works program, \$181,000,000, to
5 remain available until September 30, 2018, of which not
6 to exceed \$5,000 may be used for official reception and
7 representation purposes and only during the current fiscal
8 year: *Provided*, That no part of any other appropriation
9 provided in this title shall be available to fund the civil
10 works activities of the Office of the Chief of Engineers
11 or the civil works executive direction and management ac-
12 tivities of the division offices: *Provided further*, That any
13 Flood Control and Coastal Emergencies appropriation
14 may be used to fund the supervision and general adminis-
15 tration of emergency operations, repairs, and other activi-
16 ties in response to any flood, hurricane, or other natural
17 disaster.

18 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY

19 FOR CIVIL WORKS

20 For the Office of the Assistant Secretary of the Army
21 for Civil Works as authorized by 10 U.S.C. 3016(b)(3),
22 \$4,764,000, to remain available until September 30, 2018:
23 *Provided*, That not more than 75 percent of such amount
24 may be obligated or expended until the Assistant Sec-
25 retary submits to the Committees on Appropriations of

1 both Houses of Congress a work plan that allocates at
2 least 95 percent of the additional funding provided under
3 each heading in this title (as designated under such head-
4 ing in the explanatory statement described in section 4
5 (in the matter preceding division A of this consolidated
6 Act)) to specific programs, projects, or activities.

7 GENERAL PROVISIONS—CORPS OF
8 ENGINEERS—CIVIL
9 (INCLUDING TRANSFER OF FUNDS)

10 SEC. 101. (a) None of the funds provided in title I
11 of this Act, or provided by previous appropriations Acts
12 to the agencies or entities funded in title I of this Act
13 that remain available for obligation or expenditure in fiscal
14 year 2017, shall be available for obligation or expenditure
15 through a reprogramming of funds that:

16 (1) creates or initiates a new program, project,
17 or activity;

18 (2) eliminates a program, project, or activity;

19 (3) increases funds or personnel for any pro-
20 gram, project, or activity for which funds have been
21 denied or restricted by this Act, unless prior ap-
22 proval is received from the House and Senate Com-
23 mittees on Appropriations;

24 (4) proposes to use funds directed for a specific
25 activity for a different purpose, unless prior approval

1 is received from the House and Senate Committees
2 on Appropriations;

3 (5) augments or reduces existing programs,
4 projects, or activities in excess of the amounts con-
5 tained in paragraphs (6) through (10), unless prior
6 approval is received from the House and Senate
7 Committees on Appropriations;

8 (6) INVESTIGATIONS.—For a base level over
9 \$100,000, reprogramming of 25 percent of the base
10 amount up to a limit of \$150,000 per project, study
11 or activity is allowed: *Provided*, That for a base level
12 less than \$100,000, the reprogramming limit is
13 \$25,000: *Provided further*, That up to \$25,000 may
14 be reprogrammed into any continuing study or activ-
15 ity that did not receive an appropriation for existing
16 obligations and concomitant administrative expenses;

17 (7) CONSTRUCTION.—For a base level over
18 \$2,000,000, reprogramming of 15 percent of the
19 base amount up to a limit of \$3,000,000 per project,
20 study or activity is allowed: *Provided*, That for a
21 base level less than \$2,000,000, the reprogramming
22 limit is \$300,000: *Provided further*, That up to
23 \$3,000,000 may be reprogrammed for settled con-
24 tractor claims, changed conditions, or real estate de-
25 ficiency judgments: *Provided further*, That up to

1 \$300,000 may be reprogrammed into any continuing
2 study or activity that did not receive an appropria-
3 tion for existing obligations and concomitant admin-
4 istrative expenses;

5 (8) OPERATION AND MAINTENANCE.—Unlim-
6 ited reprogramming authority is granted for the
7 Corps to be able to respond to emergencies: *Pro-*
8 *vided*, That the Chief of Engineers shall notify the
9 House and Senate Committees on Appropriations of
10 these emergency actions as soon thereafter as prac-
11 ticable: *Provided further*, That for a base level over
12 \$1,000,000, reprogramming of 15 percent of the
13 base amount up to a limit of \$5,000,000 per project,
14 study, or activity is allowed: *Provided further*, That
15 for a base level less than \$1,000,000, the re-
16 programming limit is \$150,000: *Provided further*,
17 That \$150,000 may be reprogrammed into any con-
18 tinuing study or activity that did not receive an ap-
19 propriation;

20 (9) MISSISSIPPI RIVER AND TRIBUTARIES.—
21 The reprogramming guidelines in paragraphs (6),
22 (7), and (8) shall apply to the Investigations, Con-
23 struction, and Operation and Maintenance portions
24 of the Mississippi River and Tributaries Account, re-
25 spectively; and

1 (10) FORMERLY UTILIZED SITES REMEDIAL AC-
2 TION PROGRAM.—Reprogramming of up to 15 per-
3 cent of the base of the receiving project is permitted.

4 (b) DE MINIMUS REPROGRAMMINGS.—In no case
5 should a reprogramming for less than \$50,000 be sub-
6 mitted to the House and Senate Committees on Appro-
7 priations.

8 (c) CONTINUING AUTHORITIES PROGRAM.—Sub-
9 section (a)(1) shall not apply to any project or activity
10 funded under the continuing authorities program.

11 (d) Not later than 60 days after the date of enact-
12 ment of this Act, the Secretary shall submit a report to
13 the House and Senate Committees on Appropriations to
14 establish the baseline for application of reprogramming
15 and transfer authorities for the current fiscal year which
16 shall include:

17 (1) A table for each appropriation with a sepa-
18 rate column to display the President's budget re-
19 quest, adjustments made by Congress, adjustments
20 due to enacted rescissions, if applicable, and the fis-
21 cal year enacted level; and

22 (2) A delineation in the table for each appro-
23 priation both by object class and program, project
24 and activity as detailed in the budget appendix for
25 the respective appropriations; and

1 (3) An identification of items of special congres-
2 sional interest.

3 SEC. 102. The Secretary shall allocate funds made
4 available in this Act solely in accordance with the provi-
5 sions of this Act and the explanatory statement described
6 in section 4 (in the matter preceding division A of this
7 consolidated Act), including the determination and des-
8 ignation of new starts.

9 SEC. 103. None of the funds made available in this
10 title may be used to award or modify any contract that
11 commits funds beyond the amounts appropriated for that
12 program, project, or activity that remain unobligated, ex-
13 cept that such amounts may include any funds that have
14 been made available through reprogramming pursuant to
15 section 101.

16 SEC. 104. The Secretary of the Army may transfer
17 to the Fish and Wildlife Service, and the Fish and Wildlife
18 Service may accept and expend, up to \$5,400,000 of funds
19 provided in this title under the heading “Operation and
20 Maintenance” to mitigate for fisheries lost due to Corps
21 of Engineers projects.

22 SEC. 105. None of the funds in this Act shall be used
23 for an open lake placement alternative for dredged mate-
24 rial, after evaluating the least costly, environmentally ac-
25 ceptable manner for the disposal or management of

1 dredged material originating from Lake Erie or tributaries
2 thereto, unless it is approved under a State water quality
3 certification pursuant to section 401 of the Federal Water
4 Pollution Control Act (33 U.S.C. 1341); *Provided further*,
5 That until an open lake placement alternative for dredged
6 material is approved under a State water quality certifi-
7 cation, the Corps of Engineers shall continue upland
8 placement of such dredged material consistent with the re-
9 quirements of section 101 of the Water Resources Devel-
10 opment Act of 1986 (33 U.S.C. 2211).

11 SEC. 106. None of the funds made available in this
12 title may be used for any acquisition that is not consistent
13 with 48 CFR 225.7007.

14 SEC. 107. None of the funds made available by this
15 Act may be used to carry out any water supply reallocation
16 study under the Wolf Creek Dam, Lake Cumberland, Ken-
17 tucky, project authorized under the Act of July 24, 1946
18 (60 Stat. 636, ch. 595).

19 SEC. 108. None of the funds made available in this
20 or any other Act making appropriations for Energy and
21 Water Development for any fiscal year may be used by
22 the Corps of Engineers during the fiscal year ending Sep-
23 tember 30, 2017, to develop, adopt, implement, admin-
24 ister, or enforce any change to the regulations in effect
25 on October 1, 2012, pertaining to the definitions of the

1 terms “fill material” or “discharge of fill material” for the
2 purposes of the Federal Water Pollution Control Act (33
3 U.S.C. 1251 et seq.).

4 SEC. 109. None of the funds made available by this
5 Act may be used to require a permit for the discharge
6 of dredged or fill material under the Federal Water Pollu-
7 tion Control Act (33 U.S.C. 1251 et seq.) for the activities
8 identified in subparagraphs (A) and (C) of section
9 404(f)(1) of the Act (33 U.S.C. 1344(f)(1)(A), (C)).

10

TITLE II

11

DEPARTMENT OF THE INTERIOR

12

CENTRAL UTAH PROJECT

13

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

14

15 For carrying out activities authorized by the Central
16 Utah Project Completion Act, \$10,500,000, to remain
17 available until expended, of which \$1,300,000 shall be de-
18 posited into the Utah Reclamation Mitigation and Con-
19 servation Account for use by the Utah Reclamation Miti-
20 gation and Conservation Commission: *Provided*, That of
21 the amount provided under this heading, \$1,350,000 shall
22 be available until September 30, 2018, for expenses nec-
23 essary in carrying out related responsibilities of the Sec-
24 retary of the Interior: *Provided further*, That for fiscal
25 year 2017, of the amount made available to the Commis-
sion under this Act or any other Act, the Commission may