



## National Wildlife Federation Water Resources Development Acts of 2020 and 2022

### Summary of Selected Policy Provisions—Improving Water Resources Planning for Tribes and Vulnerable Communities

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The Water Resources Development Act of 2020 ([P.L. 116-260, Division AA](#)) and the Water Resources Development Act of 2022 ([Division H—Water Resources of PL 117-263](#)) include numerous provisions specifically focused on improving water resources planning outcomes for Tribes and vulnerable communities. These provisions are summarized below.

#### [WRDA 2022, Sec. 8111. Tribal partnership program](#)

Extends authorization of the Corps' Tribal Partnership Program (33 U.S.C. 2269) through FY 2033, allows the Corps to provide technical assistance to ameliorate flood risks and adapt to climate change under the program, authorizes the first \$200,000 of the costs of a feasibility study to be at Federal expense, and increases the Federal cost limit for the design and construction of projects under the program.

#### [WRDA 2022, Sec. 8112. Tribal liaison](#)

Requires each Corps district that contains a Tribal community to have a Tribal liaison on staff to serve as a direct line of communication between the District Commander and the Tribal communities within the boundaries of the Corps district and to ensure consistency in government-to-government relations.

#### [WRDA 2022, Sec. 8113. Tribal assistance](#)

Requires the Secretary to revise and carry out the village development plan for Dalles Dam, Bonneville Dam, McNary Dam, and John Day Dam in Washington and Oregon to address the impacts to Indian villages and housing sites that resulted from construction of multiple dams by the Corps in the Columbia River Basin.

#### [WRDA 2022, Sec. 8114. Cost sharing provisions for the territories and Indian Tribes](#)

Requires the Secretary to apply the cost-share waiver for territories and Indian Tribes (33 U.S.C. 2310) to watershed assessments and to apply the waived amount to the non-Federal share of the costs of a study or project, rather than to the total cost of a study or project. Also expands this cost-share provision to cover certain indigenous peoples.

#### [WRDA 2022, Sec. 8115. Tribal and economically disadvantaged communities advisory committee](#)

Directs the Secretary to establish a Tribal and Economically Disadvantaged Communities Advisory Committee, in accordance with the Federal Advisory Committee Act, within 90 days of enactment. Directs this Committee to provide the Secretary with advice and recommendations to ensure the effective delivery of water resources development projects, programs, and other assistance to Indian Tribes and to economically disadvantaged communities located in urban and rural areas.

#### [WRDA 2022, Sec. 8390. Abandoned and inactive noncoal mine restoration](#)

Amends § 560 of WRDA 1999 (33 U.S.C. 2336) to specifically authorize the Secretary to provide technical, planning, and design assistance at full federal expense to address water quality problems caused by abandoned and inactive noncoal mines restoration activities on Indian Tribal lands and lands held in Trust for Indian Tribes. Increases the authorized appropriation for this program to \$50 million.

#### [WRDA 2022, Sec. 8117. Corps of Engineers support for underserved communities; outreach](#)

Authorizes \$30 million for the Secretary to develop, support, and implement public awareness and outreach regarding the Corps' water resources development authorities and programs to potential non-Federal interests. Directs the Corps to prioritize such efforts towards economically disadvantaged communities in both urban and rural areas.

#### [WRDA 2022, Sec. 8118. Pilot programs for certain communities](#)

Increases the number of projects and feasibility studies that can be carried out annually under the two pilot programs established by § 118 of WRDA 2020 for small, rural, and economically disadvantaged communities (see description below) The number of studies that can be carried out under the Pilot Program for Economically Disadvantaged Communities is increased from a total of 10 studies to 10 studies each year. These studies will be carried out at full Federal expense, and shall, to the maximum extent practical, incorporate significant use of natural or nature based features or a combination of such features. The number of projects that can be carried out under the Pilot Program for Rural and Economically Disadvantaged Communities is increased from 10 to 20. Under this program, the Corps may recommend flood or storm damage reduction projects without demonstrating that the project is justified solely by national economic development benefits provided that certain criteria are met, including that the project serves an economically disadvantaged or a rural community and is critical to the long-term life safety, economic viability, and environmental sustainability of the community.

#### [WRDA 2022, Sec. 8119. Technical assistance](#)

Amends the Corps' authority to provide technical assistance (42 U.S.C. 1962d–16) to: increase the level of funding authorized for technical assistance; prioritize the provision of such assistance to address inland and coastal life safety risks; authorize the Secretary to waive the cost of such assistance to economically disadvantaged communities located in urban and rural areas; and upon request to provide such assistance at a watershed scale.

#### [WRDA 2022, Sec. 8231. Report on socially and economically disadvantaged small business concerns](#)

Directs the Secretary to submit a report to the House Transportation and Infrastructure and Senate Environment and Public Works Committees on the use of contracts and subcontracts between the Corps and small disadvantaged businesses.

#### [WRDA 2020, Sec. 111—Resiliency planning assistance](#)

Directs the Corps to prioritize resiliency planning assistance to economically disadvantaged communities and communities subject to repetitive flooding (via 33 U.S.C. 709a), and emphasizes the need for the Corps to provide technical assistance to non-Federal interests for greater resiliency planning.

#### [WRDA 2020, Sec. 112—Project consultation](#)

Requires the Corps to update its policies on environmental justice considerations; directs the Corps to strengthen its Tribal consultation requirements; and directs the Corps to promote meaningful

involvement with minority communities, economically disadvantaged communities, and Indian Tribes in carrying out water resources development projects.

Also requires the Corps to submit long overdue reports on: (a) “any potential disproportionate and adverse health or environmental effects of programs, policies, and activities of the Corps of Engineers related to water resources development projects on minority communities, low-income communities, rural communities, and Indian Tribes (required by WRDA 2018 § 1214); and (b) the “results of a review by the Secretary of existing policies, regulations, and guidance related to consultation with Indian tribes on water resources development projects or other activities that require the approval of, or the issuance of a permit by, the Secretary and that may have an impact on tribal cultural or natural resources” (required by WRDA 2016 § 1120(a)(3)).

#### [WRDA 2020, Sec. 117—Federal interest determination](#)

Directs the Corps to complete a Federal interest determination for feasibility studies that will benefit economically disadvantaged communities, if requested by the non-Federal interest. Also directs the Corps to issue a report (in certain circumstances) to non-Federal interests in economically disadvantaged communities on how they could modify a project request to ensure that the project is in the Federal interest.

#### [WRDA 2020, Sec. 118—Pilot programs on the formulation of Corps of Engineers projects in rural communities and economically disadvantaged communities](#)

Directs establishment of two pilot programs within 180 days of enactment (by June 2021) to evaluate opportunities to reduce flood, hurricane, and storm risks for economically disadvantaged and rural communities.

1. Pilot Program for Economically Disadvantaged Communities: The Corps will select 10 studies to be carried out at full Federal expense, and these studies shall, to the maximum extent practical, incorporate significant use of natural or nature based features or a combination of such features. In selecting projects, the Corps shall consider: (1) the percentage of people living in poverty in the counties in which the project is located; (2) the percentage of families with income above the poverty threshold but below the average household income in the counties where the project is located; (3) the percentage of the population that identifies as belonging to a minority or indigenous group in the counties in which the project is located; and (4) whether the project is addressing flooding or hurricane or storm damage effects that have a disproportionate impact on a rural community, a minority community, or an Indian Tribe.
2. Pilot Program for Rural and Economically Disadvantaged Communities: The Corps may make a recommendation on up to 10 flood or storm damage reduction projects without demonstrating that the project is justified solely by national economic development benefits provided: (1) the project serves an economically disadvantaged or a rural community; (2) the long-term life safety, economic viability, and environmental sustainability of the community would be threatened without the project; (3) the project benefits exceed the project costs as required by 33 U.S.C. 701a; and (4) the project recommendations are consistent with the PR&G.

#### [WRDA 2020, Sec. 160—Definition of economically disadvantaged community](#)

Directs the Corps to define the term ‘economically-disadvantaged community’ for purposes of this Act within 180 days (by June 2021) and provide for public notice and comment on this definition.