



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET, NW  
WASHINGTON, DC 20314-1000

REPLY TO  
ATTENTION OF

CECW-MVD

JUL 10 2009

MEMORANDUM FOR COMMANDER, Mississippi Valley Division (CEMVD-PD)

SUBJECT: Implementation Guidance for Louisiana Coastal Area, Sections 7001 – 7008, and 7011 of Title VII of the Water Resources Development Act of 2007

1. General. Title VII of the Water Resources Development Act of 2007 (WRDA 07) authorizes the Secretary to carry out a program for ecosystem restoration for the Louisiana Coastal Area (LCA), Louisiana, substantially in accordance with the restoration plan set out in the Report of the Chief of Engineers, dated 31 January 2005 (Chief's Report). WRDA 2007 authorizes fifteen near-term features aimed at addressing the critical restoration needs of coastal Louisiana, with five of the features designated as critical restoration features. In addition, it authorizes demonstration projects, a beneficial use of dredged material program, project modifications, and a science and technology program. The fifteen near-term ecosystem restoration features, modifications of existing projects, demonstration projects, and beneficial use of dredged material projects are all subject to approval by the Assistant Secretary of the Army for Civil Works (ASA(CW)) of feasibility level of detail decision documents as provided for in the Chief's Report.

This implementation guidance addresses implementation of the restoration plan set out in the Chief's Report and sections 7001 – 7008, and 7011 of Title VII. Separate implementation guidance will be developed for other sections of Title VII, where necessary. A copy of WRDA 2007, Title VII is enclosed for information.

2. Section 7001 – Definitions. Definitions contained in Section 7001 are self explanatory.

3. Section 7002 - Comprehensive Plan. Section 7002 directs that the Secretary, in coordination with the Governor of Louisiana, to develop a comprehensive plan for protecting, preserving, and restoring the coastal Louisiana ecosystem.

Given the importance of and the extensive, ongoing efforts to implement the restoration plan authorized in Title VII, no work will be initiated to develop a comprehensive plan until such time as funds are appropriated. Once funds have been appropriated for the development of a comprehensive plan, additional implementation guidance will be provided. The restoration plan, as well as the efforts under the Louisiana Coastal Protection and Restoration study (LACPR) and the State's Master Plan, will be integrated into the development of the comprehensive plan. The comprehensive plan will establish a framework for a long-term, multi-faceted program directed at protecting, preserving, and restoring coastal Louisiana and will identify the role of other Federal and State agencies and programs in carrying out the comprehensive plan.

4. Section 7003 - Priorities. Section 7003 provides that in carrying out the restoration plan set out in the Chief's Report, priority shall be given to: the five critical restoration features; any Mississippi River diversion project that will protect a major population area of the Pontchartrain, Pearl, Breton Sound, Barataria, or Terrebonne basins and produce environmental benefit to the coastal Louisiana ecosystem; any barrier island, or barrier shoreline project that will be carried out in conjunction with a Mississippi River diversion project and protect a major population area; any project that will reduce storm surge and prevent or reduce the risk of loss of human life and the risk to public safety; and a project to physically modify the Mississippi River-Gulf Outlet (MRGO) and to restore the areas affected by the MRGO in accordance with the comprehensive plan to be developed under section 7002(a) and consistent with sections 7006(c)(1)(A) and 7013.

a. The priorities listed in Section 7003 are generally consistent with the priorities of the restoration plan. In each report of a project to be implemented as part of the LCA ecosystem restoration plan, New Orleans District shall include a section that describes how the project is consistent with the priorities contained in section 7003 and the restoration plan. Priority projects shall be considered for implementation through the Corps budget process.

b. The 29 January 2008 Chief's Report for MRGO provides a plan for deauthorization and physical closure of the MRGO project, and based on the requirements of Section 7013 of WRDA 2007, was expanded to address ecosystem restoration. The plan for ecosystem restoration, inclusive of the considerations set forth in section 7013 of WRDA 2007, is preliminarily addressed in an addendum to the report of the district and division engineers dated June 2008 and will be further addressed in a supplement to the 29 January 2008 Chief's Report. This supplement will include an evaluation of ecosystem restoration measures, consideration of measures to reduce or prevent damages from storm surge, and will be provided to the Secretary and Congress. The recommendations included in the supplement will be used as a basis for implementing an ecosystem restoration plan under the authority of section 7013 of WRDA 2007. Further detailed implementation guidance for the MRGO deauthorization and closure plan will be addressed in separate implementation guidance for section 7013. In view of the ongoing MRGO ecosystem restoration evaluation being conducted pursuant to section 7013 of WRDA 2007, any measures identified within the LCA restoration plan for MRGO shall be held in abeyance pending completion of the evaluation.

5. Section 7004 - Task Force. Section 7004 establishes a Coastal Louisiana Ecosystem Protection and Restoration Task Force (Task Force), designates its membership, and establishes its duties. Duties include making recommendations to the Secretary regarding various ways to conserve, protect, restore, and maintain the coastal Louisiana ecosystem; financial matters relating to the participation of each agency on the Task Force; and the comprehensive plan to be developed pursuant to Section 7002 of WRDA 2007.

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Currently, for both the Louisiana Coastal Protection and Restoration study and the Mississippi Coastal Improvements Program study, New Orleans District, Mobile District, Mississippi Valley Division (MVD) and South Atlantic Division have successfully engaged the regional representatives of the Federal and State agencies at Regional Working Group meetings throughout the study process. Also, the Corps' Headquarters has successfully engaged the Washington Level Federal Principals throughout the study process. Our experience has shown that these meetings have been an efficient and effective way to communicate and solicit input from the agencies. The Corps will continue to engage the Federal and State agencies through these groups for the Louisiana Coastal Area study. No effort will be undertaken to set up a Task Force unless funds are specifically appropriated for such work.

6. Section 7005 - Project Modifications. Section 7005(a) directs the Secretary to review each Federally authorized water resources project in the coastal Louisiana ecosystem (the area as defined by Section 7001(1) of WRDA 2007) under construction or completed as of 8 November 2007 to determine whether the project needs to be modified (i) to take into account the LCA ecosystem restoration plan, including projects conditionally authorized in section 7006(e), and the deauthorization of and the closure and ecosystem restoration plans for MRGO, or (ii) to contribute to the ecosystem restoration associated with the LCA ecosystem restoration plan and the MRGO closure and ecosystem restoration plan. In addition, section 7005(b) authorizes the Secretary to carry out modifications to these projects, subject to public notice and comment and reporting requirements. Section 7005(e) authorizes \$10,000,000 to be appropriated to carry out section 7005.

a. Using \$50,000 of funds budgeted and appropriated for the LCA program, the New Orleans District shall first prepare a list of potential water resource projects that could be modified and submitted to MVD and CECW-MVD for approval prior to initiating work on a project management plan (PMP). Upon approval of the list, the New Orleans District shall prepare a PMP for a study that will not exceed \$10,000,000 (\$5,000,000 Federal and \$5,000,000 non-Federal). Approval of the PMP will rest with the District Engineer. While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP, and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. If the funding needed to complete the PMP and execute a feasibility cost sharing agreement is in excess of \$50,000, a request should be made to CECW-MVD for approval to expend additional funds.

b. Subsequent to approval of the PMP, the District shall execute a feasibility cost sharing agreement with the non-Federal sponsor (50% Federal and 50% non-Federal) to complete a study to determine the advisability of potential modifications of existing water resource projects, in the interest of ecosystem restoration. The analysis shall be in

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accordance with ER 1105-2-100 and shall include the timeline for and cost of the proposed modifications.

c. The study shall address whether proposed modifications can be implemented within the \$10,000,000 authorization of appropriations limit. The District shall provide the decision document to MVD and CECW-MVD for policy review and coordination and approval by the ASA(CW), and if additional authorization is required, transmittal to Congress as appropriate.

d. Section 7005 specifies that the total amount of Federal funds authorized to be appropriated to carry out all work authorized under Section 7005 is \$10,000,000. This amount is a total authorization of appropriations limit and applies to both study costs and the costs of all modifications to be undertaken pursuant to section 7005. Therefore, any activity that exceeds this limit may not be implemented under section 7005. Rather, specific Congressional authorization of the modification will be required. In addition, once the limit is reached, traditional Corps authorities will be used to study additional project modifications, unless an increase in the appropriations limit is authorized.

e. Prior to completing the report, the New Orleans District shall provide notice and an opportunity for public involvement and for comment on the report.

f. Before modifying the operation or feature of a project, the ASA(CW) shall submit the report describing the proposed modifications to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

g. The cost sharing for implementation of project modifications under this section will be 65% Federal and 35% non-Federal for construction and 100% non-Federal for OMRR&R, in accordance with standard ecosystem restoration cost sharing requirements.

#### 7. Section 7006 - Construction.

a. Science and Technology. Section 7006(a) directs the Secretary to carry out a coastal Louisiana ecosystem Science and Technology (S&T) program, in accordance with the restoration plan, at a total cost of \$100,000,000. Section 7006(a) establishes the purposes of the S&T program and authorizes the Secretary to establish working groups to assist in carrying out the S&T program. Section 7006(a) also authorizes the Secretary to enter into contracts or cooperative agreements with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement through science and technology. Section 7006(a) further specifies that the Federal Advisory Committee Act does not apply to a working group established pursuant to section 7006.

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- i. The S&T program will be budgeted for as a part of the overall LCA Program. The S&T director and the LCA program manager will fully coordinate proposed budget requests to ensure that the programs are complimentary.
  - ii. Upon receipt of appropriations for the S&T program, the S&T program shall be established and managed by the S&T director, who shall report directly to the MVD Commander.
  - iii. The S&T director shall prepare an annual budget for the S&T program and shall submit it to the MVD Commander for approval. Prior to the approval by MVD, the annual budget and work plan shall be coordinated with the New Orleans District and CECW-MVD.
  - iv. The S&T program is authorized at a total cost of \$100,000,000 and shall be cost shared at 65% Federal and 35% non-Federal. Section 902 of WRDA 1986 (allowing increases in project costs up to 20% for certain modifications) is not applicable to this programmatic limit.
  - v. Working groups may be established as necessary by the S&T director in consultation with the LCA program manager and approval by the Division Commander to carry out this subsection. The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to a working group established under Section 7006(a).
  - vi. The S&T director may continue to contract with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement as appropriate.
- b. Demonstration Projects. Section 7006(b) of WRDA 2007 authorizes the Secretary to carry out demonstration projects substantially in accordance with the restoration plan set out in the Chief's Report to resolve critical areas of scientific or technological uncertainty related to the implementation of the comprehensive plan.
- i. Demonstration projects will be used to resolve the critical areas of scientific or technological uncertainty related to the implementation of the restoration plan and ultimately the comprehensive plan.
  - ii. Using funds budgeted and appropriated for the LCA program, not to exceed \$50,000, the LCA S&T director shall prepare a scope of study and list of demonstration projects that would resolve critical areas of scientific, technical, or engineering uncertainty while providing meaningful restoration benefits whenever possible. This scope and list shall be coordinated with MVD and CECW-MVD for approval prior to initiating work on a project management plan (PMP). Upon approval of the scope of study and list of projects, the New Orleans District shall prepare a PMP for a study that shall not exceed \$10,000,000 (\$5,000,000 Federal and \$5,000,000 non-

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Federal). Approval of the PMP will rest with the District Engineer. While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. If funding to complete the PMP and execute a feasibility cost sharing agreement would be in excess of \$50,000 a request should be made to CECW-MVD for approval to expend additional funds.

iii. Subsequent to approval of the PMP, the New Orleans District shall execute a feasibility cost sharing agreement with the non-Federal sponsor (50% Federal and 50% non-Federal) to complete a study or studies, in accordance with ER 1105-2-100, to recommend implementation of demonstration projects that will resolve critical areas of scientific, technical, or engineering uncertainty while providing meaningful restoration benefits whenever possible. The District shall provide the decision document to MVD and CECW-MVD for policy review and coordination as well as approval by the ASA(CW).

iv. In accordance with the restoration plan, \$95,000,000 is available to implement demonstration projects with the total cost of any single demonstration project not to exceed \$25,000,000. Implementation of the demonstration projects shall be cost shared 65% Federal and 35% non-Federal. Implementation of a demonstration project includes monitoring and assessment as well as dismantling of the projects as necessary. If it is determined through the study process that the demonstration projects would continue to provide long term benefits even after completion of the monitoring and assessment, the OMRR&R would be a 100% non-Federal cost.

c. Initial Projects. Section 7006(c) of WRDA 2007 authorizes the Secretary to carry out five specifically named near-term projects substantially in accordance with restoration plan set out in the Chief's Report. Section 7006(c)(1) authorizes the MRGO environmental restoration at a total cost of \$105,300,000; Small Diversion at Hope Canal at a total cost of \$68,600,000; the Barataria basin barrier shoreline restoration at a total cost of \$242,600,000; Small Bayou Lafourche reintroduction at a total cost of \$135,500,000; and the Medium Diversion at Myrtle Grove with dedicated dredging at a total cost of \$278,300,000.

i. The 29 January 2008 Chief's Report for MRGO provides a plan for the deauthorization and physical closure of the MRGO project, and based on the requirements of Section 7013 of WRDA 2007, was expanded to address ecosystem restoration. The plan for ecosystem restoration, inclusive of the considerations set forth in section 7013 of WRDA 2007, is preliminarily addressed in an addendum to the report of the district and division engineers dated June 2008 and will be further addressed in a supplement to the 29 January 2008 Chief's Report. This supplement will include an evaluation of ecosystem restoration measures, including considerations of measures to

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reduce or prevent damages from storm surge, and will be provided to the Secretary and Congress. The recommendations included in the supplement will be used as a basis for implementing an ecosystem restoration plan under the authority of section 7013 of WRDA 2007. Further detailed implementation guidance for the MRGO deauthorization and closure plan will be addressed in separate implementation guidance for Section 7013. In view of the ongoing MRGO ecosystem restoration evaluation being conducted pursuant section 7013 of WRDA 2007, any measures identified within the LCA restoration plan for MRGO shall be held in abeyance pending completion of the evaluation.

ii. Using funds budgeted and appropriated for the LCA, New Orleans District shall prepare a PMP and execute a feasibility cost sharing agreement to prepare a feasibility level of detail decision document in accordance with ER 1105-2-100 to support implementation of each of the four projects other than MRGO listed in Section 7006(c)(1). While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. This decision document will examine modifications to the projects necessary to address impacts of Hurricanes Katrina and Rita as well and additional changes necessary to ensure consistency with the project authorized by Section 7013 of WRDA 2007. Any of these modifications will be integrated, to the greatest extent practicable, with the study of comprehensive hurricane protection authorized by Title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247), known as the Louisiana Coastal Protection and Restoration (LACPR) study.

iii. The feasibility level of detail decision document will be provided to MVD and CECW-MVD for policy review and completion of a Director of Civil Works Report and Draft Record of Decision (ROD). The Director of Civil Works Report and the draft ROD will be transmitted to the ASA(CW) for review and approval.

iv. To meet the requirements of Section 7006(c)(3) of WRDA 2007 for preparation of Construction Reports, prior to the initiation of construction, the ASA(CW) approved feasibility level of detail decision documents will be provided to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

v. Preparation of feasibility level of detail decision documents will be costs shared 50% Federal and 50% non-Federal and implementation of the resultant ecosystem restoration projects shall be cost shared 65% Federal and 35% non-Federal with OMRR&R to be a 100% non-Federal responsibility.

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vi. Pursuant to Section 7006(c)(4), costs of projects implemented under Section 7006(c)(1) are limited to 150% of the costs cited for each project in Section 7006(c)(1). Section 902 of WRDA 1986 does not apply to projects in this subsection.

d. Beneficial Use of Dredged Material. Implementation Guidance for Section 7006(d) has been addressed under separate implementation guidance dated 19 December 2008.

e. Additional Projects. Section 7006(e) of WRDA 2007 authorizes the Secretary to carry out additional projects referred to in the restoration plan. Section 7006(e)(1) authorizes the Land Bridge between Caillou Lake and the Gulf of Mexico project at a total cost of \$56,300,000; the Gulf Shoreline at Point Au Fer Island project at a total cost of \$43,400,000; the Modification of Caernarvon Diversion project at a total cost of \$20,700,000; and the Modification of Davis Pond Diversion project at a total cost of \$64,200,000; if the Secretary determines that such projects are feasible.

i. The New Orleans District and the State of Louisiana executed a feasibility cost sharing agreement on 5 June 2009 for preparation of a report for these projects. Using funds budgeted and appropriated for the LCA program, the New Orleans District shall continue with preparing a feasibility level of detail decision document in accordance with ER 1105-2-100 to support implementation of the four projects listed in Section 7006(e)(1). The feasibility reports shall be provided to MVD and CECW-MVD for policy review and coordination and approval by the ASA(CW).

ii. New Orleans District, in coordination with the non-Federal sponsor, should evaluate the schedule to determine if these reports will be completed in time to allow the ASA(CW) to submit them to the committees by 31 December 2009. The results of the evaluation should be submitted to MVD and CECW-MVD, for review and coordination with the ASA(CW). Every effort should be made to complete and submit these reports to Congress at the soonest possible time. It is noted, however, that the authorization to implement these projects is contingent on the Secretary determining that the projects are feasible, not on having a completed report by any particular date.

iii. Preparation of all feasibility studies under Section 7006(e) shall be cost shared 50% Federal and 50% non-Federal, and implementation of the resultant ecosystem restoration projects shall be cost shared 65% Federal and 35% non-Federal with OMRR&R to be a 100% non-Federal responsibility.

iv. Subject to a determination by the Secretary that the projects are feasible, projects identified in Section 7006(e)(1) are authorized for implementation. In accordance with the Principles and Guidelines and ER 1105-2-100, a project is considered feasible if the alternative is feasible from technical, environmental, economic, financial, political, legal, institutional, and social perspectives.

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f. Projects Subject to Reports. Section 7006(e)(3)(A) authorizes implementation of six named projects if a favorable report of the Chief of Engineers is completed no later than 31 December 2010. The projects are the Multipurpose Operation of Houma Navigation Lock project at a total cost of \$18,100,000; the Terrebonne Basin Barrier Shoreline Restoration project at a total cost of \$124,600,000; the Small Diversion at Convent/Blind River project at a total cost of \$88,000,000; the Amite River Diversion Canal Modification project at a total cost of \$5,600,000; the Medium Diversion at White's Ditch at a total cost of \$86,100,000; and the Convey Atchafalaya River Water to Northern Terrebonne Marshes project at a total cost of \$221,200,000.

i. The New Orleans District and the State of Louisiana executed a feasibility cost sharing agreement on 7 November 2008 for preparation of a report for these projects. Using funds budgeted and appropriated for the LCA program, the New Orleans District shall continue with preparing a feasibility report in accordance with ER 1105-2-100 to support implementation of the six projects listed in Section 7006(e)(3)(A). The District shall provide the feasibility report to MVD and CECW-MVD for policy review and completion of a Report of the Chief of Engineers.

ii. Preparation of the feasibility study under Section 7006(e)(3)(A) shall be costs shared 50% Federal and 50% non-Federal, and implementation of these projects shall be cost shared 65% Federal and 35% non-Federal, with OMRR&R a 100% non-Federal responsibility.

8. Section 7007 - Non-Federal Cost Share.

a. Credit. Section 7007(a) directs the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970, toward the non-Federal share of the cost of a study or project authorized in Title VII, the cost of work carried out by a non-Federal sponsor before the date of execution of the agreement for a study or project.

i. By its terms, section 7007(a) authorizes credit for non-Federal work carried out *before* execution of the applicable agreement but not for work *after* execution of the agreement. Given Section 7007(a)'s specific provision of crediting authority, its crediting limitations apply to design and construction of projects authorized in Title VII, instead of the more general credit provisions in section 2003 of WRDA 2007.

ii. Section 7007(a) provides for credit for planning efforts by the non-Federal sponsor before execution of a feasibility cost sharing agreement. In accordance with example 4 in Appendix B of Engineering Circular (EC) 1165-2-208, the non-Federal sponsor is eligible for such credit toward its share of study costs as long as an in-kind Memorandum of Understanding (MOU) is executed prior to the non-Federal sponsor undertaking such planning efforts. In addition, section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)) provides authority to afford credit for

planning efforts carried by the non-Federal sponsor following execution of a feasibility cost sharing agreement.

iii. EC 1165-2-208 provides direction regarding the requirement for an executed in-kind MOU prior to the non-Federal sponsor undertaking work in those cases where the applicable feasibility cost sharing agreement, design agreement, or project partnership agreement has not been executed yet. In addition, this EC shall be followed in determining eligibility of such work for credit. The actual value of any work shall be determined in accordance of the terms of the applicable feasibility cost sharing agreement, design agreement, or project partnership agreement.

b. Sources of Funds. Section 7007(b) states that the non-Federal interest may use and the Secretary shall accept funds provided by a Federal agency under any other Federal program to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency providing the funds determines that the funds are authorized to be used to carry out the study or project.

Funds provided under another Federal program can be used toward the non-Federal cost share if the non-Federal sponsor provides a letter from the relevant Federal agency that approves use of those funds toward satisfying the items of local cooperation for the project. Such an analysis should be undertaken as part of the required self certification. This same policy applies to the use of other Federal program funds by the local sponsor to acquire Lands, Easements, Relocations, Right-of-ways and Disposals (LERRDs) required for the project. In other words, such funds may not be used to acquire LERRDs unless specifically approved in writing for that purpose by the Federal Agency which administers those funds.

c. Non-Governmental Organizations. - Section 7007(c) allows nongovernmental organizations to contribute all or a portion of the required non-Federal share of the cost of a project authorized in Title VII. Funding from Nongovernmental organizations will be provided to the Corps through the non-Federal sponsor to meet the cost sharing requirements as outlined in the specific project partnership agreement.

d. Treatment of Credits Between Projects. Section 7007(d) indicates that any credit provided under Section 7007 of WRDA 2007 toward the non-Federal share of cost of a Title VII study or project may be applied toward the non-Federal share of any other study or project under Title VII. By its terms, section 7007 deals only with credit for non-Federal work before execution of the applicable agreement. In addition, "excess credit" for eligible work undertaken by a non-Federal sponsor under section 7007(a) will be applied only toward another study or project authorized in Title VII that involves the same sponsor. In addition, "excess" study credit will be applied only toward the required non-Federal cash contribution for another study, and "excess" project (i.e., design and construction) credit will be applied only toward the required non-Federal cash

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contribution for another project. Further guidance on Section 7007(d) will be provided in separate implementation guidance.

e. Periodic Monitoring. Section 7007(e) requires the Secretary to monitor non-Federal contributions to ensure that such contributions equal the non-Federal share of a title VII study or project during each 5-year period beginning on the date of the commencement of the first study or project under Title VII. Each study or project will be monitored and managed for all non-Federal contributions so that those contributions equal the non-Federal share.

New Orleans District shall monitor non-Federal contributions for studies and projects under Title VII of WRDA 2007 and shall manage studies and projects to ensure that actual non-Federal contributions are in accordance with cost sharing requirements outlined in Title VII. In full coordination with the non-Federal sponsor, New Orleans District shall develop and implement plans for monitoring and managing Federal and non-Federal contributions and costs under Sections 7007(e)(1) and 7007(e)(2) and provide a yearly update on the status of the monitoring to MVD and CECW-MVD.

f. Audits. Section 7007(f) specifies that non-Federal credits for land, easements, rights-of-way, relocations, and disposal areas (including land value and incidental costs), and the cost of work provided under Section 7007, shall be subject to audit by the Secretary.

New Orleans District and the non-Federal sponsor for studies and projects under Title VII shall maintain appropriate records of credits and contributions to ensure accurate accounting and compliance with cost sharing provisions. In full coordination with the non-Federal sponsor, the New Orleans District shall develop and implement plans for audits. This plan shall be provided to MVD for review and approval. The audits shall be subject to review by CECW-MVD and ASA(CW).

9. Section 7008 - Project Justification. Section 7008 authorizes the Secretary, in carrying out the restoration plan as recommended in the 31 January 2005 report of the Chief of Engineers, or any other activity intended to protect, conserve, and restore the coastal Louisiana ecosystem (the area as defined by Section 7001 of WRDA 2007), to determine that the project or activity is justified by the environmental benefits derived to coastal Louisiana.

a. If New Orleans District determines that a project identified in the restoration plan is justified based on environmental benefits (national ecosystem restoration – NER) and is cost effective, then the calculation of additional national economic development (NED) benefits are not required to justify the project.

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b. Any project, or separable element thereof, under Title VII of WRDA 2007 that is not predominantly related to the protection, preservation, and restoration of the coastal Louisiana ecosystem is required to show economic justification. Therefore, in all reports for projects identified in the restoration plan, New Orleans District shall demonstrate whether implementation of that project is predominantly related to the protection, preservation, and restoration of the coastal Louisiana ecosystem.

c. This section does not preclude New Orleans District from evaluating both NER and NED benefits for projects authorized in Title VII.

d. New Orleans District's responsibility to follow normal Corps plan formulation principles; conduct cost-effectiveness analysis, incremental analysis, and optimization of NER and/or NED benefits; and comply with the National Environmental Policy Act are unaffected by Section 7008 of WRDA 2007.

e. The information for project justification should be presented to MVD and CECW-MVD at the feasibility scoping meetings and alternative formulation briefings for each of the features of the restoration plan.

10. Section 7011 - Reporting. Section 7011 of WRDA 2007 requires the Secretary to submit a report to the House Committee on Transportation and Infrastructure and the Senate Environment and Public Works Committee not later than six years after date of enactment of WRDA 2007. The report shall include a description of the projects authorized and undertaken under Title VII; the construction status of the projects; the cost to date and the expected final cost of each project undertaken under Title VII; and the benefits and environmental impacts of the projects.

a. Using funds budgeted and appropriated for the LCA program, New Orleans District shall prepare a report that includes a description of the authorized projects; the construction status of the projects; the cost to date and the expected final cost of the projects; and the benefits and environmental impacts of the projects.

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b. The draft report shall be submitted to MVD and CECW-MVD by January 2013 for review and coordination prior to completing the final report and subsequent review and approval by the ASA(CW). The ASA(CW) will then look to submit the final report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate by 7 November 2013.

FOR THE COMMANDER:

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

FOR ALEX C. DORNSTAUDEL, COLONEL  
STEVEN L. STOCKTON, P.E.  
Director of Civil Works

Encl

(1) in clause (i) by striking “\$75,000,000” and all that follows and inserting “\$95,000,000”; and

(2) by striking clause (ii) and inserting the following:

“(ii) FEDERAL SHARE.—

“(I) IN GENERAL.—Except as provided in subclause (II), the Federal share of the cost of carrying out a project under subparagraph (A) shall not exceed \$25,000,000.

“(II) SEMINOLE WATER CONSERVATION PLAN.—The Federal share of the cost of carrying out the Seminole water conservation plan shall not exceed \$30,000,000.”.

**SEC. 6007. REGIONAL ENGINEERING MODEL FOR ENVIRONMENTAL RESTORATION.**

(a) IN GENERAL.—The Secretary shall complete the development and testing of the regional engineering model for environmental restoration as expeditiously as practicable.

(b) USAGE.—The Secretary shall consider using, as appropriate, the regional engineering model for environmental restoration in the development of future water resource projects, including projects developed pursuant to section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680).

## **TITLE VII—LOUISIANA COASTAL AREA**

**SEC. 7001. DEFINITIONS.**

In this title, the following definitions apply:

(1) COASTAL LOUISIANA ECOSYSTEM.—The term “coastal Louisiana ecosystem” means the coastal area of Louisiana from the Sabine River on the west to the Pearl River on the east, including those parts of the Atchafalaya River Basin and the Mississippi River Deltaic Plain below the Old River Control Structure and the Chenier Plain included within the study area of the restoration plan.

(2) GOVERNOR.—The term “Governor” means the Governor of the State of Louisiana.

(3) RESTORATION PLAN.—The term “restoration plan” means the report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area dated January 31, 2005.

(4) TASK FORCE.—The term “Task Force” means the Coastal Louisiana Ecosystem Protection and Restoration Task Force established by section 7003.

(5) COMPREHENSIVE PLAN.—The term “comprehensive plan” means the plan developed under section 7002 and any revisions thereto.

**SEC. 7002. COMPREHENSIVE PLAN.**

(a) IN GENERAL.—The Secretary, in coordination with the Governor, shall develop a comprehensive plan for protecting, preserving, and restoring the coastal Louisiana ecosystem.

(b) INTEGRATION OF PLAN INTO COMPREHENSIVE HURRICANE PROTECTION STUDY.—In developing the comprehensive plan, the Secretary shall integrate the restoration plan into the analysis and design of the comprehensive hurricane protection study authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247).

(c) **CONSISTENCY WITH COMPREHENSIVE COASTAL PROTECTION MASTER PLAN.**—In developing the comprehensive plan, the Secretary shall ensure that the plan is not inconsistent with the goals, analysis, and design of the comprehensive coastal protection master plan authorized and defined pursuant to Act 8 of the First Extraordinary Session of the Louisiana State Legislature, 2005.

(d) **INCLUSIONS.**—The comprehensive plan shall include a description of—

(1) the framework of a long-term program integrated with hurricane and storm damage reduction, flood damage reduction, and navigation activities that provide for the comprehensive protection, conservation, and restoration of the wetlands, estuaries, barrier islands, shorelines, and related land and features of the coastal Louisiana ecosystem, including protection of critical resources, habitat, and infrastructure from the effects of a coastal storm, a hurricane, erosion, or subsidence;

(2) the means by which a new technology, or an improved technique, can be integrated into the program referred to in paragraph (1);

(3) the role of other Federal and State agencies and programs in carrying out such program;

(4) specific, measurable success criteria (including ecological criteria) by which success of the plan will be measured;

(5) proposed projects in order of priority as determined by their respective potential to contribute to—

(A) creation of coastal wetlands; and

(B) flood protection of communities ranked by population density and level of protection; and

(6) efforts by Federal, State, and local interests to address sociological, economic, and related fields of law.

(e) **CONSIDERATIONS.**—In developing the comprehensive plan, the Secretary shall consider the advisability of integrating into the program referred to in subsection (d)(1)—

(1) an investigation and study of the maximum effective use of the water and sediment of the Mississippi and Atchafalaya Rivers for coastal restoration purposes consistent with flood control and navigation;

(2) a schedule for the design and implementation of large-scale water and sediment reintroduction projects and an assessment of funding needs from any source;

(3) an investigation and assessment of alterations in the operation of the Old River Control Structure, consistent with flood control and navigation purposes;

(4) any related Federal or State project being carried out on the date on which the plan is developed;

(5) any activity in the restoration plan; and

(6) any other project or activity identified in one or more of—

(A) the Mississippi River and Tributaries program;

(B) the Louisiana Coastal Wetlands Conservation Plan;

(C) the Louisiana Coastal Zone Management Plan;

(D) the plan of the State of Louisiana entitled “Integrated Ecosystem Restoration and Hurricane Protection—Louisiana’s Comprehensive Master Plan for a Sustainable Coast”; and

(E) other relevant reports as determined by the Secretary.

(f) **REPORTS TO CONGRESS.**—

(1) **INITIAL REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the comprehensive plan.

(2) **UPDATES.**—Not later than 5 years after the date of submission of a report under paragraph (1), and at least once every 5 years thereafter until implementation of the comprehensive plan is complete, the Secretary shall submit to Congress a report containing an update of the plan and an assessment of the progress made in implementing the plan.

**SEC. 7003. LOUISIANA COASTAL AREA.**

(a) **IN GENERAL.**—The Secretary may carry out a program for ecosystem restoration, Louisiana Coastal Area, Louisiana, substantially in accordance with the report of the Chief of Engineers, dated January 31, 2005.

(b) **PRIORITIES.**—

(1) **IN GENERAL.**—In carrying out the program under subsection (a), the Secretary shall give priority to—

(A) any portion of the program identified in the report described in subsection (a) as a critical restoration feature;

(B) any Mississippi River diversion project that—

(i) will protect a major population area of the Pontchartrain, Pearl, Breton Sound, Barataria, or Terrebonne basins; and

(ii) will produce an environmental benefit to the coastal Louisiana ecosystem;

(C) any barrier island, or barrier shoreline, project that—

(i) will be carried out in conjunction with a Mississippi River diversion project; and

(ii) will protect a major population area;

(D) any project that will reduce storm surge and prevent or reduce the risk of loss of human life and the risk to public safety; and

(E) a project to physically modify the Mississippi River-Gulf Outlet and to restore the areas affected by the Mississippi River-Gulf Outlet in accordance with the comprehensive plan to be developed under section 7002(a) and consistent with sections 7006(c)(1)(A) and 7013.

**SEC. 7004. COASTAL LOUISIANA ECOSYSTEM PROTECTION AND RESTORATION TASK FORCE.**

(a) **ESTABLISHMENT.**—There is established a task force to be known as the Coastal Louisiana Ecosystem Protection and Restoration Task Force (in this section referred to as the “Task Force”).

(b) **MEMBERSHIP.**—The Task Force shall consist of the following members (or, in the case of the head of a Federal agency, a designee of the head of the agency at the level of Assistant Secretary or an equivalent level):

(1) The Secretary.

(2) The Secretary of the Interior.

(3) The Secretary of Commerce.

(4) The Administrator of the Environmental Protection Agency.

(5) The Secretary of Agriculture.

- (6) The Secretary of Transportation.
  - (7) The Secretary of Energy.
  - (8) The Administrator of the Federal Emergency Management Agency.
  - (9) The Commandant of the Coast Guard.
  - (10) The Chair of the Coastal Protection and Restoration Authority of Louisiana.
  - (11) Two representatives of the State of Louisiana selected by the Governor.
- (c) DUTIES.—The Task Force shall make recommendations to the Secretary regarding—
- (1) policies, strategies, plans, programs, projects, and activities for addressing conservation, protection, restoration, and maintenance of the coastal Louisiana ecosystem;
  - (2) financial participation by each agency represented on the Task Force in conserving, protecting, restoring, and maintaining the coastal Louisiana ecosystem, including recommendations—
    - (A) that identify funds from current agency missions and budgets; and
    - (B) for coordinating individual agency budget requests; and
  - (3) the comprehensive plan to be developed under section 7002(a).
- (d) REPORT.—The Task Force shall submit to Congress a biennial report that summarizes the activities and recommendations of the Task Force.
- (e) WORKING GROUPS.—
- (1) GENERAL AUTHORITY.—The Task Force may establish such working groups as the Task Force determines to be necessary to assist the Task Force in carrying out this section.
  - (2) HURRICANES KATRINA AND RITA.—
    - (A) INTEGRATION TEAM.—The Task Force shall establish a working group for the purpose of advising the Task Force of opportunities to integrate the planning, engineering, design, implementation, and performance of Corps of Engineers projects for hurricane and storm damage reduction, flood damage reduction, ecosystem restoration, and navigation in those areas in Louisiana for which a major disaster has been declared by the President as a result of Hurricane Katrina or Rita.
    - (B) EXPERTISE; REPRESENTATION.—In establishing the working group under subparagraph (A), the Task Force shall ensure that the group—
      - (i) has expertise in coastal estuaries, diversions, coastal restoration and wetlands protection, ecosystem restoration, hurricane protection, storm damage reduction systems, navigation, and ports; and
      - (ii) represents the State of Louisiana and local governments in southern Louisiana.
    - (C) DUTIES.—In developing its recommendations under this subsection, the working group shall—
      - (i) review reports relating to the performance of, and recommendations relating to the future performance of, the hurricane, coastal, and flood protection systems in southern Louisiana, including the reports issued by the Interagency Performance Evaluation

Establishment.

Team, the National Academy of Sciences, the National Science Foundation, the American Society of Civil Engineers, and Team Louisiana for the purpose of advising the Task Force and the Secretary on opportunities to improve the performance of the protection systems;

(ii) assist in providing reviews under section 2035; and

(iii) carry out such other duties as the Task Force or the Secretary determines to be appropriate.

(f) **COMPENSATION.**—Members of the Task Force and members of a working group established by the Task Force may not receive compensation for their services as members of the Task Force or working group, as the case may be.

(g) **TRAVEL EXPENSES.**—Travel expenses incurred by members of the Task Force and members of a working group established by the Task Force, in the performance of their service on the Task Force or working group, as the case may be, shall be paid by the agency or entity that the member represents.

(h) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force or any working group established by the Task Force.

#### **SEC. 7005. PROJECT MODIFICATIONS.**

(a) **REVIEW.**—The Secretary, in cooperation with the non-Federal interest of the project involved, shall review each Federally-authorized water resources project in the coastal Louisiana ecosystem being carried out or completed as of the date of enactment of this Act to determine whether the project needs to be modified—

(1) to take into account the program authorized by section 7003 and the projects authorized by sections 7006(e) and 7013; or

(2) to contribute to ecosystem restoration under section 7003, 7006(e), or 7013.

(b) **MODIFICATIONS.**—Subject to subsections (c) and (d), the Secretary may carry out the modifications described in subsection (a).

(c) **PUBLIC NOTICE AND COMMENT.**—Before completing the report required under subsection (d), the Secretary shall provide an opportunity for public notice and comment.

(d) **REPORT.**—

(1) **IN GENERAL.**—Before modifying an operation or feature of a project under subsection (b), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the modification.

(2) **INCLUSION.**—A report describing a modification under paragraph (1) shall include such information relating to the timeline for and cost of the modification, as the Secretary determines to be relevant.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000.

#### **SEC. 7006. CONSTRUCTION.**

(a) **SCIENCE AND TECHNOLOGY.**—

(1) **IN GENERAL.**—The Secretary shall carry out a coastal Louisiana ecosystem science and technology program substantially in accordance with the restoration plan at a total cost of \$100,000,000.

(2) **PURPOSES.**—The purposes of the program shall be—

(A) to identify any uncertainty relating to the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem;

(B) to improve knowledge of the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem;

(C) to identify and develop technologies, models, and methods to carry out this subsection; and

(D) to advance and expedite the implementation of the comprehensive plan.

(3) **WORKING GROUPS.**—The Secretary may establish such working groups as the Secretary determines to be necessary to assist the Secretary in carrying out this subsection.

(4) **CONTRACTS AND COOPERATIVE AGREEMENTS.**—In carrying out this subsection, the Secretary may enter into a contract or cooperative agreement with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement through science and technology.

(5) **APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a working group established under this subsection.

(b) **DEMONSTRATION PROJECTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may carry out demonstration projects substantially in accordance with the restoration plan and within the coastal Louisiana ecosystem for the purpose of resolving critical areas of scientific or technological uncertainty related to the implementation of the comprehensive plan.

(2) **MAXIMUM COST.**—

(A) **TOTAL COST.**—The total cost for planning, design, and construction of all projects under this subsection shall not exceed \$100,000,000.

(B) **INDIVIDUAL PROJECT.**—The total cost of any single project under this subsection shall not exceed \$25,000,000.

(c) **INITIAL PROJECTS.**—

(1) **IN GENERAL.**—The Secretary is authorized to carry out the following projects substantially in accordance with the restoration plan:

(A) Mississippi River-Gulf Outlet environmental restoration at a total cost of \$105,300,000, but not including those elements of the project that produce navigation benefits.

(B) Small diversion at Hope Canal at a total cost of \$68,600,000.

(C) Barataria basin barrier shoreline restoration at a total cost of \$242,600,000.

(D) Small Bayou Lafourche reintroduction at a total cost of \$133,500,000.

(E) Medium diversion at Myrtle Grove with dedicated dredging at a total cost of \$278,300,000.

(2) MODIFICATIONS.—

(A) IN GENERAL.—In carrying out each project under paragraph (1), the Secretary shall carry out such modifications as may be necessary to the ecosystem restoration features identified in the restoration plan—

(i) to address the impacts of Hurricanes Katrina and Rita on the areas of the project; and

(ii) to ensure consistency with the project authorized by section 7013 (including work in and around the vicinity of the Mississippi River-Gulf Outlet).

(B) INTEGRATION.—The Secretary shall ensure that each modification under subparagraph (A) is taken into account in conducting the study of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247).

(C) MISSISSIPPI RIVER-GULF OUTLET.—In carrying out the project under paragraph (1)(A), the Secretary shall carry out such modifications as may be necessary to make the project consistent with and complementary to the closure and restoration of the Mississippi River-Gulf Outlet authorized by section 7013.

(3) CONSTRUCTION REPORTS.—Before the Secretary may begin construction of any project under this subsection, the Secretary shall submit a report documenting any modifications to the project, including cost changes, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4) APPLICABILITY OF OTHER PROVISIONS.—Notwithstanding section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), the cost of a project under this subsection, including any modifications to the project, shall not exceed 150 percent of the cost of such project set forth in paragraph (1).

(d) BENEFICIAL USE OF DREDGED MATERIAL.—

(1) IN GENERAL.—The Secretary, substantially in accordance with the restoration plan, shall implement in the coastal Louisiana ecosystem a program for the beneficial use of material dredged from federally maintained waterways at a total cost of \$100,000,000.

(2) CONSIDERATION.—In carrying out the program under paragraph (1), the Secretary shall consider the beneficial use of sediment from the Illinois River System for wetlands restoration in wetlands-depleted watersheds of the coastal Louisiana ecosystem.

(e) ADDITIONAL PROJECTS.—

(1) IN GENERAL.—The Secretary is authorized to carry out the following projects referred to in the restoration plan if the Secretary determines such projects are feasible:

(A) Land Bridge between Caillou Lake and the Gulf of Mexico at a total cost of \$56,300,000.

(B) Gulf Shoreline at Point Au Fer Island at a total cost of \$43,400,000.

(C) Modification of Caernarvon Diversion at a total cost of \$20,700,000.

(D) Modification of Davis Pond Diversion at a total cost of \$64,200,000.

(2) **REPORTS.**—Not later than December 31, 2009, the Secretary shall submit feasibility reports on the projects described in paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) **PROJECTS SUBJECT TO REPORTS.**—

(A) **FEASIBILITY REPORTS.**—Not later than December 31, 2008, the Secretary shall submit to Congress feasibility reports on the following projects referred to in the restoration plan:

(i) Multipurpose Operation of Houma Navigation Lock at a total cost of \$18,100,000.

(ii) Terrebonne Basin Barrier Shoreline Restoration at a total cost of \$124,600,000.

(iii) Small Diversion at Convent/Blind River at a total cost of \$88,000,000.

(iv) Amite River Diversion Canal Modification at a total cost of \$5,600,000.

(v) Medium Diversion at White's Ditch at a total cost of \$86,100,000.

(vi) Convey Atchafalaya River Water to Northern Terrebonne Marshes at a total cost of \$221,200,000.

(B) **CONSTRUCTION.**—The Secretary may carry out the projects under subparagraph (A) substantially in accordance with the plans and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed by not later than December 31, 2010.

(4) **CONSTRUCTION.**—No appropriations shall be made to construct any project under this subsection if the report under paragraph (2) or paragraph (3), as the case may be, has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

#### **SEC. 7007. NON-FEDERAL COST SHARE.**

(a) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of a study or project under this title the cost of work carried out in the coastal Louisiana ecosystem by the non-Federal interest for the project before the date of the execution of the partnership agreement for the study or project.

(b) **SOURCES OF FUNDS.**—The non-Federal interest may use, and the Secretary shall accept, funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project.

(c) **NONGOVERNMENTAL ORGANIZATIONS.**—A nongovernmental organization shall be eligible to contribute all or a portion of the non-Federal share of the cost of a project under this title.

(d) **TREATMENT OF CREDIT BETWEEN PROJECTS.**—Any credit provided under this section toward the non-Federal share of the cost of a study or project under this title may be applied toward

the non-Federal share of the cost of any other study or project under this title.

(e) PERIODIC MONITORING.—

(1) IN GENERAL.—To ensure that the contributions of the non-Federal interest equal the non-Federal share of the cost of a study or project under this title during each 5-year period beginning after the date of commencement of the first study or project under this title, the Secretary shall—

(A) monitor for each study or project under this title the non-Federal provision of cash, in-kind services and materials, and land, easements, rights-of-way, relocations, and disposal areas; and

(B) manage the requirement of the non-Federal interest to provide for each such study or project cash, in-kind services and materials, and land, easements, rights-of-way, relocations, and disposal areas.

(2) OTHER MONITORING.—The Secretary shall conduct monitoring separately for the study phase, construction phase, preconstruction engineering and design phase, and planning phase for each project authorized on or after the date of enactment of this Act for all or any portion of the coastal Louisiana ecosystem.

(f) AUDITS.—Credit for land, easements, rights-of-way, relocations, and disposal areas (including land value and incidental costs) provided under this section, and the cost of work provided under this section, shall be subject to audit by the Secretary.

**SEC. 7008. PROJECT JUSTIFICATION.**

(a) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2) or any other provision of law, in carrying out any project or activity under this title or any other provision of law to protect, conserve, and restore the coastal Louisiana ecosystem, the Secretary may determine that—

(1) the project or activity is justified by the environmental benefits derived by the coastal Louisiana ecosystem; and

(2) no further economic justification for the project or activity shall be required if the Secretary determines that the project or activity is cost effective.

(b) LIMITATION ON APPLICABILITY.—Subsection (a) shall not apply to any separable element of a project intended to produce benefits that are predominantly unrelated to the protection, preservation, and restoration of the coastal Louisiana ecosystem.

**SEC. 7009. INDEPENDENT REVIEW.**

Establishment.

The Secretary shall establish a council, to be known as the “Louisiana Water Resources Council”, which shall serve as the exclusive peer review panel for activities conducted by the Corps of Engineers in the areas in the State of Louisiana declared as major disaster areas in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) in response to Hurricane Katrina or Rita of 2005, in accordance with the requirements of section 2034.

**SEC. 7010. EXPEDITED REPORTS.**

(a) **IN GENERAL.**—The Secretary shall expedite completion of the reports for the following projects and, if the Secretary determines that a project is feasible, proceed directly to project preconstruction engineering and design:

(1) The projects identified in the study of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2447).

(2) The projects identified in the Southwest Coastal Louisiana hurricane and storm damage reduction study authorized by the Committee on Transportation and Infrastructure of the House of Representatives on December 7, 2005.

(b) **SUBMISSION OF REPORTS.**—Upon completion of the reports identified in subsection (a), the Secretary shall submit the reports to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 7011. REPORTING.**

Not later than 6 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report, including a description of—

- (1) the projects authorized and undertaken under this title;
- (2) the construction status of the projects;
- (3) the cost to date and the expected final cost of each project undertaken under this title; and
- (4) the benefits and environmental impacts of the projects.

**SEC. 7012. NEW ORLEANS AND VICINITY.**

(a) **IN GENERAL.**—The Secretary is authorized to—

(1) raise levee heights where necessary and otherwise enhance the Lake Pontchartrain and Vicinity project and the West Bank and Vicinity project to provide the level of protection necessary to achieve the certification required for a 100-year level of flood protection in accordance with the national flood insurance program under the base flood elevations current at the time of construction of the levee;

(2) modify the 17th Street, Orleans Avenue, and London Avenue drainage canals in the city of New Orleans and install pumps and closure structures at or near the lakefront at Lake Pontchartrain;

(3) armor critical elements of the New Orleans hurricane and storm damage reduction system;

(4) modify the Inner Harbor Navigation Canal to increase the reliability of the flood protection system for the city of New Orleans;

(5) replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the New Orleans to Venice Hurricane Protection project;

(6) reinforce or replace flood walls in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve performance of the flood and storm damage reduction systems;

(7) perform one time stormproofing of interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events;

(8) repair, replace, modify and improve non-Federal levees and associated protection measures in Terrebonne Parish; and

(9) reduce the risk of storm damage to the greater New Orleans metropolitan area by restoring the surrounding wetlands through measures to begin to reverse wetland losses in areas affected by navigation, oil and gas, and other channels and through modification of the Caernarvon Freshwater Diversion structure or its operations.

(b) **COST SHARING.**—Activities authorized by subsection (a) and section 7013 shall be carried out in a manner that is consistent with the cost-sharing requirements specified in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234).

Notification.

(c) **CONDITIONS.**—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate if estimates for the expenditure of funds on any single project or activity identified in subsection (a) exceeds the amount specified for that project or activity in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006. No appropriation in excess of 25 percent above the amount specified for a project or activity in such Act may be made until an increase in the level of expenditure has been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

**SEC. 7013. MISSISSIPPI RIVER-GULF OUTLET.**

(a) **DEAUTHORIZATION.**—

Effective date.

(1) **IN GENERAL.**—Effective beginning on the date of submission of the plan required under paragraph (3), the navigation channel portion of the Mississippi River-Gulf Outlet element of the project for navigation, Mississippi River, Baton Rouge to the Gulf of Mexico, authorized by the Act entitled “An Act to authorize construction of the Mississippi River-Gulf outlet”, approved March 29, 1956 (70 Stat. 65) and modified by section 844 of the Water Resources Development Act of 1986 (100 Stat. 4177) and section 326 of the Water Resources Development Act of 1996 (110 Stat. 3717), which extends from the Gulf of Mexico to Mile 60 at the southern bank of the Gulf Intracoastal Waterway, is not authorized.

(2) **SCOPE.**—Nothing in this paragraph modifies or deauthorizes the Inner Harbor navigation canal replacement project authorized by that Act of March 29, 1956.

(3) **CLOSURE AND RESTORATION PLAN.**—

Deadline.  
Reports.

(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the deauthorization of the Mississippi River-Gulf outlet, as described under the heading “INVESTIGATIONS” under

chapter 3 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (120 Stat. 453).

(B) INCLUSIONS.—At a minimum, the report under subparagraph (A) shall include—

(i) a plan to physically modify the Mississippi River-Gulf Outlet and restore the areas affected by the navigation channel;

(ii) a plan to restore natural features of the ecosystem that will reduce or prevent damage from storm surge;

(iii) a plan to prevent the intrusion of saltwater into the waterway;

(iv) efforts to integrate the recommendations of the report with the program authorized under section 7003 and the analysis and design authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247); and

(v) consideration of—

(I) use of native vegetation; and

(II) diversions of fresh water to restore the Lake Borgne ecosystem.

(4) CONSTRUCTION.—The Secretary shall carry out a plan to close the Mississippi River-Gulf Outlet and restore and protect the ecosystem substantially in accordance with the plan required under paragraph (3), if the Secretary determines that the project is cost-effective, environmentally acceptable, and technically feasible.

#### SEC. 7014. HURRICANE AND STORM DAMAGE REDUCTION.

(a) REPORTS.—With respect to the projects identified in the analysis and design of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247), the Secretary shall submit, to the maximum extent practicable, specific project recommendations in a report developed under that title.

(b) EMERGENCY PROCEDURES.—

(1) IN GENERAL.—If the President determines that a project recommended in the analysis and design of comprehensive hurricane protection under title I of the Energy and Water Development Appropriations Act, 2006 could—

(A) address an imminent threat to life and property;

(B) prevent a dangerous storm surge from reaching a populated area;

(C) prevent the loss of coastal areas that reduce the impact of storm surge;

(D) benefit national energy security;

(E) protect emergency hurricane evacuation routes or shelters; or

(F) address inconsistencies in hurricane protection standards,

the President may submit to the President pro tempore of the Senate for authorization a legislative proposal relating to the project, as the President determines to be appropriate.

(2) PRIORITIZATION.—In submitting legislative proposals under paragraph (1), the President shall give priority to any project that, as determined by the President, would—

President.

(A) to the maximum extent practicable, reduce the risk—

- (i) of loss of human life;
- (ii) to public safety; and
- (iii) of damage to property; and

(B) minimize costs and environmental impacts.

(3) EXPEDITED CONSIDERATION.—

Effective date.

(A) IN GENERAL.—Beginning after December 31, 2008, any legislative proposal submitted by the President under paragraph (1) shall be eligible for expedited consideration in accordance with this paragraph.

(B) INTRODUCTION.—As soon as practicable after the date of receipt of a legislative proposal under paragraph (1), the Chairman of the Committee on Environment and Public Works of the Senate shall introduce the proposal as a bill, by request, in the Senate.

(C) REFERRAL.—A bill introduced under subparagraph (B) shall be referred to the Committee on Environment and Public Works of the Senate.

(D) COMMITTEE CONSIDERATION.—

Deadline.

(i) IN GENERAL.—Not later than 45 legislative days after a bill under subparagraph (B) is referred to the committee in accordance with subparagraph (C), the committee shall act on the bill.

(ii) FAILURE TO ACT.—If the committee fails to act on a bill by the date specified in clause (i), the bill shall be discharged from the committee and placed on the calendar of the Senate.

(4) EFFECTIVE DATE.—The requirements of, and authorities under, this subsection shall expire on December 31, 2010.

#### SEC. 7015. LAROSE TO GOLDEN MEADOW.

(a) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any modification required to the project for flood damage reduction, Larose to Golden Meadow, Louisiana, to provide the level of protection necessary to achieve the certification required for a 100-year level of flood protection in accordance with the national flood insurance program.

(b) MODIFICATIONS.—The Secretary is authorized to carry out a modification described in subsection (a) if—

(1) the Secretary determines that the modification in the report under subsection (a) is feasible; and

(2) the total cost of the modification does not exceed \$90,000,000.

(c) REQUIREMENT.—No appropriation shall be made to construct any modification under this section if the report under subsection (a) has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 7016. LOWER JEFFERSON PARISH, LOUISIANA.

(a) IN GENERAL.—The Secretary may carry out a project for flood damage reduction in Lower Jefferson Parish, Louisiana.

(b) **EXISTING STUDIES.**—In carrying out the project, the Secretary shall use, to the maximum extent practicable, existing studies for projects for flood damage reduction in the vicinity of Lower Jefferson Parish, Louisiana, prepared under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) **CONSTRUCTION.**—The Secretary may proceed to construction or complete the construction of projects in Lower Jefferson Parish if the projects are being developed or carried out under section 205 of the Flood Control Act of 1948 as of the date of enactment of this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$100,000,000 to carry out this section.

## **TITLE VIII—UPPER MISSISSIPPI RIVER AND ILLINOIS WATER-WAY SYSTEM**

### **SEC. 8001. DEFINITIONS.**

33 USC 652 note.

In this title, the following definitions apply:

(1) **PLAN.**—The term “Plan” means the project for navigation and ecosystem improvements for the Upper Mississippi River and Illinois Waterway System: Report of the Chief of Engineers, dated December 15, 2004.

(2) **UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM.**—The term “Upper Mississippi River and Illinois Waterway System” means the projects for navigation and ecosystem restoration authorized by Congress for—

(A) the segment of the Mississippi River from the confluence with the Ohio River, River Mile 0.0, to Upper St. Anthony Falls Lock in Minneapolis-St. Paul, Minnesota, River Mile 854.0; and

(B) the Illinois Waterway from its confluence with the Mississippi River at Grafton, Illinois, River Mile 0.0, to T.J. O'Brien Lock in Chicago, Illinois, River Mile 327.0.

### **SEC. 8002. NAVIGATION IMPROVEMENTS AND RESTORATION.**

33 USC 652 note.

Except as modified by this title, the Secretary shall undertake navigation improvements and restoration of the ecosystem for the Upper Mississippi River and Illinois Waterway System substantially in accordance with the Plan and subject to the conditions described therein.

### **SEC. 8003. AUTHORIZATION OF CONSTRUCTION OF NAVIGATION IMPROVEMENTS.**

33 USC 652 note.

(a) **SMALL SCALE AND NONSTRUCTURAL MEASURES.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) construct mooring facilities at Locks 12, 14, 18, 20, 22, 24, and LaGrange Lock or other alternative locations that are economically and environmentally feasible;

(B) provide switchboats at Locks 20 through 25; and

(C) conduct development and testing of an appointment scheduling system.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—The total cost of projects authorized under this subsection shall be \$256,000,000. Such costs are to be paid half from amounts appropriated from the general fund of the Treasury and half from amounts