

Calendar No. 277

116TH CONGRESS
1ST SESSION

S. 2044

[Report No. 116–156]

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2019

Ms. MCSALLY (for herself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 29, 2019

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Supply Infra-
 5 structure Rehabilitation and Utilization Act”.

6 **SEC. 2. AGING INFRASTRUCTURE ACCOUNT.**

7 Section 9603 of the Omnibus Public Land Manage-
 8 ment Act of 2009 (43 U.S.C. 510b) is amended by adding
 9 at the end the following:

10 “(d) AGING INFRASTRUCTURE ACCOUNT.—

11 “(1) ESTABLISHMENT.—There is established in
 12 the general fund of the Treasury a special account,
 13 to be known as the ‘Aging Infrastructure Account’
 14 (referred to in this subsection as the ‘Account’), to
 15 provide funds to, and provide for the extended re-
 16 payment of the funds by, transferred works oper-
 17 ating entities or project beneficiaries responsible for
 18 repayment of reimbursable costs for the conduct of
 19 extraordinary operation and maintenance work at
 20 transferred works, which shall consist of—

21 “(A) any amounts that are authorized to
 22 be appropriated to the Account under section
 23 9605; and

24 “(B) any amounts deposited in the Ac-
 25 count under paragraph (3)(B).

1 “(2) EXPENDITURES.—Subject to appropria-
 2 tions and paragraph (3), the Secretary may expend
 3 amounts in the Account to fund and provide for ex-
 4 tended repayment of the funds for eligible projects
 5 at transferred works identified in a report submitted
 6 under paragraph (5)(A).

7 “(3) REPAYMENT CONTRACT.—

8 “(A) IN GENERAL.—The Secretary may
 9 not expend amounts under paragraph (2) with
 10 respect to an eligible project described in that
 11 paragraph unless the transferred works oper-
 12 ating entity or project beneficiary responsible
 13 for repayment of reimbursable costs has entered
 14 into a contract to repay the amounts under sub-
 15 section (b)(2).

16 “(B) DEPOSIT OF REPAID FUNDS.—
 17 Amounts repaid by a transferred works oper-
 18 ating entity or project beneficiary responsible
 19 for repayment of reimbursable costs receiving
 20 funds under a repayment contract entered into
 21 under this subsection shall be deposited in the
 22 Account without further appropriation.

23 “(4) APPLICATION FOR FUNDING.—

24 “(A) IN GENERAL.—Not less than once per
 25 fiscal year, the Secretary shall accept, during

1 an application period established by the Sec-
 2 retary, applications from transferred works op-
 3 erating entities or project beneficiaries respon-
 4 sible for payment of reimbursable costs for
 5 funds and extended repayment for eligible
 6 projects.

7 “(B) ELIGIBLE PROJECT.—A project eligi-
 8 ble for funds and extended repayment under
 9 this subsection is a project that—

10 “(i) qualifies as an extraordinary op-
 11 eration and maintenance work under this
 12 section;

13 “(ii) is for the major, non-recurring
 14 maintenance of a mission-critical asset;
 15 and

16 “(iii) is not eligible to be carried out
 17 or funded under the repayment provisions
 18 of section 4(e) of the Reclamation Safety
 19 of Dams Act of 1978 (43 U.S.C. 508(e)).

20 “(C) GUIDELINES FOR APPLICATIONS.—
 21 Not later than 60 days after the date of enact-
 22 ment of this subsection, the Secretary shall
 23 issue guidelines describing the information re-
 24 quired to be provided in an application for

1 funds and extended repayment under this sub-
2 section that require, at a minimum—

3 “(i) a description of the project for
4 which the funds are requested;

5 “(ii) the amount of funds requested;

6 “(iii) the repayment period requested
7 by the transferred works operating entity
8 or project beneficiary responsible for re-
9 payment of reimbursable costs;

10 “(iv) the financial justification for re-
11 questing an extended repayment period;
12 and

13 “(v) the financial records of the trans-
14 ferred works operating entity or project
15 beneficiary responsible for repayment of
16 reimbursable costs.

17 “(D) REVIEW BY THE SECRETARY.—The
18 Secretary shall review each application sub-
19 mitted under subparagraph (A)—

20 “(i) to determine whether the project
21 is eligible for funds and an extended repay-
22 ment period under this subsection;

23 “(ii) to determine if the project has
24 been identified by the Bureau of Reclama-

tion as part of the major rehabilitation and
replacement of a project facility; and

~~“(iii) to conduct a financial analysis
of—~~

~~“(I) the project; and~~

~~“(II) the transferred works oper-
ating entity or project beneficiary re-
sponsible for repayment of reimburs-
able costs.~~

~~“(5) REPORT.—Not later than 90 days after
the date on which an application period closes under
paragraph (4)(A), the Secretary shall submit to the
Committees on Energy and Natural Resources and
Appropriations of the Senate and the Committees on
Natural Resources and Appropriations of the House
of Representatives a report that—~~

~~“(A) identifies each project eligible for
funds and extended repayment under this sub-
section;~~

~~“(B) with respect to each eligible project
identified under subparagraph (A), includes—~~

~~“(i) a description of—~~

~~“(I) the eligible project;~~

~~“(II) the anticipated cost and du-
ration of the eligible project; and~~

1 “(III) any remaining engineering
2 or environmental compliance that is
3 required before the eligible project
4 commences;

5 “(ii) an analysis of—

6 “(I) the repayment period pro-
7 posed in the application; and

8 “(II) if the Secretary rec-
9 ommends a minimum necessary repay-
10 ment period that is different than the
11 repayment period proposed in the ap-
12 plication, the minimum necessary re-
13 payment period recommended by the
14 Secretary;

15 “(iii) an analysis of the effect on the
16 affordability of water of—

17 “(I) the repayment period pro-
18 posed in the application; and

19 “(II) if the Secretary rec-
20 ommends a minimum necessary repay-
21 ment period that is different than the
22 repayment period proposed in the ap-
23 plication, the minimum necessary re-
24 payment period recommended by the
25 Secretary; and

1 “(iv) an analysis of alternative non-
 2 Federal funding options; and
 3 “(C) describes the balance of funds in the
 4 Account as of the date of the report.”.

5 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE**
 6 **RECLAMATION SAFETY OF DAMS ACT OF 1978.**

7 Section 5 of the Reclamation Safety of Dams Act of
 8 1978 (43 U.S.C. 509) is amended, in the first sentence,
 9 by inserting “, and, effective October 1, 2019, not to ex-
 10 ceed an additional \$550,000,000 (October 1, 2019, price
 11 levels)” before “, plus or minus”.

12 **SEC. 4. REVIEW OF FLOOD CONTROL RULE CURVES PILOT**
 13 **PROJECT.**

14 (a) DEFINITIONS.—In this section:

15 (1) BUREAU.—The term “Bureau” means the
 16 Bureau of Reclamation.

17 (2) ELIGIBLE WORKS.—

18 (A) IN GENERAL.—The term “eligible
 19 works” means a reserved works, or a trans-
 20 ferred works for which—

21 (i) the flood control rule curve has not
 22 been substantially adjusted during the 10-
 23 year period ending on the date of enact-
 24 ment of this Act; and

1 (ii) the Secretary receives a request in
2 accordance with subsection (c)(1)(A).

3 (B) EXCLUSIONS.—The term “eligible
4 works” does not include—

5 (i) any project authorized by the
6 Boulder Canyon Project Act (43 U.S.C.
7 617 et seq.);

8 (ii) any project authorized by the Act
9 of April 11, 1956 (commonly known as the
10 “Colorado River Storage Project Act”) (43
11 U.S.C. 620 et seq.); or

12 (iii) any project of the Pick-Sloan
13 Missouri River Basin Program (authorized
14 by section 9 of the Act of December 22,
15 1944 (commonly known as the “Flood
16 Control Act of 1944”) (58 Stat. 891, chap-
17 ter 665)).

18 (3) PILOT PROJECT.—The term “pilot project”
19 means the pilot project established under subsection
20 (b).

21 (4) SECRETARY.—The term “Secretary” means
22 Secretary of the Interior.

23 (b) ESTABLISHMENT OF PILOT PROJECT.—The Sec-
24 retary shall establish within the Bureau a pilot project to

1 adjust flood control rule curves in accordance with sub-
 2 section (d).

3 ~~(c) SELECTION OF ELIGIBLE WORKS.—~~

4 ~~(1) REQUEST.—~~

5 ~~(A) IN GENERAL.—In order for an eligible~~
 6 ~~works to be selected for inclusion in the pilot~~
 7 ~~project, a responsible party shall submit a writ-~~
 8 ~~ten request to the Secretary.~~

9 ~~(B) NOTICE.—Not later than 30 days~~
 10 ~~after the date on which the Secretary receives~~
 11 ~~a request under subparagraph (A), the Sec-~~
 12 ~~retary shall notify—~~

13 ~~(i) each responsible party of that re-~~
 14 ~~quest, using lists maintained by the Bu-~~
 15 ~~reau; and~~

16 ~~(ii) if applicable, the appropriate Fed-~~
 17 ~~eral power marketing administration.~~

18 ~~(2) SELECTION.—Each year, the Secretary~~
 19 ~~shall—~~

20 ~~(A) select 1 or more eligible works for in-~~
 21 ~~clusion in the pilot project; and~~

22 ~~(B) submit a list of those eligible works~~
 23 ~~to—~~

24 ~~(i) the Secretary of the Army;~~

- 1 (ii) the Committee on Natural Re-
 2 sources of the House of Representatives;
 3 and
 4 (iii) the Committee on Energy and
 5 Natural Resources of the Senate.

6 ~~(3) EXCLUSION.~~—The Secretary shall not select
 7 an eligible works for inclusion in the pilot project
 8 under paragraph (2)(A) if, not later than 60 days
 9 after the date on which the notice is provided to
 10 each responsible party under paragraph (1)(B)(i), a
 11 majority of the responsible parties submit to the
 12 Secretary an objection to the inclusion of the eligible
 13 works in the pilot project.

14 ~~(d) ADJUSTMENT OF FLOOD CONTROL RULE.~~—

15 ~~(1) IN GENERAL.~~—The flood control rule curve
 16 of an eligible works shall be adjusted pursuant to
 17 section 7 of the Act of December 22, 1944 (33
 18 U.S.C. 709), if the Secretary of the Army deter-
 19 mines that the adjustment would enhance the au-
 20 thorized purposes of the eligible works.

21 ~~(2) CONSIDERATIONS.~~—In the adjustment of a
 22 flood control rule curve under paragraph (1), the fol-
 23 lowing factors shall be considered:

- 24 ~~(A) Forecast-informed reservoir operations.~~
 25 ~~(B) Improved hydrologic forecasting for—~~

- 1 (i) precipitation;
- 2 (ii) snowpack;
- 3 (iii) runoff; and
- 4 (iv) soil moisture conditions.

5 (C) Any new watershed data, including
 6 data provided by a responsible party for the eli-
 7 gible works.

8 (3) CONSULTATION.—In the adjustment of a
 9 flood control rule curve under paragraph (1), the fol-
 10 lowing entities shall be consulted:

11 (A) Each responsible party for the eligible
 12 works.

13 (B) In the case of an eligible works that
 14 produces power marketed by the Federal Gov-
 15 ernment, the Federal power marketing adminis-
 16 tration that markets the power.

17 (C) The Secretary.

18 (e) CONSULTATION.—The Secretary shall consult
 19 with the Secretary of the Army with respect to any action
 20 taken by the Secretary of the Army—

21 (1) pursuant to section 7 of the Act of Decem-
 22 ber 22, 1944 (33 U.S.C. 709); and

23 (2) that relates to the pilot project.

24 (f) FUNDING.—The Secretary or the Secretary of the
 25 Army, as appropriate, may accept amounts from respon-

1 sible parties for eligible works to fund all or a portion of
 2 the cost of carrying out an adjustment under subsection
 3 (d), including a review or revision of operational docu-
 4 ments (including water control plans, water control manu-
 5 als, water control diagrams, release schedules, rule curves,
 6 operational agreements with non-Federal entities, and any
 7 associated environmental documentation).

8 (g) EFFECT.—Nothing in this section—

9 (1) affects or modifies any existing authority to
 10 review or modify—

11 (A) reservoir operations, including any ex-
 12 isting forecast-informed reservoir operations at
 13 a facility of the Corps of Engineers, such as
 14 Coyote Dam; and

15 (B) flood control operations; or

16 (2) affects or modifies any authorized purpose
 17 of any project carried out by the Secretary.

18 (h) TERMINATION.—

19 (1) IN GENERAL.—The pilot project shall termi-
 20 nate on the date that is 15 years after the date of
 21 enactment of this Act.

22 (2) EFFECT.—Termination of the pilot project
 23 under paragraph (1) shall not affect any flood con-
 24 trol rule curve developed as part of the pilot project.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Water Supply Infra-*
 3 *structure Rehabilitation and Utilization Act”.*

4 **SEC. 2. AGING INFRASTRUCTURE ACCOUNT.**

5 *Section 9603 of the Omnibus Public Land Manage-*
 6 *ment Act of 2009 (43 U.S.C. 510b) is amended by adding*
 7 *at the end the following:*

8 “(d) *AGING INFRASTRUCTURE ACCOUNT.*—

9 “(1) *ESTABLISHMENT.*—*There is established in*
 10 *the general fund of the Treasury a special account, to*
 11 *be known as the ‘Aging Infrastructure Account’ (re-*
 12 *ferred to in this subsection as the ‘Account’), to pro-*
 13 *vide funds to, and provide for the extended repayment*
 14 *of the funds by, a transferred works operating entity*
 15 *or project beneficiary responsible for repayment of re-*
 16 *imbursable costs for the conduct of extraordinary op-*
 17 *eration and maintenance work at a project facility,*
 18 *which shall consist of—*

19 “(A) *any amounts that are specifically ap-*
 20 *propriated to the Account under section 9605;*
 21 *and*

22 “(B) *any amounts deposited in the Account*
 23 *under paragraph (3)(B).*

24 “(2) *EXPENDITURES.*—*Subject to appropriations*
 25 *and paragraph (3), the Secretary may expend*
 26 *amounts in the Account to fund and provide for ex-*

1 *tended repayment of the funds for eligible projects*
 2 *identified in a report submitted under paragraph*
 3 *(5)(A).*

4 “(3) *REPAYMENT CONTRACT.*—

5 “(A) *IN GENERAL.*—*The Secretary may not*
 6 *expend amounts under paragraph (2) with re-*
 7 *spect to an eligible project described in that*
 8 *paragraph unless the transferred works operating*
 9 *entity or project beneficiary responsible for re-*
 10 *payment of reimbursable costs has entered into a*
 11 *contract to repay the amounts under subsection*
 12 *(b)(2).*

13 “(B) *DEPOSIT OF REPAID FUNDS.*—
 14 *Amounts repaid by a transferred works oper-*
 15 *ating entity or project beneficiary responsible for*
 16 *repayment of reimbursable costs receiving funds*
 17 *under a repayment contract entered into under*
 18 *this subsection shall be deposited in the Account*
 19 *and shall be available to the Secretary for ex-*
 20 *penditure in accordance with this subsection*
 21 *without further appropriation.*

22 “(4) *APPLICATION FOR FUNDING.*—

23 “(A) *IN GENERAL.*—*Not less than once per*
 24 *fiscal year, the Secretary shall accept, during an*
 25 *application period established by the Secretary,*

1 *applications from transferred works operating*
 2 *entities or project beneficiaries responsible for*
 3 *payment of reimbursable costs for funds and ex-*
 4 *tended repayment for eligible projects.*

5 *“(B) ELIGIBLE PROJECT.—A project eligible*
 6 *for funding and extended repayment under this*
 7 *subsection is a project that—*

8 *“(i) qualifies as an extraordinary op-*
 9 *eration and maintenance work under this*
 10 *section;*

11 *“(ii) is for the major, non-recurring*
 12 *maintenance of a mission-critical asset; and*

13 *“(iii) is not eligible to be carried out*
 14 *or funded under the repayment provisions*
 15 *of section 4(c) of the Reclamation Safety of*
 16 *Dams Act of 1978 (43 U.S.C. 508(c)).*

17 *“(C) GUIDELINES FOR APPLICATIONS.—Not*
 18 *later than 60 days after the date of enactment of*
 19 *this subsection, the Secretary shall issue guide-*
 20 *lines describing the information required to be*
 21 *provided in an application for funding and ex-*
 22 *tended repayment under this subsection that re-*
 23 *quire, at a minimum—*

24 *“(i) a description of the project for*
 25 *which the funds are requested;*

1 “(ii) the amount of funds requested;

2 “(iii) the repayment period requested
3 by the transferred works operating entity or
4 project beneficiary responsible for repay-
5 ment of reimbursable costs;

6 “(iv) alternative non-Federal funding
7 options that have been evaluated;

8 “(v) the financial justification for re-
9 questing an extended repayment period; and

10 “(vi) the financial records of the trans-
11 ferred works operating entity or project ben-
12 eficiary responsible for repayment of reim-
13 bursable costs.

14 “(D) *REVIEW BY THE SECRETARY.*—*The*
15 *Secretary shall review each application sub-*
16 *mitted under subparagraph (A)—*

17 “(i) to determine whether the project is
18 eligible for funds and an extended repay-
19 ment period under this subsection;

20 “(ii) to determine if the project has
21 been identified by the Bureau of Reclama-
22 tion as part of the major rehabilitation and
23 replacement of a project facility; and

24 “(iii) to conduct a financial analysis
25 of—

1 “(I) the project; and

2 “(II) the transferred works oper-
3 ating entity or project beneficiary re-
4 sponsible for repayment of reimburs-
5 able costs.

6 “(5) REPORT.—Not later than 90 days after the
7 date on which an application period closes under
8 paragraph (4)(A), the Secretary shall submit to the
9 Committees on Energy and Natural Resources and
10 Appropriations of the Senate and the Committees on
11 Natural Resources and Appropriations of the House
12 of Representatives a report that—

13 “(A) identifies each project eligible for fund-
14 ing and extended repayment under this sub-
15 section;

16 “(B) with respect to each eligible project
17 identified under subparagraph (A), includes—

18 “(i) a description of—

19 “(I) the eligible project;

20 “(II) the anticipated cost and du-
21 ration of the eligible project; and

22 “(III) any remaining engineering
23 or environmental compliance that is
24 required before the eligible project com-
25 mences;

1 “(ii) an analysis of—

2 “(I) the repayment period pro-
3 posed in the application; and

4 “(II) if the Secretary recommends
5 a minimum necessary repayment pe-
6 riod that is different than the repay-
7 ment period proposed in the applica-
8 tion, the minimum necessary repay-
9 ment period recommended by the Sec-
10 retary; and

11 “(iii) an analysis of alternative non-
12 Federal funding options; and

13 “(C) describes the balance of funds in the
14 Account as of the date of the report.

15 “(6) EFFECT OF SUBSECTION.—Nothing in this
16 subsection affects—

17 “(A) any funding provided, or contracts en-
18 tered into, under subsection (a) before the date of
19 enactment of this subsection; or

20 “(B) the use of funds otherwise made avail-
21 able to the Secretary to carry out subsection
22 (a).”.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE**
 2 **RECLAMATION SAFETY OF DAMS ACT OF 1978.**

3 *Section 5 of the Reclamation Safety of Dams Act of*
 4 *1978 (43 U.S.C. 509) is amended, in the first sentence, by*
 5 *inserting “, and, effective October 1, 2019, not to exceed*
 6 *an additional \$550,000,000 (October 1, 2019, price levels)”*
 7 *before “, plus or minus”.*

8 **SEC. 4. REVIEW OF FLOOD CONTROL RULE CURVES PILOT**
 9 **PROJECT.**

10 *(a) DEFINITIONS.—In this section:*

11 *(1) BUREAU.—The term “Bureau” means the*
 12 *Bureau of Reclamation.*

13 *(2) ELIGIBLE WORKS.—*

14 *(A) IN GENERAL.—The term “eligible*
 15 *works” means a reserved works, or a transferred*
 16 *works for which—*

17 *(i) the flood control rule curve has not*
 18 *been substantially adjusted during the 10-*
 19 *year period ending on the date of enactment*
 20 *of this Act; and*

21 *(ii) the Secretary receives a request in*
 22 *accordance with subsection (c)(1)(A).*

23 *(B) EXCLUSIONS.—The term “eligible*
 24 *works” does not include—*

1 (i) any project authorized by the Boul-
 2 der Canyon Project Act (43 U.S.C. 617 et
 3 seq.);

4 (ii) any project authorized by the Act
 5 of April 11, 1956 (commonly known as the
 6 “Colorado River Storage Project Act”) (43
 7 U.S.C. 620 et seq.); or

8 (iii) any project of the Pick-Sloan Mis-
 9 souri River Basin Program (authorized by
 10 section 9 of the Act of December 22, 1944
 11 (commonly known as the “Flood Control
 12 Act of 1944”) (58 Stat. 891, chapter 665)).

13 (3) *PILOT PROJECT.*—The term “pilot project”
 14 means the pilot project established under subsection
 15 (b).

16 (4) *RESPONSIBLE PARTY.*—The term “respon-
 17 sible party” means—

18 (A) with respect to a reserved works—

19 (i) a non-Federal water user or power
 20 contractor that has an active repayment,
 21 water service, or power service contract with
 22 the Bureau;

23 (ii) a power contractor that has an ac-
 24 tive contract with a Federal power mar-
 25 keting administration for energy, capacity,

1 or energy and capacity, from a hydropower
2 facility owned by the Bureau; or

3 (iii) a non-Federal operating entity,
4 including a joint powers authority or board
5 of control, that has assumed responsibility
6 on behalf of multiple water users, through a
7 contract with the Bureau, for the operation
8 and maintenance of the reserved works; and
9 (B) with respect to a transferred works, the
10 operating entity of the transferred works.

11 (5) SECRETARY.—The term “Secretary” means
12 Secretary of the Interior.

13 (b) ESTABLISHMENT OF PILOT PROJECT.—The Sec-
14 retary, in consultation with the Secretary of the Army, shall
15 establish within the Bureau a pilot project to adjust flood
16 control rule curves in accordance with subsection (d).

17 (c) SELECTION OF ELIGIBLE WORKS.—

18 (1) REQUEST.—

19 (A) IN GENERAL.—In order for an eligible
20 works to be selected for inclusion in the pilot
21 project, a responsible party shall submit a writ-
22 ten request to the Secretary seeking a flood con-
23 trol rule curve adjustment.

24 (B) NOTICE.—Not later than 30 days after
25 the date on which the Secretary receives a re-

1 *quest under subparagraph (A), the Secretary*
 2 *shall notify—*

3 *(i) each responsible party of that re-*
 4 *quest, using lists maintained by the Bu-*
 5 *reau; and*

6 *(ii) if applicable, the appropriate Fed-*
 7 *eral power marketing administration.*

8 (2) *SELECTION.—Each year, the Secretary*
 9 *shall—*

10 *(A) select 1 or more eligible works for inclu-*
 11 *sion in the pilot project; and*

12 *(B) submit a list of those eligible works to—*

13 *(i) the Secretary of the Army;*

14 *(ii) the Committee on Natural Re-*
 15 *sources of the House of Representatives; and*

16 *(iii) the Committee on Energy and*
 17 *Natural Resources of the Senate.*

18 (3) *EXCLUSION.—The Secretary shall not select*
 19 *an eligible works for inclusion in the pilot project*
 20 *under paragraph (2)(A) if, not later than 60 days*
 21 *after the date on which the notice is provided to each*
 22 *responsible party under paragraph (1)(B)(i), a ma-*
 23 *jority of the responsible parties submit to the Sec-*
 24 *retary an objection to the inclusion of the eligible*
 25 *works in the pilot project.*

1 (d) *ADJUSTMENT OF A FLOOD CONTROL RULE.*—

2 (1) *IN GENERAL.*—*The flood control rule curve of*
 3 *an eligible works shall be adjusted pursuant to section*
 4 *7 of the Act of December 22, 1944 (33 U.S.C. 709),*
 5 *if the Secretary of the Army determines that the ad-*
 6 *justment would enhance the authorized purposes of*
 7 *the eligible works.*

8 (2) *CONSIDERATIONS.*—*In the adjustment of a*
 9 *flood control rule curve under paragraph (1), the fol-*
 10 *lowing factors shall be considered:*

11 (A) *Forecast-informed reservoir operations.*

12 (B) *Improved hydrologic forecasting for—*

13 (i) *precipitation;*

14 (ii) *snowpack;*

15 (iii) *runoff; and*

16 (iv) *soil moisture conditions.*

17 (C) *Any new watershed data, including*
 18 *data provided by a responsible party for the eli-*
 19 *gible works.*

20 (3) *CONSULTATION.*—*In the adjustment of a*
 21 *flood control rule curve under paragraph (1), the fol-*
 22 *lowing entities shall be consulted:*

23 (A) *Each responsible party for the eligible*
 24 *works.*

1 (B) *In the case of an eligible works that*
 2 *produces power marketed by the Federal Govern-*
 3 *ment, the Federal power marketing administra-*
 4 *tion that markets the power.*

5 (C) *The Secretary.*

6 (e) *CONSULTATION.—The Secretary shall consult with*
 7 *the Secretary of the Army with respect to any action taken*
 8 *by the Secretary of the Army—*

9 (1) *pursuant to section 7 of the Act of December*
 10 22, 1944 (33 U.S.C. 709); and

11 (2) *that relates to the pilot project.*

12 (f) *FUNDING.—The Secretary or the Secretary of the*
 13 *Army, as appropriate, may accept amounts from respon-*
 14 *sible parties for eligible works to fund all or a portion of*
 15 *the cost of carrying out an adjustment of a flood control*
 16 *rule under subsection (d), including a review or revision*
 17 *of operational documents (including water control plans,*
 18 *water control manuals, water control diagrams, release*
 19 *schedules, rule curves, operational agreements with non-*
 20 *Federal entities, and any associated environmental docu-*
 21 *mentation).*

22 (g) *EFFECT.—Nothing in this section—*

23 (1) *affects or modifies any existing authority to*
 24 *review or modify—*

1 (A) reservoir operations, including any ex-
2 isting forecast-informed reservoir operations at a
3 facility of the Corps of Engineers, such as Coyote
4 Dam; and

5 (B) flood control operations; or

6 (2) affects or modifies any authorized purpose of
7 any project carried out by the Secretary.

8 (h) *TERMINATION.*—

9 (1) *IN GENERAL.*—The pilot project shall termi-
10 nate on the date that is 15 years after the date of en-
11 actment of this Act.

12 (2) *EFFECT.*—Termination of the pilot project
13 under paragraph (1) shall not affect any flood control
14 rule curve developed as part of the pilot project.

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116TH CONGRESS
1ST Session

S. 2044

[Report No. 116–156]

A BILL

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

OCTOBER 29, 2019

Reported with an amendment