



H.R. 5303: Water Resources Development Act (WRDA) of 2016 (Rep. Shuster, R-PA)

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FLOOR SCHEDULE:

H.R. 5303 is expected to be considered on September 27, 2016, under a [structured rule](#). The rule makes in order 25 amendments. Additional amendments are expected to be made in order by a subsequent rule. The rule prohibits final consideration of the bill without the passage of a subsequent rule.

The rule would provide suspension authority for the legislative days of Thursday September 29, and Friday September 30. Under [Clause 1 of Rule 24](#), it is only in order to [suspend the rules](#) on Monday, Tuesday, and Wednesdays, as well as the last six days of a session of Congress.

The rule also provides for so-called same-day authority for waiving clause 6(a) of Rule XIII (requiring a 2/3 vote to consider a rule on the same day it is reported from the Rules Committee), for measures relating to a continuing resolution for any day through Friday, September 30.

TOPLINE SUMMARY:

[H.R. 5303](#) would authorize 27 Army Corps of Engineers water projects as well as 29 feasibility studies. The WRDA bill would deauthorize \$5 billion worth of previously authorized projects and make a number of other changes to Army Corps policies.

COST:

A Congressional Budget Office (CBO) estimate for the [Rules Committee Print](#) of the bill that will be considered by the House is not available at this time.

A CBO report for the bill as reported by the Committee on Transportation and Infrastructure can be found [here](#). The Rules Committee Print strikes a section of the as-reported version of the bill that would have changed spending from the Harbor Maintenance Trust Fund to mandatory spending (as opposed to its current discretionary status) beginning in 2027. That provision would have increased direct spending and been subject to a point of order.

According to CBO, the \$3.8 billion in authorizations included in the Rules Committee Print would cost \$3.1 billion over the FY 2017 – 2026 period, assuming appropriation of the authorized and necessary amounts.

The bill would also deauthorize \$5 billion worth of projects authorized prior to 2007 but which have not received funding in the past six years.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would expand the authorities of the Army Corps of Engineers.
- **Encroach into State or Local Authority?** [Some conservatives](#) may believe that the types of projects authorized by the bill may be more appropriately funded by state and local governments or the private sector. The Committee on Transportation and Infrastructure has [made the case](#) for a federal role.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No, the bill follows a [process established by Congress](#) to fund specific projects evaluated and reported by the Army Corps of Engineers.

DETAILED SUMMARY AND ANALYSIS:

Project Authorizations: The bill would authorize appropriations for [27 specific projects](#). These projects have been reviewed and recommended by the Corps.

Feasibility Studies Authorizations: The bill would authorize appropriations for [29 specific feasibility studies](#). These studies have been submitted to Congress by the Corps.

The bill would require the Corps to expedite the completion of a feasibility study for 9 projects and would require the Corps to expedite the completion of a post-authorization change report for 2 projects.

Deauthorizations: The bill would establish a process to deauthorize \$5 billion worth of previously authorized but inactive Corps projects.

The Corps would be required to identify each project that was authorized for construction prior to November 8, 2007, but that has not begun planning, design, or construction, or, if projects have begun planning, design, or construction, have not received any funds in the past six years. The Corps would allow public comment on the projects listed and submit the list to Congress. From that list, the Corps would make a final list totaling \$5 billion worth of projects to be deauthorized, starting with the oldest projects and exempting projects that the Corps determines is critical to the interests of the United States. This final list of projects to be deauthorized would be subject to a Congressional resolution of disapproval.

The bill would further deauthorize portions of a number of other specific projects.

According to CRS, the Army Corps has a [backlog](#) of projects totaling “from \$20 billion to \$80 billion, depending on which projects are included”.

Backlog Prevention: The bill would terminate the authorization for any project authorized by the bill after 7 years unless funding is appropriated and obligated for the project. This would prevent the project from being added to the backlog of Corps projects.

Beneficial Use of Dredged Material: The bill would establish a pilot program to reuse dredged material for beneficial projects, such as reducing storm damage, protecting aquatic ecosystems, enhancing shorelines, and promoting recreation.

Contributed Funds for Reservoir Operations: The bill would allow the Corps to receive and expend funds from state and local governments as well as other non-federal entities to formulate, review, and revise operating regulations for flood risk management and navigation at reservoirs not owned by the Corps.

Water Supply Conservation in Drought Areas: The bill would authorize the Corps to enter into agreements with non-federal interests to carry out water supply conservation agreements in areas where a drought emergency has been declared for one year after enactment.

Estuaries: The bill would reauthorize the [Estuary Restoration Act](#) through FY 2021.

Army Corps Drones: The bill would require the Army Corps to designate an official to oversee the Corps use of unmanned aircrafts and limits the Corps' use of such aircraft to support civil works and emergency response efforts.

Waiving Cost Sharing Requirements for Indian Tribes: The bill would waive local cost sharing requirements for Indian Tribes up to \$455,000 (indexed to inflation) for studies and projects. Under current law, these requirements are waived for territories.

Pre-Feasibility Study Meetings with Local Interests: The bill would require the Corps to meet with non-federal interests if requested prior to the initiation of a feasibility study on a project.

GAO Study on Managing the Inland Waterways Trust Fund: The bill would require a Government Accountability Office (GAO) on the Inland Waterways Trust Fund.

Fish Hatcheries: The bill would authorize the Corps to operate fish hatcheries for the purpose of restoring a threatened or endangered species. Other federal agencies or non-federal agencies would be responsible for all costs associated with operating a fish hatchery.

AMENDMENTS MADE IN ODER:

1. **[Shuster \(R-PA\) \(Managers Amendment\)](#):** Would make a number of changes to the underlying bill, including authorizing three additional projects and allowing modifications to two additional projects. The bill would also increase the amount of projects required to be deauthorized by the Corps to \$10 billion.
2. **[Lawrence \(D-MI\)](#):** Would include "gross negligence" as a reason to allow funding after an emergency for a water project.
3. **[Babin \(R-TX\)](#):** Under [current law, permission](#) of the Corps is required for a proposed activity that would modify "any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States." The amendment would define "work" to mean engineered structures that serve a particular function and include only structures of like kind with those identified in the law and would exclude the river channel, whether or not dredging is necessary to maintain navigational depths, or unimproved real estate as well as a particular feature or structure by merely by being present within a federal project.
4. **[Babin \(R-TX\)](#):** Would include a project that has been assumed for maintenance by the Army Corps to be treated as a project authorized by Congress. This would allow these channels to be planned, operated, managed, and modified like authorized projects.
5. **[Black \(R-TN\)](#):** Would require the Corps to issue guidance on the types of circumstances under which the "[state-of-the-art design or construction criteria](#)" would apply to dam safety repair projects.
6. **[Blum \(R-IA\)](#):** Would require that a project in Iowa be expedited by the Corps.

7. [Bost \(R-IL\)](#): Would authorize the Corps to consider benefits that may accrue from rehabilitation work when reviewing requests for repair or restoration of a flood risk management project.
8. [Crawford \(R-AR\)](#): Would credit project costs and in-kind contributions made prior to the receipt of a Water Infrastructure Finance and Innovation Act (WIFIA) loan to the 51 percent of project costs that must be provided by non-WIFIA sources.
9. [Dold \(R-IL\)](#): Would allow certain federally funded water projects to include recreation features, with the federal costs not to exceed 10 percent of the ecosystem restoration costs of the project.
10. [Graves \(R-LA\)](#): Would allow the Corps to accept and solicit bids from non-federal interests to execute projects. If the non-federal entity can carry out the project more cost effectively and more efficiently than the Corps could, the Corps would transfer funds to the non-federal interest. The savings attributable to executing the project by a non-federal interest would be allocated 80 percent for other Corps projects and 20 percent for deficit reduction.
11. [Graves \(R-LA\)](#): Would require for the approval of applications for permits made under Section 408 of the Rivers and Harbors Appropriation Act of 1899 if the Corps has not made a determination of the application within 120 days. [Section 408](#) requires a Corps permit for the alteration, occupation, or use of a [Corps work](#).
12. [Graves \(R-LA\)](#): Would require the Corps to expedite certain projects, including in Ascension Parish, Louisiana; East Baton Rouge Parish, Louisiana; Iberville Parish, Louisiana; Livingston Parish, Louisiana; and Pointe Coupee Parish, Louisiana.
13. [Long \(R-MO\)](#): Would lift for five years the moratorium on the issuance of shoreline use permits by the Corps in Table Rock Lake.
14. [McKinley \(R-WV\)](#): Would require the Corps to consider economic and recreational significance when studying projects.
15. [Mica \(R-FL\)](#): Would permit the Corps to adjust the authorized benefit cost ratio after the completion of any portion of an authorized project carried out with non-federal funds.
16. [Mullin \(R-OK\)](#): Would transfer Army Corps land to the Department of Interior to be held in trust for the Muscogee Tribe after the tribe has paid the fair market cost of the land.
17. [Rouzer \(R-NC\)](#): Would require the Corps to work with state and local officials to establish a no wake zone for vessels on federally marked or maintained navigation channel in certain places in the Atlantic Intercostal Waterway.
18. [Thornberry \(R-TX\)](#): Would extend a current law prohibition on the Corps from removing cabins at Lake Kemp through 2025.
19. [Weber \(R-TX\)](#): Would require the Corps to consider studies, data, and information developed by the Gulf Coast Community Protection and Recovery District when conducting the Coastal Texas Protection and Restoration Study.
20. [Young \(R-IA\)](#): Would establish it as the policy of the Corps to act expeditiously to authorize, fund, identify, and implement improvements to reduce and negate negative impacts to community-owned flood protection system accreditation where federally owned and operated levees compromise the accreditation of community owned local flood protection systems.

21. [Etsy \(D-CT\)](#): Would require an annual report on corrosion prevention activities.
22. [Etsy \(D-CT\)](#): Would require the Corps to conduct an assessment and plan to restore aquatic ecosystems in the North Atlantic coastal region.
23. [Frankel \(D-FL\)](#): Would allow the procurement of foreign sand for shore projects by striking a provision of law that only permits the procurement of foreign sand if domestic materials are not available for environmental or economic reasons.
24. [Green \(D-TX\)](#): Would require the Corps to give priority to a project for flood risk management if the project is already authorized and an executed partnership agreement exists and the project is in an area where loss of life has occurred due to a flooding event.
25. [Herrera-Buetler \(R-WA\)](#): Would expand funding for watercraft inspection stations in Idaho, Montana, Oregon, and Washington to prevent the spread of invasive species at reservoirs operated by the Corps.

OUTSIDE GROUPS:

Letters of Support

- [Agriservices of Brunswick](#)
- [Allegheny Conference on Community Development](#)
- [American Chemistry Council](#)
- [American Petroleum Institute](#)
- [American Waterways Operators](#)
- [Anderson Regional Joint Water System \(SC\)](#)
- [Ann Arbor/Ypsilanti Regional Chamber](#)
- [Associated General Contractors of America](#)
- [Atlanta Regional Commission \(GA\)](#)
- [Battle Creek Area Chamber of Commerce](#)
- [Buffalo Niagara Partnership](#)
- [Canton Regional Chamber of Commerce](#)
- [Chicagoland Chamber of Commerce](#)
- [Cincinnati USA Regional Chamber](#)
- [City of Dallas \(TX\)](#)
- [Cobb County-Marietta Water Authority \(GA\)](#)
- [Columbus Chamber of Commerce](#)
- [Columbus Water Works \(GA\)](#)
- [Consolidated Utility District of Rutherford County \(TN\)](#)
- [Daimler North America Corp.](#)
- [Dayton Area Chamber of Commerce](#)
- [Detroit Regional Chamber](#)
- [Domtar](#)
- [Dredging Contractors of America](#)
- [Duluth Chamber of Commerce](#)
- [Erie Regional Chamber and Growth Partnership](#)
- [Fox Cities Chamber of Commerce and Industry](#)
- [Grand Rapids Area Chamber of Commerce](#)
- [Great Lakes Commission](#)
- [Great Lakes Maritime Task Force](#)
- [Greater Akron Chamber of Commerce](#)
- [Greater Cleveland Partnership](#)
- [Greater Des Moines Partnership](#)
- [Greater Indianapolis Chamber of Commerce](#)
- [Greater Louisville, Inc. – The Metro Chamber of Commerce](#)
- [Greater Niagara Chamber of Commerce](#)
- [Greater Pittsburgh Chamber of Commerce](#)
- [Gwinnett County \(GA\)](#)
- [Interstate Commission on the Potomac River Basin \(MD, PA, VA, WV, DC\)](#)
- [Jacobs Engineering](#)
- [Kalamazoo Regional Chamber of Commerce](#)
- [Kansas Water Office \(KS\)](#)
- [Lake Carriers' Association](#)
- [Lancaster Chamber of Commerce & Industry](#)
- [Lansing Regional Chamber of Commerce](#)
- [Lima/Allen County Chamber of Commerce](#)
- [Metropolitan Milwaukee Association of Commerce](#)

- [Michelin North America](#)
- [Minneapolis Regional Chamber of Commerce](#)
- [Missouri Department of Natural Resources \(MO\)](#)
- [Mountain View Chamber of Commerce](#)
- [Murfreesboro Water and Sewer Department \(TN\)](#)
- [National Association of Flood & Stormwater Management Agencies](#)
- [National Association of Manufacturers](#)
- [National Conference of State Legislatures](#)
- [National Retail Federation](#)
- [National Waterways Conference](#)
- [North Dakota State Water Commission \(ND\)](#)
- [Northern Kentucky Chamber of Commerce](#)
- [Northern Michigan Regional Chamber Alliance](#)
- [Oklahoma Water Resources Board \(OK\)](#)
- [Plattsburgh North Country Chamber of Commerce](#)
- [Quad Cities Chamber of Commerce](#)
- [Rockford Chamber of Commerce](#)
- [Saint Paul Area Chamber of Commerce](#)
- [South Carolina Ports Authority](#)
- [Southwest Missouri Water Commission \(MO\)](#)
- [Susquehanna River Basin Commission \(MD, NY, PA\)](#)
- [Tarrant Regional Water District \(TX\)](#)
- [Toledo Regional Chamber of Commerce](#)
- [Traverse City Area Chamber of Commerce](#)
- [Tri-State Water Coalition \(MO, OK, KS\)](#)
- [U.S. Chamber of Commerce](#)
- [West Michigan Chamber Coalition](#)
- [Youngstown/Warren Chamber of Commerce](#)

Other Groups

- Heritage Foundation: [WRDA: The Water Resources Development Act in the 114th Congress](#)

COMMITTEE ACTION:

H.R. 5303 was introduced on May 23, 2016, and referred to the Committee on Transportation and Infrastructure and the Committee on Natural Resources. The Transportation and Infrastructure Committee marked up and reported the bill on [May 25, 2016](#), by a voice vote. The Committee Report can be found [here](#).

The Rules Committee Print of H.R. 5303, including the text of the legislation to be considered by the House, was released on September 23, 2016. The Rules Committee Print strikes a section of the as-reported version of the bill that would have changed spending from the Harbor Maintenance Trust Fund to mandatory spending (as opposed to its current discretionary status) beginning in 2027.

The House Transportation and Infrastructure Committee held hearings to review reports from the Army Corps of Engineers on [February 24, 2016](#), and [May 17, 2016](#).

The [Senate WRDA bill, S. 2848](#), passed the Senate by a [95 – 3](#) vote on September 15, 2016.

A comparison of the House and Senate bills by CRS can be found [here](#). The Senate bill includes funding to expand the federal government’s ability to fund projects to mitigate the impacts of [lead in drinking water](#), such as in Flint, Michigan.

A WRDA bill was most recently signed into law in [2014](#).

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), “While H.R. 5303 would advance some of the Administration's policies and principles including building a foundation for long-term economic growth, addressing significant risks to public safety, strengthening the Nation's resilience to the impacts of climate

change, and protecting and restoring our environment, it should be improved with additional reforms and elimination of problematic provisions. Additionally, the Administration believes that the Congress should quickly pass targeted funding to support Flint, Michigan, whether in the Water Resources Development Act or another vehicle.”

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1 (related to general Welfare of the United States), and Clause 3 (related to regulation of Commerce with foreign Nations, and among the several States, and with Indian tribes).”

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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