



Water Infrastructure Legislation in the 116th Congress: EPA, Reclamation, and U.S. Army Corps of Engineers Provisions

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Legislation in the 116th Congress addresses water infrastructure activities of several federal agencies, including the U.S. Environmental Protection Agency (EPA), Bureau of Reclamation (Reclamation), and U.S. Army Corps of Engineers (USACE). This Insight highlights water infrastructure programs and authorities administered by these three agencies that are included in four bills:

- Moving Forward Act (H.R. 2, as passed by the House),
- Water Resources Development Act of 2020 (WRDA2020; H.R. 7575, as reported to the House),
- Drinking Water Infrastructure Act of 2020 (DWIA2020; S. 3590, as reported to the Senate), and
- America’s Water Infrastructure Act of 2020 (AWIA2020; S. 3591, as reported to the Senate).

Environmental Protection Agency

EPA administers several [wastewater and drinking water infrastructure programs](#). These programs include the Clean Water State Revolving Fund ([CWSRF](#)) and the Drinking Water State Revolving Fund ([DWSRF](#)) programs—both of which are implemented by the states—and the Water Infrastructure Finance and Innovation Act ([WIFIA](#)) program, among others.

Wastewater

AWIA 2020 would direct EPA to establish (subject to appropriations) several grant programs for wastewater infrastructure projects. Program objectives vary and include resiliency and efficiency at wastewater facilities and support for projects in lower-income or smaller-population communities. AWIA would reauthorize appropriations for the CWSRF and require states to use not less than 10% of their annual grants to provide additional subsidies (e.g., grants or loan forgiveness) to eligible recipients.

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CWSRF appropriations have included similar provisions since the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). Additionally, AWIA would reauthorize appropriations for WIFIA and the [Alaska Native Villages](#) grant program.

The Moving Forward Act would amend and reauthorize several infrastructure programs, including programs that have never received appropriations. For several programs, the bill would establish funding carve-outs for communities with populations under 10,000. Additionally, it would reauthorize appropriations for the CWSRF and require states to use not less than 15% of their CWSRF grants for specific project types (e.g., [green infrastructure](#)) and not less than 10% to provide additional subsidies to eligible recipients. The bill would amend the CWSRF funding provisions for Indian tribes and U.S. territories.

Drinking Water

An EPA-specific bill, DWIA 2020, would establish grant programs and revise Safe Drinking Water Act (SDWA) and related assistance programs to support objectives including improving water system resilience to natural hazards; reducing lead in drinking water; and assisting small, rural, disadvantaged, and/or tribal systems. Regarding the DWSRF, DWIA would (1) require states to provide 14% of their annual grants as additional subsidies for disadvantaged communities; (2) reauthorize a DWSRF appropriation set-aside for small system technical assistance; and (3) expand eligible activities for the DWSRF emerging contaminant grant program to include groundwater remediation of [per- and polyfluoroalkyl substances \(PFAS\)](#). Additionally, DWIA would direct EPA to promulgate SDWA regulations for [certain PFAS](#).

The Moving Forward Act would reauthorize appropriations for the DWSRF program for FY2022 through FY2025. The bill would reauthorize appropriations for several drinking water programs and establish a grant program for certain water systems for improvements to remove all detectable PFAS.

Bureau of Reclamation

[Pursuant to the Reclamation Act of 1902](#), Reclamation is responsible for the management and development of many of the large federal dams and water diversion structures in the 17 conterminous states west of the Mississippi River. The Moving Forward Act would incorporate portions of [draft Reclamation legislation released earlier this year by Representative Huffman \(CA-02\)](#), including creation of an annual reporting process to identify certain Reclamation projects for potential congressional authorization. It would extend and amend an authority under [Section 4007 of the WIIN Act](#) (P.L. 114-322) that provides for construction of new or expanded state and federally led surface and groundwater storage projects, and it would extend [grant authority for water reuse and recycling and desalination projects](#) provided under that act. It also would extend authority for several parts of Reclamation's [WaterSMART](#) program.

The Moving Forward Act incorporates provisions related to certain [Indian water rights settlements](#) involving the federal government. Among other things, it would authorize the [Navajo Utah Settlement](#). It would extend in perpetuity (beginning FY2031) \$120 million per year in mandatory appropriations for the [Reclamation Water Settlements Fund](#). These appropriations currently end after FY2029.

USACE

The Moving Forward Act would provide \$15 billion for USACE construction and operation and maintenance of projects for [improving navigation, reducing flood risks, and restoring aquatic ecosystems](#).

WRDA 2020 and Title I of AWIA 2020 would authorize USACE to perform water resource studies, projects, and programs and would provide related direction to the Administration.

- WRDA 2020 would require USACE to update the agency's guidance on assessing sea level rise for coastal project planning. It would require USACE to adopt procedures to include more consideration of environmental and social goals and effects in project planning and establish cost-sharing and planning requirements for natural and nature-based features.
- AWIA 2020 would expand USACE's authorities to perform rural water supply projects and to address aquatic and terrestrial invasive species. AWIA 2020 would require an annual report from the Administration to congressional authorizing and appropriations committees that identifies USACE-authorized studies and projects available for appropriations.

The Moving Forward Act and WRDA 2020 include provisions on the Harbor Maintenance Trust Fund (HMTF). In the CARES Act (P.L. 116-136), Congress made future funds provided to USACE from the HMTF not count toward annual budget caps for an amount equal to the prior year's HMTF deposits. The Moving Forward Act and WRDA 2020 would alter the budget enforcement rules, through a spending cap adjustment for the amount provided to USACE from the HMTF, for activities designated as harbor operations and maintenance. WRDA 2020 also would alter distribution targets for HMTF-funded activities and allow for the trust fund to pay for a broader set of activities.

WRDA 2020 and AWIA 2020 would adjust the role of the [Inland Waterways Trust Fund \(IWTF\)](#). The bills would reduce the IWTF contribution toward the costs of inland and intracoastal waterway construction from 50% to 35%, thereby allowing for more federal investment toward these construction projects. The WRDA 2020 reduced IWTF contribution would apply from FY2021 through FY2027.

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