

On November 5, the House voted 228-206, largely divided along party lines, to agree to the Senate amendments to the Infrastructure Investment and Jobs Act (H.R. 3684). President Biden was expected to sign the bill into law on November 15. Division D contains various provisions on hydropower, abandoned mine land reclamation, wildfire management, ecosystem restoration, and western water infrastructure. Division E covers drinking water and wastewater infrastructure. Division G includes the Indian water rights settlement completion fund, more provisions on wildfire mitigation and reforestation, public-private partnerships, federal permitting improvement, and Buy America requirements. Division J appropriates funds for the various programs, in many cases for FY22-26,.

Abandoned Mines

Section 40701 authorized \$11.3B for FY22 for the Abandoned Mine Reclamation Fund (30 USC 1231(a)) for grants to eligible states and tribes for abandoned coal mine and water reclamation projects over the next 15 years. States and tribes may aggregate bids into larger statewide or regional contracts, for grants not less than \$20M. Section 40704 directed the Department of the Interior (DOI) to establish a program to “inventory, assess, decommission, reclaim, respond to hazardous substance releases on, and remediate abandoned hardrock mine land based on conditions including need, public health and safety, potential environmental harm, and other land use priorities.” It authorized the appropriation of \$3B, with half that amount dedicated to grants for states and tribes to reclaim those lands and water resources. The funds may not be used to fulfill Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) obligations. Section 40802 authorized a study and report on the feasibility of revegetating reclaimed mine sites, with recommendations for how a program could be implemented through the Office of Surface Mining Reclamation and Enforcement, and information about whether the program would interfere with state reclamation programs among other things.

Wildfire Mitigation and Prevention

Section 40803 authorized \$3.4B (FY22-26) in Department of Agriculture (USDA) and DOI spending for wildfire risk reduction. Restoration treatment priorities include large areas in the wildland-urban interface and public drinking water source areas. The amount includes \$20M to enter into an agreement with the National Oceanic and Atmospheric Administration (NOAA) for a wildfire detection program using the Geostationary Operational Environmental Satellite (GOES). Section 40804 authorized USDA and DOI to spend \$2.1B for ecosystem restoration projects, including various grants to and contracts with states and tribes. Section 40806 authorized categorical exclusions under the National Environmental Policy Act (NEPA) for various forest management activities.

Section 40808 directed USDA to establish a Joint Chiefs Landscape Restoration Partnership program (\$90M for FY22-26) with the Forest Service (USFS) and Natural Resources Conservation Service (NRCS) to improve the health and resilience of forest landscapes in coordination with states, tribes, and private landowners. The program will coordinate eligible activities that reduce wildfire risks, protect water quality and supply, and improve wildlife habitat for at-risk species.

Sections 70203-207 established a commission to study and make recommendations to improve federal policies relating to the prevention, mitigation, suppression, and management of wildland fires, and the rehabilitation of land devastated by wildland fires. The commission includes, among others, representatives of the USFS, Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Indian Affairs (BIA), Fish and Wildlife Service (USFWS), Federal Emergency Management Agency (FEMA), as well as state and tribal representatives. Section 70302 sets forth requirements for reforestation following wildfires.

Western Water Infrastructure

Section 40901 authorized appropriations (FY22-26) for DOI western water infrastructure, including: (1) water storage, groundwater storage, and conveyance projects (\$1.15B); (2) the Aging Infrastructure Account (43 USC 510b) (\$3.2B); (3) rural water projects authorized before July 2021 (\$1B); (4) water recycling and reuse projects (\$1B); (5) desalination projects and studies authorized before July 2021; (6) dam safety (\$500M); (7) WaterSMART grants (\$400M); (8) implementation of the Colorado River Drought Contingency Plan (\$300M); (9) watershed management projects (16 USC 1015 et seq.) (\$100M); (10) aquatic ecosystem restoration and protection projects (\$250M); (11) multi-benefit projects that protect watershed health (\$100M); and (12) Colorado River endangered species recovery and conservation programs (\$50M). Further requirements, grant programs, and eligibility criteria are set forth in sections 40902-908. Section 40910 authorized technical and financial federal assistance to states and tribes for groundwater recharge, aquifer storage, and water source substitution projects.

Drinking Water

Section 50102 authorized loan funds for the drinking water State Revolving Funds (SRFs): \$2.4B for FY22; \$2.75B for FY23; \$3.0B for FY24; and \$3.25B each for FY25 and FY26. Section 50106 authorized \$50M for each of FY22-26 for a grant program to improve operational sustainability of small public water systems. Section 50107 authorized \$50M for each of FY22-26 for a midsize and large drinking water system infrastructure resilience and sustainability program. Section 50111 authorized \$50M for each of FY22-26 to carry out an Indian reservation drinking water program, with ten eligible projects in each of five different regions: (1) Upper Missouri River Basin; (2) Upper Rio Grande Basin; (3) Columbia River Basin; (4) Lower Colorado River Basin; and (5) Arkansas-White-Red River Basin. Section 50115 directed Environmental Protection Agency (EPA) to conduct an annual study on boil water advisories, reported as part of its annual budget request to Congress.

Clean Water

Section 50202 authorized \$20M for each of FY22-26 for a wastewater efficiency grant pilot program for up to 15 recipients to carry out projects that improve waste-to-energy systems. Section 50203 authorized \$25M for each of FY22-26 for a pilot program for alternative water source projects. Section 50204 authorized \$280M for each of FY22-26 for sewer overflow and stormwater reuse municipal grants. Section 50205 authorized \$25M for each of FY22-26 for a clean water infrastructure resiliency and sustainability program. Section 50206 authorized \$10M for a circuit rider program to assist small and medium publicly owned treatment works.

Section 50210 authorized loan funds for the clean water SRFs: \$2.4B for FY22; \$2.75B for FY23; \$3.0B for FY24; and \$3.25B each for FY25 and FY26. Section 50211 amended the requirements (42 USC 300j-19e) regarding investments in water utility workforce recruitment, training, and retention. Section 50213 authorized \$15M for each of FY22-26 for a water data sharing pilot program. Section 50214 amended the requirements of the Water Infrastructure Finance and Innovation Act (WIFIA) program loan applications, reducing the number of final rating opinion letters from two agencies down to one. Section 50215 reauthorized WIFIA with \$50M for each of FY22-26.

Section 50217 established grants (\$5M for each of FY22-26) for three to five centers to research stormwater infrastructure technology improvements. Section 50218 established a Water Reuse Interagency Working Group “to develop and coordinate actions, tools, and resources to advance water reuse across the United States, including through the implementation of the February 2020 National Water Reuse Action Plan...” Section 50220 authorized \$5M to assess capital improvement needs for all projects that are eligible for assistance through clean water SRFs. Section 50221 amends the Water Resources Research Act (WRRRA) in part to emphasize research focused on interstate water problems, authorizing \$3M for each of FY22-25. Section 50222 authorized \$5M for each of FY22-26 for groundwater research on enhanced aquifer use and recharge in support of sole-source aquifers.

Indian Water Rights Settlements

Section 70101 authorized \$2.5B to be transferred from the Treasury to the newly established Indian Water Rights Settlement Completion Fund. The amounts deposited into the fund are available to DOI without further appropriation or fiscal year limitation to satisfy obligations under settlements already authorized by Congress “as expeditiously as practicable.”

Appropriations

Various appropriations for FY22-26 are listed under Division J, in addition to amounts otherwise appropriated in other bills for those fiscal years. Title I appropriations for agriculture and rural development include: (1) NRCS watershed and flood prevention operations (\$500M); (2) watershed rehabilitation (\$118M); and (3) emergency watershed protection to repair damages to waterways and watersheds resulting from natural disasters (\$300M).

Title II appropriations for commerce, justice, and science include \$2.6B for NOAA’s operations, research and facilities through FY2026, including: (1) \$492M for coastal flood mapping and next-generation water modeling activities, including modernized precipitation frequency and probable maximum studies; (2) \$25M for the soil moisture and snowpack monitoring pilot program authorized in section 511(b) of WRDA 2020 (P.L. 116-260), with an additional \$1M for the study in the Upper Missouri River Basin pursuant to 511(b)(3).

Title III appropriations for energy and water development provide funding for Army Corp of Engineers (Corps) projects, including: (1) \$150M for investigations; (2) \$11.6B for construction; (3) \$4B for operations and maintenance; and (4) \$75M for the Corps’ WIFIA account, directed again to loans for dam safety projects.

Appropriations under Title III for the DOI include \$8.3B for Reclamation's water and related resources, with those funds made available for: (1) small surface water and groundwater storage projects (\$100M); (2) the Aging Infrastructure Account (\$3.2B); (3) reserved or transferred works that have suffered a critical failure (\$100M); (4) dam rehabilitation, reconstruction, or replacement (\$100M); (5) authorized rural projects (\$1B); (6) water recycling and reuse projects (\$1B); (7) desalination projects (\$250M); (8) Reclamation's Dam Safety Program (\$500M); (9) WaterSMART grants (\$400M); (10) implementation of the Colorado River Drought Contingency Plan (\$300M); (11) watershed management projects (\$100M); (12) endangered species recovery and conservation programs in the Colorado River Basin (\$50M); and other programs.

Title VI appropriations for the DOI include: \$455M for FWS resource management; \$510.6M for the U.S. Geological Survey (USGS) investigations; \$11.3B for the Abandoned Mine Reclamation Fund; \$216M for the BIA programs, with an additional \$250M for construction and maintenance of dams, irrigation, water sanitation, and other facilities; and \$1.4B for wildland fire management.

EPA appropriations under Title VI include: \$1.9B for environmental programs and management; \$11.7B for Clean Water SRFs; \$11.7B for Drinking Water SRFs; \$15B for replacement of lead service lines; and \$10B for addressing emerging contaminants. An additional \$1.1B was appropriated to carry out the purposes of the Safe Drinking Water Act SRFs (42 U.S.C. 300j-12) and \$1.6B to carry out the purposes of the Clean Water Act SRFs (33 U.S.C. 1381 et seq.)

USDA appropriations under Title VI include: \$10M for the joint fire science program; \$1.5B for state and private forestry programs, including ecosystem restoration, wildfire risk reduction, and state fire assistance; \$2.8B for national forest system programs, including hazardous fuels management and burn recovery; \$360M for capital improvements and maintenance, including \$10M for the removal of non-hydropower federal dams and dam removal technical assistance; and \$696M for wildland fire management.

Title VIII provides \$1B to the Department of Transportation for national culvert removal, replacement, and restoration grants.