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Water Resources Development Act of 2018 (H.R. 8) and America's Water Infrastructure Act of 2018 (Amendment to H.R. 8): An Overview

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Summary

Omnibus Water Authorization Legislation in the 115th Congress. The 115th Congress initiated deliberations on an omnibus water authorization bill with H.R. 8, the Water Resources Development Act of 2018 (WRDA 2018), and S. 2800, America's Water Infrastructure Act of 2018 (AWIA 2018). The House passed H.R. 8 on June 11, 2018. On July 9, 2018, the Senate Committee on Environment and Public Works (Senate EPW) posted on its website an amendment in the nature of a substitute to H.R. 8, also titled America's Water Infrastructure Act of 2018.

The Senate did not take up S. 2800 or the Senate EPW-posted amendment to H.R. 8. Instead, House and Senate committee leadership agreed on new legislative text. S. 3021, which the Senate passed as a courthouse-naming bill, was amended and passed in the House on September 13, 2018, to include the negotiated water authorization text. The negotiated text contains provisions from various pieces of legislation, most prominently H.R. 8, S. 2800, and H.R. 3387 (Drinking Water Systems Improvement Act of 2017). Like S. 2800, the House-passed S. 3021 is titled America's Water Infrastructure Act of 2018. If the Senate agrees to the House amendments to the bill, without proposing any further changes, the bill will be sent to the President.

This CRS report reflects H.R. 8 as it was passed by the House on June 11, 2018 (referred to herein as WRDA 2018), and the amendment in the nature of a substitute to H.R. 8 as it was posted by the Senate EPW on July 9, 2018 (referred to herein as AWIA 2018). Subsequent legislative actions on omnibus water resource legislation (e.g., House-passed amendments to S. 3021) generally are not reflected in this report. Enactment of the House amendments to S. 3021 likely would mean that both of the bills discussed in this report would not receive further attention in the 115th Congress. The House amendments to S. 3021 are discussed in CRS Report R45185, *Army Corps of Engineers: Water Resource Authorization and Project Delivery Processes*, by Nicole T. Carter, and CRS Report R45304, *Drinking Water State Revolving Fund (DWSRF): Overview, Issues, and Legislation*, by Mary Tiemann.

H.R. 8 **and Senate EPW-Posted Amendment to** H.R. 8**.** WRDA 2018 (H.R. 8) focused primarily on authorizing water resource projects and activities of U.S. Army Corps of Engineers (USACE) and dam and levee safety programs. AWIA 2018, as reflected in the amendment in the nature of a substitute to H.R. 8 posted by the Senate EPW on July 9, 2018, included USACE and dam and levee safety provisions. It also included provisions on clean water and drinking water infrastructure programs and regulatory authorities of the Environmental Protection Agency (EPA), tribal water-related authorities and programs, and water-related activities of the Department of the Interior.

Both WRDA 2018 and AWIA 2018 would have authorized USACE to conduct new studies and construct new projects, modified and extended existing project and program authorizations, and altered deauthorization authorities. Both WRDA 2018 and AWIA 2018 included provisions requiring studies of USACE civil works structure and efficiency. WRDA 2018 also would have required a study of the agency's budget processes; AWIA 2018 would have established a five-year budget process for the agency. Both WRDA 2018 and AWIA 2018 included provisions on nature-based alternatives and projects. AWIA 2018 included a larger number and broader set of provisions related to specific USACE projects than WRDA 2018.

AWIA 2018, primarily Title V, addressed various EPA-administered water quality and infrastructure programs. Title V would have amended the Clean Water Act (CWA) for various purposes (e.g., to authorize grants for sewer overflow and stormwater management projects). AWIA 2018 also would have amended the Safe Drinking Water Act. It proposed several revisions to the Drinking Water State Revolving Fund program, and it would have expressly authorized

EPA's WaterSense program. AWIA 2018 would have amended the Water Infrastructure Finance and Innovation Act (WIFIA) to authorize special terms for loan assistance provided to state Clean Water and Drinking Water State Revolving Fund finance authorities. Further, it would have required a study on WIFIA accessibility for certain communities. WRDA 2018 contained none of the EPA-related provisions and generally focused on USACE and dam and levee safety authorities.

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Introduction

Omnibus Water Authorization Deliberations in the 115th Congress

The 115th Congress initiated deliberations on an omnibus water authorization bill with H.R. 8, the Water Resources Development Act of 2018 (WRDA 2018), and S. 2800, America's Water Infrastructure Act of 2018 (AWIA 2018). On June 6, 2018, the House passed H.R. 8, which was subsequently received in the Senate and referred to the Senate Committee on Environment and Public Works (Senate EPW). On July 9, 2018, the Senate EPW posted on its website an amendment in the nature of a substitute to H.R. 8, titled America's Water Infrastructure Act of 2018. This CRS report discusses H.R. 8 as passed by the House (referred to herein as WRDA 2018) and the Senate EPW-posted amendment in the nature of a substitute to H.R. 8 of July 9, 2018 (referred to herein as AWIA 2018).[1] The Senate did not take up H.R. 8 or S. 2800. Instead, House and Senate committee leadership agreed on new legislative text for an omnibus water authorization bill.[2] On September 13, 2018, the House amended an unrelated courthouse-naming bill, passed by the Senate as S. 3021, to include the negotiated text. The negotiated text contained provisions from various pieces of legislation, most prominently H.R. 8, S. 2800, and H.R. 3387 (Drinking Water Systems Improvement Act of 2017).[3] Like S. 2800, the House-passed S. 3021 is titled America's Water Infrastructure Act of 2018.

Because S. 3021 was sent to the Senate in the form of a House amendment, the Senate can begin consideration of the text more quickly than it could if it were sent in the form of a House bill.[4] If the Senate agrees to the House amendments to the bill without proposing any further changes, the bill will be sent to the President for his signature. Otherwise, the two chambers can attempt to resolve their differences over the text of S. 3021 prior to the adjournment of the 115th Congress. This could be through a further exchange of amendments between the chambers or through the creation of a conference committee. For information on S. 3021, see CRS Report R45185, *Army Corps of Engineers: Water Resource Authorization and Project Delivery Processes*, by Nicole T. Carter, and CRS Report R45304, *Drinking Water State Revolving Fund (DWSRF): Overview, Issues, and Legislation*, by Mary Tiemann.

Enactment of S. 3021 likely would mean that the 115th Congress would not take further action on H.R. 8 or on the Senate EPW-posted amendment to H.R. 8, the two legislative texts discussed in this report. For reference, **Table 1** provides information on the title and status of the various legislative texts for omnibus water authorization in the 115th Congress, as of October 2, 2018.

[1] The text of the amendment in the nature of a substitute was made available on July 9, 2018, on the Senate Committee on Environment and Public Works website: https://www.epw.senate.gov/public/index.cfm/addressing-americas-infrastructure-needs. The text of the amendment is no longer available at the link.

[2] Senate Committee on Environment and Public Works, "Senate and House Committee Leadership Announce Agreement on Water Infrastructure Legislation," press release, September 10, 2018, at https://www.epw.senate.gov/public/index.cfm/press-releases-republican?ID=6E33F47F-2BF9-4BC8-A303-FD5B99B7F5FC.

[3] Along with other drinking water-related provisions, Title II of the House amendment to S. 3021 largely parallels H.R. 3387, the Drinking Water Systems Improvement Act of 2017 (H.Rept. 115-380)—a Safe Drinking Water Act (SDWA) authorization bill with provisions to improve public water systems, SDWA compliance, infrastructure consumer confidence, and drinking water infrastructure.

[4] For more information, see CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

Table 1. Title and Status of Legislative Text for Omnibus Water Authorization in the 115th Congress as of October 2, 2018

	S. 2800	H.R. 8	Senate EPW-Posted Amendment to H.R. 8	House Amendment to S. 3021
Title	AWIA 2018	WRDA 2018	AWIA 2018	AWIA 2018
Status	Senate Committee on Environment and Public Works (Senate EPW) reported S. 2800 without a written report on May 22, 2018.	House passed H.R. 8 by a 408-2 recorded vote on June 6, 2018; it was received in the Senate on June 11, 2018.	Senate EPW posted an amendment in the nature of a substitute to H.R. 8 on July 9, 2018; it included various changes from S. 2800 as reported.	S. 3021, which was passed by the Senate as a courthouse-naming bill, was amended in the House on September 13, 2018, to include the negotiated text. Message on House action received in Senate on September 17, 2018.

Source: Congressional Research Service (CRS).

Notes: AWIA 2018 = America's Water Infrastructure Act of 2018; WRDA = Water Resources Development Act of 2018.

Introduction to H.R. 8 and Senate EPW-Posted Amendment to H.R. 8 Amendment and Scope of Report

This CRS report reflects deliberations and effects of H.R. 8 as it was passed by the House (referred to herein as WRDA 2018) on June 11, 2018, and the amendment in the nature of a substitute to H.R. 8 as it was posted by the Senate EPW on July 9, 2018 (referred to herein as AWIA 2018). Subsequent legislative actions on omnibus water resource legislation (e.g., House-passed amendments to S. 3021) generally are not reflected in this report. Deliberations on WRDA 2018 and AWIA 2018 included discussions of the scope of water issues to be addressed and how the legislation would influence federal and nonfederal investments in water infrastructure. In addition, there was some interest in altering how the U.S. Army Corps of Engineers (USACE) was structured and in modifying its operations and delivery of water resource projects. In the Senate, deliberations also focused on a range of drinking water and water quality issues facing communities and rural areas. Issues included infrastructure needs and the federal role and options for funding projects, communities' ability to comply with water quality regulatory requirements and options for compliance flexibility and affordability, infrastructure resiliency, and technology innovation, among others.

In the tradition of previous legislation with the Water Resources Development Act (WRDA) title, WRDA 2018 focused primarily on authorizing water resource projects and activities of the U.S. Army Corps of Engineers (USACE) and dam and levee safety programs. AWIA 2018 included not only provisions related to USACE, but also provisions involving water quality and drinking water programs administered by the U.S. Environmental Protection Agency (EPA), particularly in Title V of AWIA 2018 ("EPA-Related Provisions"). In addition, AWIA 2018 included a few other provisions that relate primarily to tribal water-related programs and authorities, and certain Department of the Interior (DOI) activities and programs.

This report provides an overview of WRDA 2018 (H.R. 8 as passed by the House) and AWIA 2018 (the amendment in the nature of a substitute to H.R. 8 posted by the Senate EPW on July 9,

2018) and topics shaping deliberations.[5] After a brief background, the report presents a broad overview of WRDA 2018 and AWIA 2018. The subsequent section describes the context for the USACE provisions of WRDA 2018 and AWIA 2018. The final section describes EPA-related provisions.

Water Authorization Bills in Previous Congresses

Congress generally authorizes USACE water resource activities in authorization legislation prior to funding the activities through appropriations legislation. USACE's ability to act on an authorization often is determined by funding. Congress generally authorizes numerous new USACE site-specific activities and provides policy direction in an omnibus USACE authorization bill, typically a WRDA. A few provisions in WRDA bills have time-limited authorizations; therefore, some WRDA provisions may reauthorize expired or expiring authorities.

Beginning with WRDA 1986 (P.L. 99-662), Congress loosely followed a biennial WRDA cycle for several years. WRDAs were enacted in 1988 (P.L. 100-676), 1990 (P.L. 101-640), 1992 (P.L. 102-580), 1996 (P.L. 104-303), 1999 (P.L. 106-53), 2000 (P.L. 106-541), and 2007 (P.L. 110-114). The Water Resources Reform and Development Act of 2014 (WRRDA 2014; P.L. 113-121) was enacted in June 2014.[6]

The most recently enacted water authorization legislation was the Water Infrastructure Improvements for the Nation Act (WIIN; P.L. 114-322); it was enacted in December 2016.[7] WIIN included titles on water-related programs and projects spanning various agencies and departments. Title I of the bill—which had a short title of WRDA 2016—focused specifically on USACE water resource authorizations. Titles II, III, and IV focused primarily on other agencies; many of the specific provisions in these titles had little or no relationship to USACE.

Overview of WRDA 2018 (H.R. 8) and AWIA 2018 (Amendment to H.R. 8)

Both WRDA 2018 and AWIA 2018 included numerous provisions that address USACE-related activities. For example, both WRDA 2018 and AWIA 2018 would have authorized USACE to conduct new studies and construct new projects, and both WRDA 2018 and AWIA 2018 would have modified existing authorizations.[8] For example, USACE and the Federal Emergency Management Agency (FEMA) have certain responsibilities related to national programs for dam and levee safety. Both WRDA 2018 and AWIA 2018 would have extended beyond FY2019 the authorization of appropriations for a federal levee safety initiative and a national dam safety

[5] This report focuses on WRDA 2018 and AWIA 2018; generally the report does not reference other proposed legislation in the 115th Congress that may have included provisions that were similar to or related to provisions in WRDA 2018 or AWIA 2018.

[6] For more information on WRRDA 2014, see CRS Report R43298, *Water Resources Reform and Development Act of 2014: Comparison of Select Provisions*, by Nicole T. Carter et al.

[7] For more information on WIIN, see CRS In Focus IF10536, *Water Infrastructure Improvements for the Nation Act (WIIN)*, by Nicole T. Carter et al.

[8] These studies, projects, and project modifications were identified using processes similar to the processes used for the Water Infrastructure Improvements for the Nation Act (WIIN; P.L. 114-322). These processes shape the ability for geographically specific provisions to be included in legislation while restrictions on congressionally directed spending are in place. For more about these processes, see CRS Report R45185, *Army Corps of Engineers: Water Resource Authorization and Project Delivery Processes*, by Nicole T. Carter.

program; WRDA 2018 would have extended the authorizations of appropriations through FY2023, and AWIA 2018 would have extended them through FY2021.

Table 2 provides a summary of the organization of WRDA 2018 and AWIA 2018 and their status. A broad difference between the two was their scope. WRDA 2018 focused on USACE water resource projects and programs and dam and levee safety program authorities; although the majority of AWIA 2018's titles and provisions also related to the USACE's water resource projects, numerous provisions of AWIA 2018 were not directly related to USACE water resource activities. AWIA 2018 included provisions addressing a range of other topics, including EPA administered water programs and regulatory authorities, and water-related activities and other authorities of the Department of the Interior and other agencies. For example, the following DOI-related provisions were in AWIA 2018:

- Section 1046 related to the processing of take permits by DOI's Fish and Wildlife Service for bald and golden eagles or certain other migratory birds (e.g., permits that allow birds to be killed, harassed, or captured);
- Section 3301 related to the Bureau of Reclamation's Fontenelle reservoir; and
- Section 5007 related to water resources research institutes at state universities that are supported through a program administered by the U.S. Geological Survey.

AWIA 2018 also included provisions that were not tied to a specific agency; Section 1042, for example, related to the use by federal and state agencies of *geomatic* data in the approval of federal authorizations (conditional upon subsequent onsite inspection).[9]

In addition, AWIA 2018 would have addressed an array of water-related programs and activities specific to tribes; most of these provisions were in Subtitle I of Title III. They included provisions related to Indian dam safety and irrigation authorities and USACE housing assistance related to certain dam construction in the Pacific Northwest. A few provisions were in other titles of AWIA 2018; for example, Section 1040 would have required that nonfederal interests for a water resource development study or project be provided "the opportunity to participate in all consultations with Federal and State agencies and Indian tribes required by Federal law." WRDA 2018 had fewer provisions affecting tribes than AWIA 2018, and they directly related to USACE activities.

[9] Section 1042 described the data gathered by *geomatic techniques* as including "tools and techniques used in land surveying, remote sensing, cartography, geographic information systems, global navigation satellite systems, photogrammetry, geophysics, geography, or other remote means." The provision would have required state and federal entities considering aspects of an application for any federal authorization to consider geomatic data submitted by the applicant, and allow the applicable agency to "grant conditional approval for Federal authorization, conditioned on the verification of such data by subsequent onsite inspection." The use of geomatic data in approvals has been seen as a means to proceed with federal authorizations when permission to access private parcels for surveying has not been provided. For example, a January 2017 article in a surveying industry magazine described how a developer of a natural gas pipeline reverted to the courts in Ohio to gain access to certain private lands for surveys ("Landowner Rights vs. Surveyor Access," *Point of Beginning*, January 1, 2017, https://www.pobonline.com/articles/100715-landowner-rights-vs-surveyor-access).

Table 2. WRDA 2018 (H.R. 8) and AWIA 2018 (Amendment to H.R. 8) Overview: Titles, Bill Status, and Related Documents

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R. 8)
Short Title of Proposed Legislation	Water Resources Development Act of 2018 (WRDA 2018)	America's Water Infrastructure Act of 2018 (AWIA 2018)
Titles in Bill Primarily Related to U.S. Army Corps of Engineers[a]	"Title I. General Provisions" "Title II. Studies" "Title III. Deauthorizations, Modifications, and Related Provisions" "Title IV. Water Resources Infrastructure"	"Title I. General Provisions" "Title II Studies, Modifications, and Project Authorizations" "Title III. Primary Corps of Engineers Activities" "Title IV. Sense of Congress Related to Certain Projects"
Other Titles in Bill	None	"Title V. EPA-Related Provisions"
Status of Legislation as of October 2, 2018	The House passed H.R. 8 by a 408-2 recorded vote on June 6, 2018; it was received in the Senate on June 11, 2018. (See S. 3021 for subsequent legislative activity on omnibus water authorization legislation.)	Senate Committee on Environment and Public Works (Senate EPW) reported S. 2800 without a written report on May 22, 2018; S.Rept. 115-294 was filed on July 10, 2018. Senate EPW posted an amendment in the nature of a substitute to H.R. 8 on July 9, 2018; it included various changes from S. 2800 as reported. (See S. 3021 for subsequent legislative activity on omnibus water authorization legislation.)
Congressional Budget Office (CBO) Cost Estimate	CBO estimate was available on June 4, 2018, for H.R. 8 as reported by the House Transportation and Infrastructure Committee.[b] No CBO estimate of H.R. 8 as passed by the House was available.	CBO estimate available on June 28, 2018, for S. 2800 as reported by the Senate EPW.[c] CBO estimate available on July 10, 2018, for the July 9, 2018, Senate EPW-posted amendment in the nature of a substitute to H.R. 8; it estimated the direct spending and revenue effects.[d]
Statement of Administration Policy (SAP)	SAP on H.R. 8 (reflecting the House Rules Committee Print 115-72, which was used for purposes of drafting amendments for the House floor).[e]	None available as of October 2, 2018.

Sources: CRS using H.R. 8, Water Resources Development Act of 2018 (WRDA 2018), as passed by the House, and the amendment in the nature of a substitute to H.R. 8, America's Water Infrastructure Act of 2018 (AWIA 2018) posted by the Senate EPW on July 9, 2018, at https://www.epw.senate.gov/public/index.cfm/addressing-americas-infrastructure-needs. It is no longer available at that website.

Notes: EPA = U.S. Environmental Protection Agency.

a. Although the titles focused primarily on USACE, some provisions related both to USACE and to other agencies, and a few provisions in some of the primarily USACE titles in AWIA 2018 did not appear to be directly associated with USACE authorities.

b. The June 4, 2018, CBO estimate is available at https://www.cbo.gov/system/files?file=115th-congress-2017-2018/costestimate/hr8.pdf.

c. The June 28, 2018, CBO estimate is available at https://www.cbo.gov/system/files?file=2018-06/54143-s2800.pdf.

d. The July 10, 2018, CBO estimate is available at https://www.cbo.gov/system/files?file=2018-07/hr8_S.pdf; it did not estimate spending subject to appropriations.

e. The June 5, 2018, SAP is available at https://www.whitehouse.gov/wp-content/uploads/2018/06/saphr8hr_20180605.pdf.

USACE in WRDA 2018 and AWIA 2018

USACE-Related Context and Issues

Hearings and statements related to water resource projects during the 115th Congress have referenced not only the importance of USACE activities in addressing demand for water resource infrastructure and the resulting benefits but also the agency's $96 billion backlog of construction activities.[10] This backlog reflects the costs associated with constructing new works and rehabilitating existing infrastructure to maintain its safety and services. This backlog also reflects the difference between federal funding appropriated for these projects and the rate of project authorization. Among the issues that shaped the deliberation of WRDA 2018 and AWIA 2018 were the extent to which the legislation addresses the delivery of water resource projects and the legislation's effect on federal spending.

Congress has, particularly in WRRDA 2014 and WIIN, provided opportunities for nonfederal entities to have more prominent roles in the delivery and funding of projects, while maintaining the division of costs and responsibilities between the federal government and nonfederal project sponsors. Nonfederal entities have been using these authorities to conduct work on studies and projects and to receive federal credit or be eligible for reimbursement for this work. WRRDA 2014 also provided for new or expanded authorities for novel financing of water resource projects, including authorities for piloting public-private partnerships (P3) and the Water Infrastructure Finance and Innovation Act (WIFIA) credit assistance program.[11] USACE's WIFIA and P3 efforts have encountered implementation challenges.[12]

Although President Trump (as well as previous Presidents) and many Members of Congress have expressed interest in improving the nation's infrastructure, including its water resource infrastructure, balancing the potential benefits of such improvements and concerns about increased federal expenditures poses an ongoing challenge. Cost estimates by the Congressional Budget Office (CBO) have been part of the deliberations about previous water authorization bills and have influenced which provisions are included in enacted legislation. On June 4, 2018, CBO released a cost estimate on H.R. 8 as reported by the House Committee on Transportation and Infrastructure; on June 28, 2018, CBO released a cost estimate for S. 2800, as reported; and on July 10, 2018, CBO released an estimate of the direct spending and revenue effects for the amendment in the nature of a substitute to H.R. 8 (as posted on the Senate EPW website on July 9, 2018).[13]

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[10] For example, U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, *America's Water Resources Infrastructure: Approaches to Enhanced Project Delivery*, 115th Cong., 2nd sess., January 18, 2018.

[11] 33 U.S.C. §§3901-3914. For more on the status of EPA and USACE WIFIA authorities, see CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*, by Jonathan L. Ramseur and Mary Tiemann.

[12] As of FY2018, USACE had yet to implement its WIFIA authority; the Trump Administration (like the Obama Administration) had not requested and Congress had not appropriated funds to USACE for its WIFIA start-up costs. In contrast, the Administration requested funds and received funding from Congress for EPA to implement its WIFIA authority. For a discussion of some of the issues that have impeded greater private-sector participation and public-private partnerships efforts for USACE and water resource projects (e.g., limitations on USACE entering into long-term contracts and challenges to assessing project-specific user fees), see CRS Testimony TE10023, *America's Water Resources Infrastructure: Approaches to Enhanced Project Delivery*, by Nicole T. Carter.

[13] June 4, 2018, CBO cost estimate available at https://www.cbo.gov/system/files?file=115th-congress-2017-2018/costestimate/hr8.pdf. June 28, 2018, CBO cost estimate available at https://www.cbo.gov/system/files?file=2018-06/

USACE Topics Related to WRDA 2018 and AWIA 2018 Deliberations

Provisions in WRDA 2018 and AWIA 2018 would have addressed the following selected broad USACE topics:

- information dissemination and public input;
- USACE permissions and permits for nonfederal activities;
- studies of USACE structure and efficiency;
- budget processes for USACE;
- nature-based alternatives and projects;
- continuing authorities programs;
- project and study deauthorization;
- independent peer review;
- innovative financing for water resource projects;[14]
- permitting of nonfederal water storage;[15] and
- pricing of storage for domestic, municipal, and industrial water supply.[16]

Table 3 discusses each of these topics. Although both WRDA 2018 and AWIA 2018 included provisions related to USACE structure and efficiency, neither proposed to shift USACE civil works responsibilities out of the Department of Defense. In June 2018, the Trump Administration proposed transferring the USACE navigation responsibilities to the Department of Transportation and all other civil works responsibilities to the Department of the Interior.[17]

In addition to the topics and provisions described in **Table 3**, numerous other USACE policies, authorities, and projects were addressed by other provisions of WRDA 2018 and AWIA 2018. These other provisions, as well as concerns that have shaped previous deliberations on USACE authorizing legislation, also shaped congressional deliberations of WRDA 2018 and AWIA 2018. Examples of such topics include the following: authorities for credit and reimbursement for

54143-s2800.pdf. July 10, 2018, CBO cost estimate available at https://www.cbo.gov/system/files?file=2018-07/hr8_S.pd.

[14] Some of these topics were in hearings and bill markups during the 115th Congress (e.g., budget process for USACE, studies of USACE structure and efficiency, and USACE permissions and permits for nonfederal activities). Other topics were notable because of their role in past deliberations related to USACE water resource authorization legislation; for example, independent peer review was a prominent element of the debate associated with WRDA 2007.

[15] For background on the USACE role in administering Section 404 of the Clean Water Act (33 U.S.C. §1344, under which USACE authorizes activities that may discharge dredge or fill material into waters of the United States, including wetlands), see CRS Report RL30030, *Clean Water Act: A Summary of the Law*, by Laura Gatz.

[16] The Obama and Trump Administrations received comments on a December 2016 notice of a proposed rulemaking related to the policies governing the use of USACE reservoirs for domestic, municipal, and industrial supply pursuant to two statutory authorities (Department of the Army, U.S. Army Corps of Engineers, "Use of U.S. Army Corps of Engineers Reservoir Projects for Domestic, Municipal & Industrial Water Supply," 81 *Federal Register* 91556-91590, December 16, 2016, at https://www.federalregister.gov/documents/2016/12/16/2016-30017/use-of-us-army-corps-of-engineers-reservoir-projects-for-domestic-municipal-and-industrial-water). Although subject to change, the most recent published information for this rulemaking's timeline is an estimated issuance of a final rule in January 2019.

[17] Executive Office of the President of the United States, *Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations*, June 2018, pp. 14, 30-31, at https://www.performance.gov/GovReform/Reform-and-Reorg-Plan-Final.pdf.

nonfederal investments associated with USACE projects, authorities for USACE beach nourishment activities, USACE authorities for environmental infrastructure assistance, and disposition of functioning and obsolete USACE infrastructure, private funding for the processing of USACE permits and permissions, and mitigation of the wetlands and environmental effects of USACE projects.[18]

WRDA 2018 included a limited number of project-specific provisions; AWIA 2018 included project-specific provisions and numerous provisions that related to specific river basins or states. These types of provisions have at times shaped past debates of omnibus USACE authorization legislation. Congressional deliberations in the 115th Congress also were shaped by project-specific provisions or provisions that address specific river basins or states.[19]

H.R. 8 as marked up by the House Transportation and Infrastructure Committee included a provision related to the use of the Harbor Maintenance Trust Fund (HMTF) to support navigation; the provision was not included in the House Rules Committee Print 115-72 or in H.R. 8 as passed by the House.[20] The HMTF provision would have provided that, for FY2029 and thereafter, the Secretary of the Army shall have available without further appropriations monies from the HMTF to cover the eligible operations and maintenance costs assigned to commercial navigation of all U.S. harbors and inland harbors.[21] AWIA 2018 did not contain an HMTF provision similar to the one in H.R. 8 as marked up by House Transportation and Infrastructure Committee.

[18] Many of these topics were part of the deliberations during the congressional consideration of WRRDA 2014 and are discussed in CRS Report R43298, *Water Resources Reform and Development Act of 2014: Comparison of Select Provisions*, by Nicole T. Carter et al. For more on USACE environmental infrastructure assistance (i.e., USACE technical and financial assistance with design and construction of municipal drinking water and wastewater infrastructure projects), see discussion in CRS Report R45185, *Army Corps of Engineers: Water Resource Authorization and Project Delivery Processes*, by Nicole T. Carter.

[19] For example, a basin topic that has been the subject of ongoing congressional interest is control of the movement of Asian carp, an aquatic nuisance species, from the Mississippi River basin into the Great Lakes basin and related studies and investments by USACE; §205 of WRDA 2018 and §2306 of AWIA 2018 would have addressed the USACE study and USACE operations and maintenance investments at Brandon Road lock and dam on the Illinois Waterway. Another example of a basin topic of ongoing congressional interest related to USACE policies and practices on domestic, municipal, and industrial water supply in the Upper Missouri mainstem reservoirs (e.g., U.S. Congress, Senate Committee on Environment and Public Works, Subcommittee on Superfund, Waste Management, and Regulatory Oversight, *Oversight of the Army Corps' Regulation of Surplus Water and the Role of States' Rights*, 115th Cong., 2nd sess., June 13, 2018). Section 1049 of AWIA 2018 would have established a process for obtaining a USACE easement for a water withdrawal structure that crosses federal land at the agency's Upper Missouri mainstem reservoirs; §3302 of AWIA 2018, which would have altered how the Secretary of the Army determines the price of water storage contracts nationally, is discussed in **Table 3**.

[20] According to the website of the House Committee on Rules (https://rules.house.gov/bill/115/hr-8), "The Rules Committee Print strikes section 102 of H.R. 8 as ordered reported; section 102 allows the balances in the Harbor Maintenance Trust Fund to be spent in 2029 without appropriation. Section 102 was removed to ensure compliance with the Rules of the House and the Congressional Budget Act." During deliberations of H.R. 5303 during the 114th Congress, a similar Harbor Maintenance Trust Fund provision was in the House Transportation and Infrastructure Committee's reported version and also was removed from the Rules Committee Print.

[21] The funds made available by the Harbor Maintenance Trust Fund (HMTF) provision would have been in addition to the HMTF amounts appropriated through the annual discretionary appropriations process. The HMTF receives harbor maintenance taxes (12.5 cents per $100 of cargo value) from importers and domestic shippers using coastal and Great Lakes ports. Discretionary appropriations that draw from the HMTF often have not kept pace with tax collections. An almost $10 billion HMTF surplus as of the start of FY2019 has developed. WRRDA 2014 included provisions to promote greater HMTF spending by establishing near-term targets for spending from the trust fund.

Table 3. Selected USACE Topics and Related Provisions in WRDA 2018 and AWIA 2018

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R 8)
Information Dissemination and Public Input	§113 would have require the U.S. Army Corps of Engineers (USACE) to develop education and awareness efforts for nonfederal interests related to the Section 7001 annual report process, which is the process established by the Water Resources Reform and Development Act of 2014 (WRRDA 2014, P.L. 113-121) to identify proposals for new studies, construction projects, and project modifications. §114 would have required public notice of implementation guidance for provisions of WRRDA 2014, the Water Resources Development Act (WRDA, Title I of P.L. 114-322) of 2016, WRDA 2018, and subsequent water resources development laws and would have required nonfederal entities to have an opportunity for input on the guidance.	No provisions related to information dissemination about the Section 7001 annual report process. §1011 in general would have required that USACE issue the outstanding implementation guidance for WRRDA 2014 and Water Infrastructure Improvements for the Nation Act (WIIN, P.L. 114-322) within 120 days of AWIA 2018 enactment. §1012 would have required USACE in general to develop implementation guidance for provisions of AWIA 2018 within a year of enactment, for there to be an opportunity for public comment on the guidance and for submission of the public comments and USACE consideration of the comments to the authorizing committees.
USACE Permissions and Permits for Nonfederal Activities	§116 would have excluded unimproved real estate owned and operated by USACE as part of a water resource project from the definition of *works* in 33 U.S.C. §408 if the Secretary of the Army determined that the modification of the real estate would not have affected the function or usefulness of the project.[a] §122 would have removed the requirement that a nonfederal entity carrying out a federally authorized water resource project must obtain federal permits or approvals that would not be required if USACE were carrying out the project. §122 would have required USACE to perform studies, engineering, and technical assistance, including obtaining permits for nonfederal-led construction projects if requested and paid for by a nonfederal interest.	§1033 would have provided USACE District Engineers (or the Secretary of the Army on the request of the applicant) the authority to approve alterations to local flood control projects in accordance with "section 208.10 of title 33 Code of Federal Regulations (or successor regulations), and other applicable laws (including regulations) related to flood control." §1034 would have allowed a nonfederal entity carrying out a qualifying water resource project pursuant to 33 U.S.C. §2232 to request from USACE related data and documentation and technical assistance for obtaining permits in the most expeditious manner practicable.

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R 8)
Studies of USACE Structure and Efficiency	§118 would have required the National Academy of Sciences (NAS) to deliver a study within two years after enactment that (1) evaluated USACE's ability of carry out its mission and responsibilities and the potential effects of transferring functions, assets, staff, and so on from the Department of Defense and (2) recommended improvements to USACE project delivery accounting for annual appropriations and USACE leadership and geographic structure.	§1002 would have required NAS to study ways to improve transparency, whether a project-based or system-wide authorization process should be used, and the effectiveness of the structure and organization of USACE. §1014 would have required the Secretary of the Army within a year of AWIA 2018 enactment to complete a study (originally requested in 1986 WRDA 1986, P.L. 99-662) on increasing USACE capabilities to undertake planning and construction of water resource projects on an expedited basis, including increased reliance on the private sector.
Budget Process for USACE	§126 would have required NAS to study the economic principles and methods used by the USACE to formulate, evaluate, and budget for water resources development projects and to make recommendations on changes to improve transparency, return on federal investment, cost savings, and prioritization in USACE budgeting of these projects. §125 would have provided a sense of Congress on the President's USACE budget submission to Congress.	§1001 would have established a five-year budget and work plan process for USACE that consisted of a headquarters plan, a plan for each of the USACE districts, and criteria for the development of these plans. The process would have included the identification of projects or initiatives of national significance to be managed by USACE headquarters and projects or initiatives of regional, tribal, or local significance to be managed by the districts, as well as opportunities for public and nonfederal sponsor input into the process. §1036 would have prohibited the Secretary of the Army from updating the benefit-cost analysis after the benefit-cost analysis has been "administratively finalized" for a USACE project for which construction had commenced with certain exemptions.
Nature-Based Alternatives and Projects	§131 would have required the Government Accountability Office to study USACE consideration of natural and nature-based features in feasibility studies related to coastal and riverine flooding and ecosystem restoration.	§1020 would have required that in each feasibility study for flood or storm risk reduction that both traditional and natural infrastructure alternatives be considered, alone or in conjunction with each other, if the alternatives were practicable. §1032 would have provided a sense of Congress that the Secretary of the Army shall encourage resilient structural and nonstructural construction techniques and that nonstructural approaches should include natural and nature-based solutions.

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R 8)
Continuing Authorities Program (CAP)[b]	§134 and §169 would have increased the program authorization of appropriations and per-project limit for the federal costs for a two small navigation CAP projects and for small shore and beach restoration and protection CAP projects, respectively.	§3001 would have increased the program authorization of appropriations and/or the per-project limit for federal costs for eight specified CAP authorities. §3002 would have provided a sense of Congress that for each fiscal year there should be made available to USACE the full amount of appropriations to carry out nine specified CAP authorities (including the two CAPs amended in §134 and §169 of WRDA 2018). §3003 would have required that as soon as practicable after AWIA 2018 enactment that the CAP prioritization and annual reports called for in previous legislation be published in the *Federal Register* and made publicly available online.
Project and Study Deauthorization	§301 would have established a process to deauthorize $3.15 billion in unconstructed water resource projects that meet certain criteria. §302 would have provided for deauthorization of unconstructed projects authorized by WRDA 2018 after 10 years if no funds had been obligated for construction, unless specific conditions apply. §302 would have changed the deauthorization of projects authorized in WRRDA 2014 from 7 years to 10 years following WRRDA 2014 enactment in June 2014. §312 would have required that the unconstructed projects on the list transmitted to Congress on December 15, 2016, not be deauthorized if the projects did not meet criteria in §1301(b)(1)(A) of WRDA 2016.[c] No provision on a deauthorization process of inactive studies similar to §2108 of AWIA 2018.	§2107 would have changed the deauthorization of projects authorized in WRRDA 2014 from 7 years to 10 years following date of WRRDA 2014 enactment and would have changed the deauthorization of studies started after WRRDA 2014 from 7 years to 10 years after initiation. §2108 would have established a process to deauthorize $7.5 billion in water resource feasibility studies that had not received federal funds during the 10 years preceding AWIA 2018 enactment. §2113 would have appeared to deauthorize upon AWIA 2018 enactment unconstructed projects that never received obligations or had not received obligations for planning, design, or construction since FY2000, and were on a list transmitted to Congress on December 15, 2016; the provision did not apply to a project for Pearl River basin, MS.[d] No provision on a deauthorization process of unconstructed projects similar to §301 of WRDA 2018. No provisions related to deauthorization of projects authorized by AWIA 2018 similar to §302 of WRDA 2018.
Independent Peer Review	No similar provisions.	§1023 would have extended the authorization of independent peer review of USACE studies for an additional five years (i.e., from 2019 to 2024) and would have required the Secretary of the Army to report on the effect of the required peer reviews.

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R 8)
Innovative Financing	No similar provisions.	§1025 would have required the Secretary of the Army within a year of AWIA 2018 enactment to report to the authorizing committees on the results of a study of impediments to USACE implementation of the Water Infrastructure Financing Innovation Act (WIFIA), potential projects for WIFIA assistance, and identified amendments to statutes and regulation to improve USACE implementation of WIFIA. §5002 would have reauthorized appropriations for WIFIA for USACE through FY2021.
Permitting of Nonfederal Water Storage	No similar provision.	§1028 would have required that the USACE District Engineer provide a purpose and need statement to the applicant for a permit for a water storage project within 90 days of a complete application. Prior to issuing a permit decision, the Secretary of the Army would have been required to provide the applicant a record of decision that described all applicable permit conditions. The Secretary of the Army would have been required to establish a board of appeals to make a determination regarding an appeal of a purpose and need statement and/or permit condition; the District Engineer would have been required to then reconsider the purpose and need statement or permit condition, taking into consideration the board's determination. §3305 would have established a 10-year USACE permit pilot program to expedite review for drinking water reservoirs that met certain criteria.
Pricing of Storage for Domestic, Municipal, and Industrial Water Supply	No similar provision.	§3302 would have required that the Secretary of the Army establish the price for domestic, municipal, and industrial water storage contracts at a reservoir at no more than 110% of the lowest-contracted price (adjusted for inflation) used in water storage contracts executed prior to January 1, 2018, for USACE facilities within 50 miles of the water source covered by the storage contract. The provision would have applied only to the contracts executed by the Secretary of the Army under the authority at 43 U.S.C. §390b and would have been limited to projects that did not include hydropower as an authorized project purpose.

Sources: CRS using H.R. 8, Water Resources Development Act of 2018 (WRDA 2018), as passed by the House on June 11, 2018, and the amendment in the nature of a substitute to H.R. 8, America's Water Infrastructure Act of 2018 (AWIA 2018) as posted by the Senate EPW on July 9, 2018, at https://www.epw.senate.gov/public/index.cfm/addressing-americas-infrastructure-needs. It is no longer available at that website.

a. Permissions to alter USACE water resource projects are referred to as Section 408 permissions. The provision would have eliminated the need for a Section 408 permission for qualifying non-USACE

alterations of USACE real estate; other actions by USACE may still have been required (e.g., granting of a right-of-way).

b. For more information on CAP, see CRS Report R45185, *Army Corps of Engineers: Water Resource Authorization and Project Delivery Processes*, by Nicole T. Carter.

c. Under current statute, the projects on the list are anticipated to be deauthorized on October 1, 2018. The criteria in WRDA 2016 that would have applied to the transmitted list pursuant to §312 would be the following: the project had been authorized prior to November 8, 2007 (which is the day prior to enactment of the Water Resources Development Act of 2007, P.L. 110-114), and had not had planning, design, or construction initiated either before WRDA 2016 enactment or in the six preceding fiscal years.

d. Under current statute, the projects on the list were deauthorized on October 1, 2018.

EPA in WRDA 2018 and AWIA 2018

EPA-Related Context and Issues

In addition to water resource issues, the 115th Congress has given considerable attention to drinking water and wastewater infrastructure management and funding issues. Numerous bills have been introduced to amend EPA-administered programs under the Clean Water Act (CWA)[22] and/or the Safe Drinking Water Act (SDWA)[23] to help municipalities meet public health and environmental quality goals through drinking water and wastewater infrastructure improvements and other means. These bills would variously increase federal investment in water infrastructure, promote infrastructure resiliency and sustainability, and increase capacity to comply with CWA and SDWA mandates.[24] Many of these objectives were incorporated in provisions of AWIA 2018.

Similarly, WRRDA 2014 and WIIN in 2016 addressed water infrastructure programs administered by EPA. WRRDA 2014 included WIFIA, which authorized EPA and USACE to provide credit assistance for an array of water infrastructure projects, including projects to build and upgrade wastewater and drinking water treatment systems—and, specifically, projects eligible to receive assistance under the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) programs.[25] WIFIA specifies that state infrastructure finance authorities are eligible to receive WIFIA assistance. WRRDA 2014 also made significant revisions to the CWSRF program. In 2016, WIIN, Title II (Water and Waste Act of 2016), made numerous amendments to SDWA.[26]

[22] 33 U.S.C. §§1251-1387.

[23] 42 U.S.C. §§300f-300j-24.

[24] For more information, see CRS Report R45304, *Drinking Water State Revolving Fund (DWSRF): Overview, Issues, and Legislation*, by Mary Tiemann, and CRS Report R44963, *Wastewater Infrastructure: Overview, Funding, and Legislative Developments*, by Jonathan L. Ramseur.

[25] In contrast to EPA, USACE has yet to implement its WIFIA authority; the Trump Administration (like the Obama Administration) has not requested and Congress has not appropriated funds to USACE for its WIFIA start-up costs. For more information, see CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*, by Jonathan L. Ramseur and Mary Tiemann.

[26] P.L. 114-322, Title II, comprised the Water and Waste Act of 2016. WIIN, Title II, Subtitle A, made numerous revisions to the Safe Drinking Water Act, including the Drinking Water State Revolving Fund (DWSRF) provisions (42 U.S.C. §§300f-300j-26). Title II, Subtitle B, authorized $100 million in DWSRF capitalization grants and other emergency assistance for Flint, MI, to address lead in the water system. For more information, see CRS In Focus IF10577, *Water Infrastructure Improvements for the Nation (WIIN) Act, P.L. 114-322: Drinking Water Provisions*, by Mary Tiemann.

EPA Topics Related to WRDA 2018 and AWIA 2018 Deliberations

AWIA 2018 included numerous provisions involving EPA-administered water quality infrastructure programs and other authorities. Most of these provisions occurred in Title V, but other titles also featured EPA-relevant provisions (e.g., Section 3702 proposed to amend and reauthorize EPA's Long Island Sound programs).

Title V of AWIA 2018 would have amended the CWA to (1) reauthorize the appropriation of grants for municipal sewer overflow projects and to make stormwater management projects eligible for these grants; (2) authorize a technical assistance program for small- and medium-sized wastewater treatment works; and (3) formally authorize EPA's integrated planning initiative, which is intended to help municipalities comply with multiple CWA wastewater discharge mandates.[27] AWIA 2018 would have further amended the CWA to require certain EPA offices to promote the use and coordinate the integration of green infrastructure into permitting, planning, research, funding guidance, and other activities, among other provisions.

Section 3308 of AWIA 2018 proposed to amend the CWA to codify in statute the existing EPA regulations on water transfers.[28] It would have defined water transfer as "an activity that conveys or connects waters of the United States without subjecting the water to intervening industrial, municipal, or commercial use." It would also have specified that discharges from water transfers do not require a CWA permit, with the exception of pollutants introduced by the water transfer activity itself to the water being transferred. That is, surface water containing pollutants (e.g., nutrients, sediment, or invasive species) could be transferred to another waterbody or watershed without being subject to CWA controls.

Regarding SDWA authorities, Title V of AWIA 2018 would have made several changes to the act's DWSRF provisions, including making permanent the requirement that projects receiving DWSRF assistance must use iron and steel products produced in the United States. Among other SDWA amendments, AWIA 2018 would have (1) expressly authorized EPA's WaterSense program, and (2) revised the SDWA grant program for testing for lead in school and childcare-program drinking water.[29]

Additionally, AWIA 2018 included several WIFIA amendments. Title V would have removed WIFIA's designation as a pilot program and added a new section to WIFIA regarding loans to state CWSRF and DWSRF finance authorities. Although state SRF financing authorities are currently eligible to receive WIFIA assistance, these provisions would have authorized EPA to provide secured loans at subsidized interest rates for states meeting certain conditions.[30] Unlike other WIFIA assistance, this section also would have allowed the use of federal assistance to

[27] In response to municipalities' concerns regarding the financial challenges they face in addressing needs for wastewater and stormwater control projects, EPA issued an integrated permitting and planning policy in 2012. The policy's intention is to provide communities with flexibility to prioritize and sequence needed water infrastructure investments so that limited public dollars can be invested in ways that each municipality finds most valuable. Section 5006 of AWIA 2018 would have formally authorized comparable efforts. See CRS Report R44223, *EPA Policies Concerning Integrated Planning and Affordability of Water Infrastructure*, by Jonathan L. Ramseur.

[28] 40 C.F.R. §122.3(i).

[29] For more information on the WaterSense program, see CRS In Focus IF10787, *WaterSense®: Water-Efficiency Label and Partnership Program*, by Keara B. Moore.

[30] Certain states would have been able to receive WIFIA loans at 80% (and, in certain cases, between 80% and 50%) of the Treasury rate for comparable securities. EPA generally would have been required to use 50% of funds available to provide secured loans at reduced interest rates. This subsidy would have first been available to (1) states that received less than 2% of the total amount of funds made available to states for their Drinking Water and Clean Water SRFs for the most recent fiscal year and (2) states for which the President had declared a major disaster any time from January 1, 2017, to the date of AWIA 2018 enactment.

support 100% of project costs, and it would have waived application fees. In addition, AWIA 2018 proposed to authorize EPA to establish a water infrastructure resiliency and sustainability grant program; authorize an Indian reservation drinking water and wastewater infrastructure pilot program at EPA; and support water utility workforce development.

AWIA 2018 also called for studies on "intractable water systems" and on WIFIA accessibility for certain communities. These and other water quality and drinking water provisions are described below in **Table 4**. In contrast, WRDA 2018 contained none of these provisions.

Table 4. Selected EPA Topics and Related Provisions in WRDA 2018 and AWIA 2018

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R. 8)
Clean Water Act (CWA) Water Transfer Discharges	No similar provisions.	§3308 would have amended CWA Section 402 to add a definition of water transfer to mean "an activity that conveys or connects waters of the United States without subjecting the water being transferred to intervening industrial, municipal, or commercial use." It would have specified that discharges from water transfers do not require a permit under CWA Section 402, with the exception of pollutants introduced to the water by the water transfer itself.
CWA Stormwater and Sewer Overflow Projects	No similar provisions.	§5001 would have directed the EPA Administrator to establish a stormwater infrastructure task force to develop recommendations to improve funding and financing of municipal stormwater infrastructure and to report study results to Congress. §5005(b) would have amended CWA Section 221 to reauthorize the appropriation of grants for municipal sewer overflow projects, and make stormwater management projects eligible, at a level of $225 million for each of FY2019 and FY2020. Congress established this grant program in 2000 (P.L. 106-554) but never provided implementing appropriations.
CWA Technical Assistance, Report on Compliance Costs and Benefits	No similar provisions.	§5004 would have amended the CWA to authorize EPA to provide grants to qualified nonprofit groups to provide technical assistance to small- and medium-sized wastewater treatment works to assist with CWA compliance and obtaining financing for CWA-eligible projects. This section would have authorized to be appropriated for each of FY2019-FY2021 $15 million for grants to assist small treatment works and $10 million for medium-sized facilities. It would have authorized states to use 2% of the annual Clean Water State Revolving Fund (CWSRF) for these purposes. §5004 would also have required EPA to report to Congress on the difficulties faced by these treatment works in complying with the CWA (including a cost-benefit analysis of CWA requirements and regulations that make compliance difficult) and on the effect of technical assistance on their ability to obtain CWA financing and achieve compliance.

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R. 8)
CWA Compliance Flexibility, Integrated Plans, Green Infrastructure, and Affordability	No similar provisions.	§5006 would have amended CWA Section 402. Similarly to a 2012 EPA initiative, this section proposed to allow municipalities to develop integrated plans for complying with CWA stormwater and other wastewater discharge requirements. Extended compliance schedules would have been allowed in permits that incorporated such plans, if authorized by state water quality standards; effluent limitations would have remained applicable. EPA would have been directed, in conjunction with an enforcement action, to inform a municipality of the opportunity to develop an integrated plan. §5006 would have amended the CWA to direct the EPA Administrator to ensure that certain EPA offices promote the use and coordinate integration of green infrastructure into permitting programs, planning, research, technical assistance, and funding guidance. The provision would have required the Administrator to direct regional offices to integrate use of green infrastructure in permitting, consent decrees, and other actions. EPA would have been required to coordinate governmental efforts to increase green infrastructure use and promote green infrastructure information sharing. §5006 would have directed EPA to publish new financial capability guidance, which may influence schedules established by EPA and states for communities to meet CWA requirements.
WIFIA Reauthorization and Amendments for SRF Programs	No similar provisions.	§5002 would have reauthorized appropriations for WIFIA for both EPA and USACE at a level of $50 million for each of FY2020 and FY2021. §5012 called for the Government Accountability Office to conduct a study on ways to improve access to WIFIA assistance in rural and other selected communities. §5016 would have added a section to WIFIA authorizing new terms for EPA loans to state CWSRF and DWSRF finance authorities. Although state SRF financing authorities are currently eligible to receive WIFIA assistance, the new section would have authorized EPA to provide secured loans at subsidized interest rates for states meeting certain conditions (see footnote 30). Unlike other WIFIA assistance, this section would have allowed loans to be used to support 100% of project costs, and would have waived application fees. For these SRF WIFIA loans, §5015 would have authorized to be appropriated $4 million for FY2019 and $5 million for FY2020. Funding for these provisions would not be made available for a fiscal year if the total amount made available for the SRF programs was less than the amount made available for FY2018 and the total amount made available for the WIFIA program was less than the amount authorized to be appropriated for WIFIA for FY2018. EPA would have been required to distribute assistance among SRFs based on need. §5016 would have removed WIFIA's designation as a 'pilot' program.
Indian Reservation Pilot Program	No similar provisions.	§5003 would have authorized EPA to carry out a pilot program of at least 20 projects to improve various types of drinking water and wastewater infrastructure at Indian reservations located in the Upper Mississippi River and Upper Rio Grande basins (subject to the availability of appropriations).

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R. 8)
Safe Drinking Water Act (SDWA) DWSRF Source Water Protection, WaterSense	No similar provisions.	§5005(a) would have amended SDWA to authorize states to use a portion of their DWSRF funds for source water protection activities. For communities with populations over 10,000, this section would have applied Brooks Act (40 U.S.C. Ch. 11) or equivalent state requirements to negotiation of contracts involving DWSRF funds. §5005(a) would have further amended SDWA to expressly authorize a WaterSense program at EPA.
SDWA Intractable Water Systems	No similar provisions.	§5008 would have added new SDWA §1459C to (1) require EPA and the Department of Health and Human Services to conduct a study identifying intractable water systems and describing barriers to delivery of potable water to individuals served by such systems, and report to Congress; and (2) provide certain enforcement protections for other systems carrying out approved consolidation plans to address intractable systems. An intractable water system was defined as one that serves fewer than 1,000 persons and for which the owner or operator is unable or unwilling to provide safe and adequate service or has experienced other specified operational, financial, or compliance failures.
CWA, WIFIA, USDA Onsite Wastewater Recycling	No similar provisions.	§5009 would have directed EPA to use existing programs to provide information to local governments and nonprofit organizations regarding the cost effectiveness of alternative wastewater recycling and treatment systems. It would have required, as a condition of providing CWSRF assistance for wastewater projects serving 2,500 or fewer persons, states to certify that the recipient has considered onsite decentralized wastewater systems. This requirement would also have applied to wastewater project assistance provided through WIFIA and U.S. Department of Agriculture water and waste loan and grant programs.
SDWA Water Utility Workforce	No similar provisions.	§5010 would have defined *intractable water system* for purposes of this section. It would have required EPA and USACE to establish a competitive grant program for water utilities or intractable water systems for a wide variety of activities to support water utility workforce development. For this purpose, it would have authorized to be appropriated $1 million for each of FY2019 and FY2020.
SDWA DWSRF American Iron and Steel	No similar provisions.	§5013 would have amended SDWA to make permanent the requirement that projects receiving DWSRF assistance must use iron and steel products manufactured in the United States.
SDWA DWSRF Compliance with State Law	No similar provisions.	§5014 would have required states to ensure that DWSRF funds were not used to purchase products or materials used in water treatment or delivery unless such products or materials were in compliance with state laws and regulations regarding the National Sanitation Foundation and American National Standards Institute Standard 61 (NSF/ANSI 61).
Water Reuse	No similar provisions.	§5015 included a 'sense of Congress' that industry access to nonpotable water can relieve water supply and demand challenges, and to encourage water users to continue implementing and incentivizing nonpotable water reuse programs that save water and meet conservation needs.

Topic	WRDA 2018 (H.R. 8)	AWIA 2018 (Senate EPW-Posted Amendment to H.R. 8)
Water Infrastructure Resiliency and Sustainability	No similar provisions.	§5017 would have required EPA to establish a program to provide grants to owners or operators of a wide variety of water systems (e.g., community water systems and irrigation water delivery systems) for projects or programs that would increase resiliency or adaptability to forecasted changes to regional hydrologic conditions. This section would have authorized to be appropriated $12.5 million for each of FY2019 and FY2020 for this purpose.
EPA Regional Liaisons	No similar provisions.	§5018 would have directed the EPA Administrator to appoint at least one liaison to minority, tribal and low-income communities in each EPA regional office.
SDWA School and Child Care Program Lead Testing Grants	No similar provisions.	§5019 would have amended the grant program for testing for lead in school and child care program drinking water (SDWA §1464(d)) to require EPA to provide technical assistance to help grant recipients identify sources of lead in water and apply for assistance to eliminate contamination. It would have authorized to be appropriated $30 million for each of FY2020 and FY2021 (currently authorized at $20 million per fiscal year).
Innovative Water Technologies	No similar provisions.	§5020 would have required EPA to establish a program to provide grants to public utilities, local governments, farmers and other private entities, states, and various organizations to (1) finance projects to develop, deploy, and improve emerging water technologies; (2) fund entities that provide technical assistance to deploy innovative water technologies; and (3) support specified types of innovative technologies. §5020 would have authorized to be appropriated $10 million for each of FY2019 and FY2020 for these purposes.
CWA Grants for Individual Household Wastewater Systems	No similar provisions.	§5021 would have amended the CWA to require EPA to establish a grant program for construction, refurbishing, and servicing of individual household decentralized wastewater systems for low- or moderate-income individuals. It would have required EPA to provide grants to nonprofit organizations that would provide subgrants to individuals residing in the mid-Atlantic, southeast, and Appalachian regions. §5021 would have authorized to be appropriated $15 million, and program authority would have expired 2 years after enactment.
WIFIA Bureau of Reclamation	No similar provision.	§5022 would have amended WIFIA to direct the EPA Administrator to enter into a memorandum of understanding with the Commissioner of the Bureau of Reclamation to establish a process for the Commissioner to make recommendations to EPA for certain water resource projects to receive WIFIA assistance. The Commissioner would have been authorized to recommend projects that are (1) eligible under WIFIA Section 5026 (6) and (7) [e.g., desalination projects, projects to reduce aquifer depletion, and projects to prevent or mitigate drought], and (2) located in a Reclamation state.

Sources: CRS using H.R. 8, Water Resources Development Act of 2018 (WRDA 2018), as passed by the House on June 11, 2018, and the amendment in the nature of a substitute to H.R. 8, America's Water Infrastructure Act of 2018 (AWIA 2018) as posted by the Senate EPW on July 9, 2018, at https://www.epw.senate.gov/public/index.cfm/addressing-americas-infrastructure-needs. It is no longer available at that website.

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