



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-P

MAY 11 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 5013, Title V of the Water Infrastructure Improvement for the Nation Act of 2016 (WIIN 2016), Estuary Restoration

1. Section 5013 of WIIN 2016 was completed and signed on 3 May 2018. The implementation guidance is posted in the U.S. Army Corps of Engineers website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Questions regarding this implementation guidance should be directed to Mindy Simmons, Senior Policy Advisor, Planning and Policy Division, at (202) 761-4127 or Mindy.M.Simmons@usace.army.mil.

A handwritten signature in black ink, appearing to read "J. Dalton".

JAMES C. DALTON, P.E.
Director of Civil Works

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DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON, DC 20310-0108

MAY -3 2018

MEMORANDUM FOR COMMANDING GENERAL OF THE U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 5013 of the Water Infrastructure Improvements for the Nation Act of 2016, Estuary Restoration

1. Section 5013 of the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN 2016) amends Sections 104(f) and 109(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2903(f)).
2. Section 5013 of WIIN 2016 clarifies the authority for a nongovernmental organization to serve as the non-Federal interest for a project and extends the authority for appropriations until 2021. Section 5013 of WIIN 2016 and Sections 104(f) and 109(a) of the Estuary Restoration Act of 2000, as amended, are enclosed.
3. The Estuary Restoration Act of 2000, as amended, has allowed nongovernmental organizations to serve as the non-federal interest for projects. Section 5013 clarifies that the requirements of Section 103(j)(1) of the Water Resources Development Act (WRDA) 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by the nongovernmental organization that is serving as the non-Federal interest for a project.
4. Authorization for appropriations to the Secretary of the Army for carrying out and providing technical assistance for estuary habitat restoration projects is extended until 2021.
5. Questions regarding this implementation guidance may be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works at gib.a.owen.civ@mail.mil or 703-695-4641. Technical questions regarding this implementation guidance should be directed to Mindy Simmons, Senior Policy Advisor, Planning and Policy Division, at (202) 761-4127 or Mindy.M.Simmons@usace.army.mil.

Encl


R. D. JAMES
Assistant Secretary of the Army
(Civil Works)

Water Infrastructure Improvements for the Nation Act of 2016
Section 5013 – Estuary Restoration

(a) **PARTICIPATION OF NON-FEDERAL INTERESTS.**—Section 104(f) of the Estuary Restoration Act of 2000 (33 U.S.C. 2903(f)) is amended by adding at the end the following:

(3) **PROJECT AGREEMENTS.**—For a project carried out under this title, the requirements of section 103(j)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).

(b) **EXTENSION.**—Section 109(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2908(a)) is amended by striking “2012” each place it appears and inserting “2021”.

Estuary Restoration Act of 2000
Section 104(f), as amended

SEC 104. ESTUARY HABITAT RESTORATION PROGRAM

(f) COOPERATION OF NON-FEDERAL INTERESTS

(1) IN GENERAL. The Secretary may not carry out an estuary habitat restoration project until a non-Federal interest has entered into a written agreement with the Secretary in which the non-Federal interest agrees to

- (A) provide all lands, easements, rights-of-way, and relocations and any other elements the Secretary determines appropriate under subsection (d)(3); and
- (B) provide for long term maintenance and monitoring of the project.

(2) NONGOVERNMENTAL ORGANIZATIONS. Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project to be undertaken under this title, the Secretary, in consultation and coordination with appropriate State and local governmental agencies and Indian tribes, may allow a nongovernmental organization to serve as the non-Federal interest for the project.

(3) PROJECT AGREEMENTS. For a project carried out under this title, the requirements of section 103(j)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).

Estuary Restoration Act of 2000
Section 109(a), as amended

SEC. 109. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.

(1) ESTUARY HABITAT RESTORATION PROJECTS. There is authorized to be appropriated for carrying out and providing technical assistance for estuary habitat restoration projects:

- (A) to the Secretary, \$25,000,000 for each of fiscal years 2008 through 2021;
- (B) to the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), \$2,500,000 for each of fiscal years 2008 through 2021;
- (C) to the Under Secretary for Oceans and Atmosphere of the Department of Commerce, \$2,500,000 for each of fiscal years 2008 through 2021;
- (D) to the Administrator of the Environmental Protection Agency, \$2,500,000 for each of fiscal years 2008 through 2021; and
- (E) to the Secretary of Agriculture, \$2,500,000 for each of fiscal years 2008 through 2021.

Such sums shall remain available until expended.

(2) MONITORING. There is authorized to be appropriated to the Under Secretary for Oceans and Atmosphere of the Department of Commerce for the acquisition, maintenance, and management of monitoring data on restoration projects carried out under this title and other information compiled under Section 107, \$1,500,000 for each of fiscal years 2001 through 2021. Such sums shall remain available until expended.

(b) SET ASIDE FOR ADMINISTRATIVE EXPENSES OF THE COUNCIL. Not to exceed 3 percent of the amounts appropriated for a fiscal year under subsection (a)(1) or \$1,500,000, whichever is greater, may be used by the Secretary for administration and operation of the Council.