

SEC. 1. SHORT TITLE.

This Act may be cited as the "Mississippi Sound and Lake Pontchartrain Protection Act of 2021".

SEC. 2. DEFINITIONS

(a) The term “Mississippi Sound Estuary and Lake Pontchartrain” means Lake Pontchartrain and the marshes, water and water bottoms that are subject to the ebb and flow of the tide in Louisiana and Mississippi south and east of Lake Pontchartrain and north of the Chandeleur Island, Cat Island, Ship Island, Horn Island and Petit Bois Island including, but not limited to, Lake Bourne, Biloxi Marsh, and extending northward to the mean high tide line between upland and public trust tidelands.

(b) The term “affected local governments” means the Presidents of the Boards of Supervisors of Hancock, Harrison, and Jackson Counties, Mississippi, and the Mayors of the incorporated municipalities within Hancock, Harrison, and Jackson Counties, Mississippi, the Mississippi Secretary of State, the Mississippi Department of Marine Resources, the Mississippi Department of Environmental Quality, the Mississippi Emergency Management Agency, the Louisiana Department of Environmental Quality, the Louisiana Department of Wildlife and Fisheries, the Louisiana Emergency Management Agency, the Presidents of the Parish Councils of Orleans, St. Tammany, St. Bernard and Plaquemines Parishes, Louisiana, and the Mayors of the incorporated municipalities within Orleans, St. Tammany, St Bernard and Plaquemines Parishes.

SEC. 3. PROTECTION OF MISSISSIPPI SOUND ESTUARY AND LAKE PONTCHARTRAIN

(a) **IN GENERAL.** The Mississippi River Commission and the U.S. Army Corps of Engineers shall operate the Bonnet Carre Spillway, the Morganza Spillway, and all other spillways and river water diversions in accordance with the additional criteria and

operating plans specified in sections 4 and 5 of this Act and exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values of the Mississippi Sound Estuary and Lake Pontchartrain, including, but not limited to, natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW. The Mississippi River Commission and the U.S. Army Corps of Engineers shall implement this section in a manner fully consistent with and subject to the Marine Mammal Protection Act, Magnuson-Stevens Fishery Conservation and Management Act, National Environmental Policy Act, Coastal Zone Management Act, and Endangered Species Act.

(c) RULE OF CONSTRUCTION. The provisions of this Act supersede, take precedence over, and pre-empt any conflicting provisions in Section 20201 of the Bipartisan Budget Act of 2018, Public Law 115-123, 33 U.S.C. 702(a), 33 U.S.C. 641-653a, and any other laws in conflict with the provisions of this Act.

SEC. 4. INTERIM PROTECTION OF THE MISSISSIPPI SOUND ESTUARY AND LAKE PONTCHARTRAIN

(a) INTERIM OPERATIONS. Pending compliance by the Mississippi River Commission and the U.S. Army Corps of Engineers with Section 5 of this Act, the Mississippi River Commission and the U.S. Army Corps of Engineers shall, on an interim basis, continue to operate the Bonnet Carre Spillway, the Morganza Spillway, and all other spillways and river water diversions utilizing the best and most recent scientific data available.

(b) CONSULTATION.-The Mississippi River Commission and the U.S. Army Corps of Engineers shall implement Interim Operations in consultation with-

(1) Appropriate agencies of the Department of the Interior, United States Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration;

(2) The Governors of the States of Mississippi and Louisiana;

(3) The Affected Local Governments; and

(4) The general public, including representatives of the seafood industry, the tourism industry, academic and scientific communities, environmental organizations, and the recreation industry in Mississippi and Louisiana.

(c) DEVIATION FROM INTERIM OPERATIONS. The Mississippi River Commission and the U.S. Army Corps of Engineers may deviate from Interim Operations upon a finding that deviation is necessary and in the public interest to respond to hydrologic extremes or flood emergencies, to comply with the standards set forth in Section 3, or respond to advances in scientific data.

(d) TERMINATION OF INTERIM OPERATIONS. Interim operations described in this section shall terminate upon compliance by the Mississippi River Commission and the U.S. Army Corps of Engineers with Section 5 of this Act.

SEC. 5. ENVIRONMENTAL IMPACT STATEMENT; AUDIT AND ECONOMIC IMPACT STATEMENT; LONG-TERM OPERATION OF BONNET CARRE SPILLWAY.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT. Not later than 2 years after the date of enactment of this Act, the Mississippi River Commission and the U.S. Army Corps of Engineers shall complete a final environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.). The environmental impact statement shall include consideration of alternative means of flood control and management on the Mississippi River which could lessen or mitigate adverse impacts to the Mississippi Sound Estuary and Lake Pontchartrain from operation of the Bonnet Carré Spillway and other elements of the Mississippi River and Tributaries Project.

(b) AUDIT AND ECONOMIC IMPACT STATEMENT. The Comptroller General shall audit the costs and benefits to water and water bottom users and to natural, recreational, economic, and cultural resources resulting from management policies and

spillway policies identified pursuant to the environmental impact statement described in sub-section 5(a) of this Act; shall prepare a statement of the economic impact on the seafood and tourism industries and state and local governments of Mississippi and Louisiana resulting from management policies and spillway policies identified pursuant to the environmental impact statement described in sub-section 5 (a) of this Act; and report the results of the audit and economic impact statement to Mississippi River Commission, U.S. Army Corps of Engineers and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS. (1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection 5(a) and the audit and economic impact statement performed pursuant to subsection 5(b) of this Act, the Mississippi River Commission and the U.S. Army Corps of Engineers shall:

(A) adopt criteria and operating plans separate from and in addition to any such criteria or plans specified in the Flood Control Act and any policies or manuals of operation in existence prior to this Act; and

(B) exercise other authorities under existing law, so as to ensure that the Bonnet Carre Spillway is operated in a manner consistent with Section 3 of this Act.

1) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Mississippi River Commission and the U.S. Army Corps of Engineers shall transmit to the Congress and to the Governors of Mississippi and Louisiana a report on the operations of the preceding year and the projected year operations undertaken pursuant to this Act.

2) In preparing the criteria and operating plans described in this

subsection 5(c) of this Act, the Mississippi River Commission and the U.S. Army Corps of Engineers shall consult with the Governors of Mississippi and Louisiana and the Affected Local Governments.

(d) **REPORT TO CONGRESS.** Upon implementation of long-term operations under subsection 5 (c) of this Act, the U.S. Army Corps of Engineers and the Mississippi River Commission shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, economic, and cultural resources of the Mississippi Sound Estuary and Lake Pontchartrain downstream from the Bonnet Carre Spillway.

(e) **DETERMINATION OF COSTS.** The Secretary of Defense, in consultation with the Secretary of the Interior, shall determine the effect of all the provisions of this Act and submit a report to the appropriate House and Senate committees by January 31 of each fiscal year, and such report shall contain for that fiscal year a detailed accounting of expenditures incurred pursuant to this Act.

SEC. 6. LONG-TERM MONITORING.

(a) **IN GENERAL.** The Mississippi River Commission and the U.S. Army Corps of Engineers shall establish and implement long-term monitoring programs and activities that will ensure that the Bonnet Carre Spillway is operated in a manner consistent with section 2 of this Act.

(b) **RESEARCH.** Long-term monitoring of Bonnet Carre spillway shall include any necessary research and studies to determine the effect of the Mississippi River Commission and the U.S. Army Corps of Engineers actions under section 5(c) of this Act on the natural, recreational, economic, and cultural resources of the Mississippi Sound Estuary and Lake

Pontchartrain.

(c) CONSULTATION. The monitoring programs and activities conducted under subsection 5(a) of this Act shall be established and implemented in consultation with the Governors of the States of Mississippi and Louisiana and the general public, including the Affected Local Governments.

SEC. 7. REPRESENTATIVES ON THE MISSISSIPPI RIVER COMMISSION

33 U.S.C. § 642 is amended to provide as follows:

The President of the United States shall appoint eight commissioners, three of whom shall be selected from the Engineer Corps of the Army, one from the National Ocean Service, and four from civil life, two of whom shall be civil engineers. Of the members from civil life at least one shall be a resident of Louisiana nominated by the Governor of the State of Louisiana and at least one shall be a resident of Mississippi nominated by the Governor of the State of Mississippi. And any vacancy which may occur in the commission shall in like manner be filled by the President of the United States; and he shall designate one of the commissioners appointed from the Engineer Corps of the Army to be president of the commission. The commissioners appointed under sections 641 to 644, 646, and 647 of this title, except those appointed from civil life, shall remain in office subject to removal by the President of the United States. Each commissioner appointed from civil life after November 7, 1966, shall be appointed for a term of nine years.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.