

Union Calendar No. 549

110TH CONGRESS
2D SESSION

H. R. 6460

[Report No. 110–849, Part I]

To amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2008

Mr. EHLERS (for himself and Mr. OBERSTAR) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 15, 2008

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 15, 2008

Additional sponsors: Mr. KILDEE, Ms. SLAUGHTER, Mr. ROGERS of Michigan, Mr. KIRK, Mr. UPTON, Mr. McNULTY, Mr. GILCHREST, Mr. ENGLISH of Pennsylvania, Mr. KUHL of New York, Mr. LATOURETTE, Mr. TIBERI, Mrs. BIGGERT, Mrs. CAPITO, Mr. BARTLETT of Maryland, Mr. REGULA, Mr. DENT, Mr. CAMP of Michigan, Mr. WALSH of New York, Mr. McCOTTER, Mr. HOEKSTRA, Mr. KNOLLENBERG, Ms. SUTTON, Mrs. MILLER of Michigan, Ms. MOORE of Wisconsin, Mr. DINGELL, Mr. WALBERG, Mr. SIRES, Ms. KILPATRICK of Michigan, Mr. KAGEN, Ms. MCCOLLUM of Minnesota, Ms. HIRONO, Mr. HINCHEY, Ms. SCHAKOWSKY, Mr. CONYERS, Mr. LEVIN, Mr. VISCLOSKY, Mr. PETRI, Mr. EMANUEL, Mr. STUPAK, Mr. HIGGINS, Mr. REYNOLDS, Mr. WILSON of Ohio, Mr. KUCINICH, Mr. MCHUGH, and Mr. RYAN of Ohio

SEPTEMBER 15, 2008

Committee on Science and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 10, 2008]

A BILL

To amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Great Lakes Legacy Re-*
5 *authorization Act of 2008”.*

6 **SEC. 2. DEFINITIONS.**

7 *Section 118(a)(3) of the Federal Water Pollution Con-*
8 *trol Act (33 U.S.C. 1268(a)(3)) is amended—*

9 *(1) in subparagraph (I) by striking “and” at the*
10 *end;*

11 *(2) in subparagraph (J) by striking the period*
12 *and inserting a semicolon; and*

13 *(3) by adding at the end the following:*

14 *“(K) ‘site characterization’ means a process*
15 *for monitoring and evaluating the nature and*
16 *extent of sediment contamination in accordance*
17 *with the Environmental Protection Agency’s*

guidance for the assessment of contaminated sediment in an area of concern located wholly or partially within the United States; and

“(L) ‘potentially responsible party’ means an individual or entity that may be liable under any Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.”.

SEC. 3. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.

(a) *ELIGIBLE PROJECTS*.—Section 118(c)(12)(B)(ii) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(12)(B)(ii)) is amended by striking “sediment” and inserting “sediment, including activities to restore aquatic habitat that are carried out in conjunction with a project for the remediation of contaminated sediment”.

(b) *LIMITATIONS*.—Section 118(c)(12)(D) of such Act (33 U.S.C. 1268(c)(12)(D)) is amended—

(1) in the subparagraph heading by striking “LIMITATION” and inserting “LIMITATIONS”;

(2) in clause (i) by striking “or” at the end;

(3) in clause (ii) by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

1 “(iii) unless each non-Federal sponsor
 2 for the project has entered into a written
 3 project agreement with the Administrator
 4 under which the party agrees to carry out
 5 its responsibilities and requirements for the
 6 project; or

7 “(iv) unless the Administrator provides
 8 assurance that the Agency has conducted a
 9 reasonable inquiry to identify potentially
 10 responsible parties connected with the site.”.

11 (c) IN-KIND CONTRIBUTIONS.—Section
 12 118(c)(12)(E)(ii) of such Act (33 U.S.C. 1268(c)(12)(E)(ii))
 13 is amended to read as follows:

14 “(ii) IN-KIND CONTRIBUTIONS.—

15 “(I) IN GENERAL.—The non-Fed-
 16 eral share of the cost of a project car-
 17 ried out under this paragraph may in-
 18 clude the value of an in-kind contribu-
 19 tion provided by a non-Federal spon-
 20 sor.

21 “(II) CREDIT.—A project agree-
 22 ment described in subparagraph
 23 (D)(iii) may provide, with respect to a
 24 project, that the Administrator shall
 25 credit toward the non-Federal share of

1 *the cost of the project the value of an*
2 *in-kind contribution made by the non-*
3 *Federal sponsor, if the Administrator*
4 *determines that the material or service*
5 *provided as the in-kind contribution is*
6 *integral to the project.*

7 “(III) *WORK PERFORMED BEFORE*
8 *PROJECT AGREEMENT.*—*In any case in*
9 *which a non-Federal sponsor is to re-*
10 *ceive credit under subclause (II) for the*
11 *cost of work carried out by the non-*
12 *Federal sponsor and such work has not*
13 *been carried out by the non-Federal*
14 *sponsor as of the date of enactment of*
15 *this subclause, the Administrator and*
16 *the non-Federal sponsor shall enter*
17 *into an agreement under which the*
18 *non-Federal sponsor shall carry out*
19 *such work, and only work carried out*
20 *following the execution of the agree-*
21 *ment shall be eligible for credit.*

22 “(IV) *LIMITATION.*—*Credit au-*
23 *thorized under this clause for a project*
24 *carried out under this paragraph—*

1 “(aa) shall not exceed the
2 non-Federal share of the cost of
3 the project; and

4 “(bb) shall not exceed the ac-
5 tual and reasonable costs of the
6 materials and services provided
7 by the non-Federal sponsor, as de-
8 termined by the Administrator.

9 “(V) INCLUSION OF CERTAIN CON-
10 TRIBUTIONS.—In this subparagraph,
11 the term ‘in-kind contribution’ may
12 include the costs of planning (includ-
13 ing data collection), design, construc-
14 tion, and materials that are provided
15 by the non-Federal sponsor for imple-
16 mentation of a project under this para-
17 graph.”.

18 (d) NON-FEDERAL SHARE.—Section 118(c)(12)(E) of
19 such Act (33 U.S.C. 1268(c)(12)(E)) is amended—

20 (1) by redesignating clauses (iii) and (iv) as
21 clauses (iv) and (v), respectively;

22 (2) by inserting after clause (ii) the following:

23 “(iii) TREATMENT OF CREDIT BE-
24 TWEEN PROJECTS.—Any credit provided
25 under this subparagraph towards the non-

1 *Federal share of the cost of a project carried*
 2 *out under this paragraph may be applied*
 3 *towards the non-Federal share of the cost of*
 4 *any other project carried out under this*
 5 *paragraph by the same non-Federal sponsor*
 6 *for a site within the same area of concern.”;*
 7 *and*

8 *(3) in clause (iv) (as redesignated by paragraph*
 9 *(1) of this subsection) by striking “service” each place*
 10 *it appears and inserting “contribution”.*

11 *(e) SITE CHARACTERIZATION.—Section 118(c)(12)(F)*
 12 *of such Act (33 U.S.C. 1268(c)(12)(F)) is amended to read*
 13 *as follows:*

14 *“(F) SITE CHARACTERIZATION.—*

15 *“(i) IN GENERAL.—The Administrator,*
 16 *in consultation with any affected State or*
 17 *unit of local government, shall carry out at*
 18 *Federal expense the site characterization of*
 19 *a project under this paragraph for the re-*
 20 *mediation of contaminated sediment.*

21 *“(ii) LIMITATION.—For purposes of*
 22 *clause (i), the Administrator may carry out*
 23 *one site assessment per discrete site within*
 24 *a project at Federal expense.”.*

1 (f) *AUTHORIZATION OF APPROPRIATIONS.*—Section
 2 118(c)(12)(H) of such Act (33 U.S.C. 1268(c)(12)(H)) is
 3 amended—

4 (1) *by striking clause (i) and inserting the fol-*
 5 *lowing:*

6 “(i) *IN GENERAL.*—In addition to
 7 other amounts authorized under this sec-
 8 tion, there is authorized to be appropriated
 9 to carry out this paragraph—

10 “(I) \$50,000,000 for each of fiscal
 11 years 2004 through 2008; and

12 “(II) \$150,000,000 for each of fis-
 13 cal years 2009 through 2013.”; and

14 (2) *by adding at the end the following:*

15 “(iii) *ALLOCATION OF FUNDS.*—Not
 16 more than 20 percent of the funds appro-
 17 priated pursuant to clause (i)(II) for a fis-
 18 cal year may be used to carry out subpara-
 19 graph (F).”.

20 (g) *PUBLIC INFORMATION PROGRAM.*—Section
 21 118(c)(13)(B) of such Act (33 U.S.C. 1268(c)(13)(B)) is
 22 amended by striking “2008” and inserting “2013”.

23 **SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.**

24 Section 106(b)(1) of the Great Lakes Legacy Act of
 25 2002 (33 U.S.C. 1271a(b)(1)) is amended to read as follows:

1 “(1) *IN GENERAL.*—*In addition to amounts au-*
2 *thorized under other laws, there is authorized to be*
3 *appropriated to carry out this section—*

4 “(A) \$3,000,000 for each of fiscal years
5 2004 through 2008; and

6 “(B) \$5,000,000 for each of fiscal years
7 2009 through 2013.”.

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