

Public Law 110–365
110th Congress

An Act

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

Oct. 8, 2008

[H.R. 6460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Great Lakes Legacy Reauthorization Act of 2008”.

Great Lakes
Legacy
Reauthorization
Act of 2008.
33 USC 1251
note.

SEC. 2. DEFINITIONS.

Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)) is amended—

- (1) in subparagraph (I) by striking “and” at the end;
- (2) in subparagraph (J) by striking the period and inserting a semicolon; and
- (3) by adding at the end the following:

“(K) ‘site characterization’ means a process for monitoring and evaluating the nature and extent of sediment contamination in accordance 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:

“(iii) unless each non-Federal sponsor for the project has entered into a written project agreement

with the Administrator under which the party agrees to carry out its responsibilities and requirements for the project; or

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

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

“(ii) IN-KIND CONTRIBUTIONS.—

“(I) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of an in-kind contribution provided by a non-Federal sponsor.

“(II) CREDIT.—A project agreement described in subparagraph (D)(iii) may provide, with respect to a project, that the Administrator shall credit toward the non-Federal share of the cost of the project the value of an in-kind contribution made by the non-Federal sponsor, if the Administrator determines that the material or service provided as the in-kind contribution is integral to the project.

“(III) WORK PERFORMED BEFORE PROJECT AGREEMENT.—In any case in which a non-Federal sponsor is to receive credit under subclause (II) for the cost of work carried out by the non-Federal sponsor and such work has not been carried out by the non-Federal sponsor as of the date of enactment of this subclause, the Administrator and the non-Federal sponsor shall enter into an agreement under which the non-Federal sponsor shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

“(IV) LIMITATION.—Credit authorized under this clause for a project carried out under this paragraph—

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

“(bb) shall not exceed the actual and reasonable costs of the materials and services provided by the non-Federal sponsor, as determined by the Administrator.

“(V) INCLUSION OF CERTAIN CONTRIBUTIONS.—In this subparagraph, the term ‘in-kind contribution’ may include the costs of planning (including data collection), design, construction, and materials that are provided by the non-Federal sponsor for implementation of a project under this paragraph.”.

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

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

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

“(iii) TREATMENT OF CREDIT BETWEEN PROJECTS.—

Any credit provided under this subparagraph towards the non-Federal share of the cost of a project carried out under this paragraph may be applied towards the non-Federal share of the cost of any other project carried out under this paragraph by the same non-Federal sponsor for a site within the same area of concern.”; and

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

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

“(F) SITE CHARACTERIZATION.—

“(i) IN GENERAL.—The Administrator, in consultation with any affected State or unit of local government, shall carry out at Federal expense the site characterization of a project under this paragraph for the remediation of contaminated sediment.

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

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

(1) by striking clause (i) and inserting the following:

“(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph \$50,000,000 for each of fiscal years 2004 through 2010.”; and

(2) by adding at the end the following:

“(iii) ALLOCATION OF FUNDS.—Not more than 20 percent of the funds appropriated pursuant to clause (i) for a fiscal year may be used to carry out subparagraph (F).”.

(g) PUBLIC INFORMATION PROGRAM.—Section 118(c)(13)(B) of such Act (33 U.S.C. 1268(c)(13)(B)) is amended by striking “2008” and inserting “2010”.

SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following: