

entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States; and

(4) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin.

(c) “Great Lakes State” defined

As used in this section, the term “Great Lakes State” means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(d) Approval by Governors for diversion of water

No water shall be diverted or exported from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin unless such diversion or export is approved by the Governor of each of the Great Lake¹ States.

(e) Approval of Governors for diversion studies

No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.

(f) Previously authorized diversions

This section shall not apply to any diversion of water from any of the Great Lakes which is authorized on November 17, 1986.

(Pub. L. 99-662, title XI, §1109, Nov. 17, 1986, 100 Stat. 4230; Pub. L. 106-541, title V, §504(a), (b), Dec. 11, 2000, 114 Stat. 2644.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1986, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2000—Subsec. (b)(2) to (4). Pub. L. 106-541, §504(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 106-541, §504(b), inserted “or exported” after “diverted” and “or export” after “diversion”.

Statutory Notes and Related Subsidiaries

GREAT LAKES CONSUMPTIVE USE STUDY

Pub. L. 100-4, title V, §521, Feb. 4, 1987, 101 Stat. 88, provided that in recognition of the serious impacts on the Great Lakes environment that could occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning

and habitat areas, as well as serious economic losses to vital Great Lakes industries, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, was authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that could be implemented to reduce the quantity of water consumed, and further provided an appropriation of \$750,000 for fiscal years beginning after Sept. 30, 1986, to carry out such study.

Similar provisions were contained in Pub. L. 99-662, title XI, §1147, Nov. 17, 1986, 100 Stat. 4253.

MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS

Pub. L. 99-662, title XI, §1142, Nov. 17, 1986, 100 Stat. 4253, as amended by Pub. L. 106-53, title V, §508, Aug. 17, 1999, 113 Stat. 339; Pub. L. 106-541, title V, §518, Dec. 11, 2000, 114 Stat. 2653, provided that:

“(a) Beginning October 1, 1987, the Secretary, in cooperation with the State of Illinois, shall carry out measurements and make necessary computations required by the decree of the United States Supreme Court (388 U.S. 426) relating to the diversion of water from Lake Michigan and shall coordinate the results with downstate interests. The measurements and computations shall consist of all flow measurements, gauge records, hydraulic and hydrologic computations, including periodic field investigations and measuring device calibrations, necessary to compute the amount of water diverted from Lake Michigan by the State of Illinois and its municipalities, political subdivisions, agencies, and instrumentalities, not including water diverted or used by Federal installations.

“(b) There are authorized to be appropriated \$1,250,000 for each of fiscal years 1999 through 2003 and \$800,000 for each fiscal year beginning after September 30, 2003, to carry out this section, including those funds necessary to maintain the measurements and computations, as well as necessary capital construction costs associated with the installation of new flow measurement devices or structures declared necessary and appropriate by the Secretary.”

§ 1962d-21. John Glenn Great Lakes basin program

(a) Strategic plans

(1) Study

The Secretary shall conduct a comprehensive study of the Great Lakes region to ensure the future use, management, and protection of water resources and related resources of the Great Lakes basin.

(2) Report

(A) In general

As expeditiously as possible, but not later than 3 years after August 17, 1999, and every 2 years thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report outlining a strategic plan for Corps of Engineers programs and proposed Corps of Engineers projects in the Great Lakes basin.

(B) Contents

The plan shall include—

(i) details of projects in the Great Lakes region relating to—

(I) navigation improvements, maintenance, and operations for commercial and recreational vessels;

¹ So in original. Probably should be “Lakes”.

(II) environmental restoration activities;

(III) water level maintenance activities;

(IV) technical and planning assistance to States and remedial action planning committees;

(V) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(VI) flood damage reduction and shoreline erosion prevention; and

(VII) all other relevant activities of the Corps of Engineers; and

(ii) an analysis of factors limiting use of programs and authorities of the Corps of Engineers in existence on August 17, 1999, in the Great Lakes basin, including the need for new or modified authorities.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$1,000,000 for the period of fiscal years 2000 through 2003.

(b) Great Lakes biohydrological information

(1) Inventory

(A) In general

Not later than 90 days after August 17, 1999, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) Relevant information

For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and the impacts of weather conditions on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) Report

(A) In general

Not later than 18 months after August 17, 1999, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally

sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) Recommendations

The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) Considerations

In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and the heads of other agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) Great Lakes recreational boating

Not later than 18 months after August 17, 1999, the Secretary, using information and studies in existence on August 17, 1999, to the extent practicable, and in cooperation with the Great Lakes States, shall submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Corps of Engineers.

(d) Cooperation

In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, and tribal governments.

(e) Water use activities and policies

The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) Cost sharing

The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

(g) In-kind contributions for study

The non-Federal interest may provide up to 100 percent of the non-Federal share required under subsection (f) in the form of in-kind services and materials.

(Pub. L. 106-53, title IV, § 455, Aug. 17, 1999, 113 Stat. 330; Pub. L. 110-114, title IV, § 4001, Nov. 8, 2007, 121 Stat. 1173.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Water Resources Development Act of 1999, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (g). Pub. L. 110-114 added subsec. (g).

Statutory Notes and Related Subsidiaries**DEFINITIONS**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-53, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

§ 1962d-22. Great Lakes fishery and ecosystem restoration**(a) Findings**

Congress finds that—

- (1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;
- (2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and
- (3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) Definitions

In this section, the following definitions apply:

(1) Great Lake**(A) In general**

The term “Great Lake” means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) Inclusions

The term “Great Lake” includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) Great Lakes Commission

The term “Great Lakes Commission” means the Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) Great Lakes Fishery Commission

The term “Great Lakes Fishery Commission” has the meaning given the term “Commission” in section 931 of title 16.

(4) Great Lakes State

The term “Great Lakes State” means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(c) Great Lakes fishery and ecosystem restoration**(1) Support plan****(A) In general**

Not later than 1 year after December 11, 2000, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) Use of existing documents

To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on December 11, 2000, such as lakewide management plans and remedial action plans.

(C) Cooperation

The Secretary shall develop the plan in cooperation with—

- (i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and
- (ii) other affected interests.

(2) Reconnaissance studies

Before planning, designing, or constructing a project under paragraph (3), the Secretary shall carry out a reconnaissance study—

- (A) to identify methods of restoring the fishery, ecosystem, and beneficial uses of the Great Lakes; and
- (B) to determine whether planning of a project under paragraph (3) should proceed.

(3) Projects

The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(4) Evaluation program**(A) In general**

The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (3) in meeting fishery and ecosystem restoration goals.

(B) Studies

Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(5) Recreation features

A project carried out pursuant to this subsection may include compatible recreation features as determined by the Secretary, except that the Federal costs of such features may not exceed 10 percent of the Federal ecosystem restoration costs of the project.

(d) Cooperative agreements

In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) Relationship to other Great Lakes activities

No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) Cost sharing**(1) Development of plan**

The Federal share of the cost of development of the plan under subsection (c)(1) shall be 65 percent.

(2) Project planning, design, construction, and evaluation

Except for reconnaissance studies, the Federal share of the cost of planning, design, con-