

(d) potential impacts of climate change on fish, wildlife, and their habitats in the Chesapeake Bay and its watershed; and

(e) potential impacts of more severe storms on Chesapeake Bay resources.

**PART 7—EXPAND PUBLIC ACCESS TO THE CHESAPEAKE BAY AND CONSERVE LANDSCAPES AND ECOSYSTEMS**

SEC. 701. (a) Agencies participating in the Committee shall assist the Secretary of the Interior in development of the report addressing expanded public access to the waters of the Chesapeake Bay and conservation of landscapes and ecosystems required in subsection 202(e) of this order by providing to the Secretary:

(i) a list and description of existing sites on agency lands and facilities where public access to the Chesapeake Bay or its tributary waters is offered;

(ii) a description of options for expanding public access at these agency sites;

(iii) a description of agency sites where new opportunities for public access might be provided;

(iv) a description of safety and national security issues related to expanded public access to Department of Defense installations;

(v) a description of landscapes and ecosystems in the Chesapeake Bay watershed that merit recognition for their historical, cultural, ecological, or scientific values; and

(vi) options for conserving these landscapes and ecosystems.

(b) In developing the report addressing expanded public access on agency lands to the waters of the Chesapeake Bay and options for conserving landscapes and ecosystems in the Chesapeake Bay, as required in subsection 202(e) of this order, the Secretary of the Interior shall coordinate any recommendations with State and local agencies in the watershed and programs such as the Captain John Smith Chesapeake National Historic Trail, the Chesapeake Bay Gateways and Water-trails Network, and the Star-Spangled Banner National Historic Trail.

**PART 8—MONITORING AND DECISION SUPPORT FOR ECOSYSTEM MANAGEMENT**

SEC. 801. The Secretaries of Commerce and the Interior shall, to the extent permitted by law, organize and conduct their monitoring, research, and scientific assessments to support decisionmaking for the Chesapeake Bay ecosystem and to develop the report addressing strengthening environmental monitoring of the Chesapeake Bay and its watershed required in section 202 of this order. This report will assess existing monitoring programs and gaps in data collection, and shall also include the following topics:

(a) the health of fish and wildlife in the Chesapeake Bay watershed;

(b) factors affecting changes in water quality and habitat conditions; and

(c) using adaptive management to plan, monitor, evaluate, and adjust environmental management actions.

**PART 9—LIVING RESOURCES PROTECTION AND RESTORATION**

SEC. 901. The Secretaries of Commerce and the Interior shall, to the extent permitted by law, identify and prioritize critical living resources of the Chesapeake Bay and its watershed, conduct collaborative research and habitat protection activities that address expected outcomes for these species, and develop a report addressing these topics as required in section 202 of this order. The Secretaries of Commerce and the Interior shall coordinate agency activities related to living resources in estuarine waters to ensure maximum benefit to the Chesapeake Bay resources.

**PART 10—EXCEPTIONS**

SEC. 1001. The heads of agencies may authorize exceptions to this order, in the following circumstances:

(a) during time of war or national emergency;

(b) when necessary for reasons of national security;

(c) during emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution; or

(d) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, such as cases of *force majeure* caused by stress of weather or other act of God.

**PART 11—GENERAL PROVISIONS**

SEC. 1101. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

**§ 1268. Great Lakes**

**(a) Findings, purpose, and definitions**

**(1) Findings**

The Congress finds that—

(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, with particular emphasis on goals related to toxic pollutants; and

(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

**(2) Purpose**

It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

**(3) Definitions**

For purposes of this section, the term—

(A) “Agency” means the Environmental Protection Agency;

(B) “Great Lakes” means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

(C) “Great Lakes System” means all the streams, rivers, lakes, and other bodies of

water within the drainage basin of the Great Lakes;

(D) “Program Office” means the Great Lakes National Program Office established by this section;

(E) “Research Office” means the Great Lakes Research Office established by subsection (d) of this section;

(F) “area of concern” means a geographic area located within the Great Lakes, in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement;

(G) “Great Lakes States” means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(H) “Great Lakes Water Quality Agreement” means the bilateral agreement, between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987;

(I) “Lakewide Management Plan” means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement;

(J) “Remedial Action Plan” means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement;

(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.

**(b) Great Lakes National Program Office**

The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

**(c) Great Lakes management**

**(1) Functions**

The Program Office shall—

(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 1251(e) of this title, develop and implement specific

action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments;<sup>1</sup>

(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

**(2) Great Lakes water quality guidance**

(A) By June 30, 1991, the Administrator, after consultation with the Program Office, shall publish in the Federal Register for public notice and comment proposed water quality guidance for the Great Lakes System. Such guidance shall conform with the objectives and provisions of the Great Lakes Water Quality Agreement, shall be no less restrictive than the provisions of this chapter and national water quality criteria and guidance, shall specify numerical limits on pollutants in ambient Great Lakes waters to protect human health, aquatic life, and wildlife, and shall provide guidance to the Great Lakes States on minimum water quality standards, anti-degradation policies, and implementation procedures for the Great Lakes System.

(B) By June 30, 1992, the Administrator, in consultation with the Program Office, shall publish in the Federal Register, pursuant to this section and the Administrator’s authority under this chapter, final water quality guidance for the Great Lakes System.

(C) Within two years after such Great Lakes guidance is published, the Great Lakes States shall adopt water quality standards, anti-degradation policies, and implementation procedures for waters within the Great Lakes System which are consistent with such guidance. If a Great Lakes State fails to adopt such standards, policies, and procedures, the Administrator shall promulgate them not later than the end of such two-year period. When reviewing any Great Lakes State’s water quality plan, the agency shall consider the extent to which the State has complied with the Great Lakes guidance issued pursuant to this section.

**(3) Remedial Action Plans**

(A) For each area of concern for which the United States has agreed to draft a Remedial

<sup>1</sup> So in original.

Action Plan, the Program Office shall ensure that the Great Lakes State in which such area of concern is located—

- (i) submits a Remedial Action Plan to the Program Office by June 30, 1991;
- (ii) submits such Remedial Action Plan to the International Joint Commission by January 1, 1992; and
- (iii) includes such Remedial Action Plans within the State's water quality plan by January 1, 1993.

(B) For each area of concern for which Canada has agreed to draft a Remedial Action Plan, the Program Office shall, pursuant to subparagraph (c)(1)(C) of this section, work with Canada to assure the submission of such Remedial Action Plans to the International Joint Commission by June 30, 1991, and to finalize such Remedial Action Plans by January 1, 1993.

(C) For any area of concern designated as such subsequent to November 16, 1990, the Program Office shall (i) if the United States has agreed to draft the Remedial Action Plan, ensure that the Great Lakes State in which such area of concern is located submits such Plan to the Program Office within two years of the area's designation, submits it to the International Joint Commission no later than six months after submitting it to the Program Office, and includes such Plan in the State's water quality plan no later than one year after submitting it to the Commission; and (ii) if Canada has agreed to draft the Remedial Action Plan, work with Canada, pursuant to subparagraph (c)(1)(C) of this section, to ensure the submission of such Plan to the International Joint Commission within two years of the area's designation and the finalization of such Plan no later than eighteen months after submitting it to such Commission.

(D) The Program Office shall compile formal comments on individual Remedial Action Plans made by the International Joint Commission pursuant to section 4(d) of Annex 2 of the Great Lakes Water Quality Agreement and, upon request by a member of the public, shall make such comments available for inspection and copying. The Program Office shall also make available, upon request, formal comments made by the Environmental Protection Agency on individual Remedial Action Plans.

(E) REPORT.—Not later than 1 year after November 27, 2002, the Administrator shall submit to Congress a report on such actions, time periods, and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

- (i) this paragraph; and
- (ii) the Great Lakes Water Quality Agreement.

#### (4) Lakewide Management Plans

The Administrator, in consultation with the Program Office shall—

- (A) by January 1, 1992, publish in the Federal Register a proposed Lakewide Management Plan for Lake Michigan and solicit public comments;
- (B) by January 1, 1993, submit a proposed Lakewide Management Plan for Lake Michi-

gan to the International Joint Commission for review; and

- (C) by January 1, 1994, publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation.

Nothing in this subparagraph shall preclude the simultaneous development of Lakewide Management Plans for the other Great Lakes.

#### (5) Spills of oil and hazardous materials

The Program Office, in consultation with the Coast Guard, shall identify areas within the Great Lakes which are likely to experience numerous or voluminous spills of oil or other hazardous materials from land based facilities, vessels, or other sources and, in consultation with the Great Lakes States, shall identify weaknesses in Federal and State programs and systems to prevent and respond to such spills. This information shall be included on at least a biennial basis in the report required by this section.

#### (6) 5-year plan and program

The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 1329 of this title and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

#### (7) 5-year study and demonstration projects

(A) The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

(B) The Program Office shall—

- (i) by December 31, 1990, complete chemical, physical, and biological assessments of the contaminated sediments at the locations selected for the study and demonstration projects;
- (ii) by December 31, 1990, announce the technologies that will be demonstrated at each location and the numerical standard of protection intended to be achieved at each location;
- (iii) by December 31, 1992, complete full or pilot scale demonstration projects on site at each location of promising technologies to remedy contaminated sediments; and
- (iv) by December 31, 1993, issue a final report to Congress on its findings.

(C) The Administrator, after providing for public review and comment, shall publish information concerning the public health and environmental consequences of contaminants in Great Lakes sediment. Information pub-

lished pursuant to this subparagraph shall include specific numerical limits to protect health, aquatic life, and wildlife from the bioaccumulation of toxins. The Administrator shall, at a minimum, publish information pursuant to this subparagraph within 2 years of November 16, 1990.

**(8) Administrator's responsibility**

The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

- (A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;
- (B) the time periods for carrying out such duties and responsibilities; and
- (C) the resources to be committed to such duties and responsibilities.

**(9) Budget item**

The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

**(10) Comprehensive report**

Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

(C) describes the long-term prospects for improving the condition of the Great Lakes; and

(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments,<sup>1</sup> which assessment shall—

(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

**(11) Confined disposal facilities**

(A) The Administrator, in consultation with the Assistant Secretary of the Army for Civil Works, shall develop and implement, within one year of November 16, 1990, management plans for every Great Lakes confined disposal facility.

(B) The plan shall provide for monitoring of such facilities, including—

- (i) water quality at the site and in the area of the site;
- (ii) sediment quality at the site and in the area of the site;
- (iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and
- (iv) such other conditions as the Administrator deems appropriate.

(C) The plan shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.

**(12) Remediation of sediment contamination in areas of concern**

**(A) In general**

In accordance with this paragraph, the Administrator, acting through the Program Office, may carry out projects that meet the requirements of subparagraph (B).

**(B) Eligible projects**

A project meets the requirements of this subparagraph if the project is to be carried out in an area of concern located wholly or partially in the United States and the project—

- (i) monitors or evaluates contaminated sediment;
- (ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment, including activities to restore aquatic habitat that are carried out in conjunction with a project for the remediation of contaminated sediment; or
- (iii) prevents further or renewed contamination of sediment.

**(C) Priority**

In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

- (i) constitutes remedial action for contaminated sediment;
- (ii) (I) has been identified in a Remedial Action Plan submitted under paragraph (3); and (II) is ready to be implemented;
- (iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or
- (iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

**(D) Limitations**

The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

(i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment;

(ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project;

(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.

**(E) Non-Federal share****(i) In general**

The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

**(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 October 8, 2008, 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.

**(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.

**(iv) Non-Federal share**

The non-Federal share of the cost of a project carried out under this paragraph—

(I) may include monies paid pursuant to, or the value of any in-kind contribution performed under, an administrative order on consent or judicial consent decree; but

(II) may not include any funds paid pursuant to, or the value of any in-kind contribution performed under, a unilateral administrative order or court order.

**(v) Operation and maintenance**

The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

**(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.

**(G) Coordination**

In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

**(H) Authorization of appropriations****(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.

**(ii) Availability**

Funds made available under clause (i) shall remain available until expended.

**(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).

**(13) Public information program****(A) In general**

The Administrator, acting through the Program Office and in coordination with States, Indian tribes, local governments, and other entities, may carry out a public information program to provide information relating to the remediation of contaminated sediment to the public in areas of concern that are located wholly or partially in the United States.

**(B) Authorization of appropriations**

There is authorized to be appropriated to carry out this paragraph \$1,000,000 for each of fiscal years 2004 through 2010.

**(d) Great Lakes research****(1) Establishment of Research Office**

There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

**(2) Identification of issues**

The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system<sup>2</sup> with respect to such issues.

**(3) Inventory**

The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system,<sup>2</sup> and shall update that inventory every four years.

**(4) Research exchange**

The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

**(5) Research program**

The Research Office shall develop, in cooperation with the Coordination Office, a com-

prehensive environmental research program and data base for the Great Lakes system.<sup>2</sup> The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

**(6) Monitoring**

The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

**(7) Location**

The Research Office shall be located in a Great Lakes State.

**(e) Research and management coordination****(1) Joint plan**

Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

**(2) Contents of plan**

Each plan prepared under paragraph (1) shall—

(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments;<sup>3</sup>

(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

**(3) Health research report**

(A) Not later than September 30, 1994, the Program Office, in consultation with the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States shall submit to the Congress a report assessing the adverse effects of water pollutants in the Great Lakes System on the health of persons in Great Lakes States and the health of fish, shellfish, and wildlife in the Great Lakes System. In conducting research in support of this report, the Administrator may, where appropriate, provide for research to be conducted under cooperative agreements with Great Lakes States.

(B) There is authorized to be appropriated to the Administrator to carry out this section not to exceed \$3,000,000 for each of fiscal years 1992, 1993, and 1994.

**(f) Interagency cooperation**

The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental

<sup>2</sup> So in original. Probably should be capitalized.

<sup>3</sup> So in original.

quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments.<sup>3</sup>

**(g) Relationship to existing Federal and State laws and international treaties**

Nothing in this section shall be construed—

(1) to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes; or

(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.

**(h) Authorizations of Great Lakes appropriations**

There are authorized to be appropriated to the Administrator to carry out this section not to exceed—

(1) \$11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, and 1990, and \$25,000,000 for fiscal year 1991;

(2) such sums as are necessary for each of fiscal years 1992 through 2003; and

(3) \$25,000,000 for each of fiscal years 2004 through 2008.

(June 30, 1948, ch. 758, title I, §118, as added Pub. L. 100-4, title I, §104, Feb. 4, 1987, 101 Stat. 11; amended Pub. L. 100-688, title I, §1008, Nov. 18, 1988, 102 Stat. 4151; Pub. L. 101-596, title I, §§101-106, Nov. 16, 1990, 104 Stat. 3000-3004; Pub. L. 107-303, title I, §§102-105, Nov. 27, 2002, 116 Stat. 2355-2358; Pub. L. 110-365, §§2, 3, Oct. 8, 2008, 122 Stat. 4021.)

CODIFICATION

November 16, 1990, referred to in subsec. (c)(3)(C), (7)(C), was in the original “the enactment of this Act”, and “the date of the enactment of this title” which were translated as meaning the date of enactment of Pub. L. 101-596, title I of which enacted subsec. (c)(3), (7)(C), to reflect the probable intent of Congress.

AMENDMENTS

2008—Subsec. (a)(3)(K), (L). Pub. L. 110-365, §2, added subpars. (K) and (L).

Subsec. (c)(12)(B)(ii). Pub. L. 110-365, §3(a), substituted “sediment, including activities to restore aquatic habitat that are carried out in conjunction with a project for the remediation of contaminated sediment” for “sediment”.

Subsec. (c)(12)(D). Pub. L. 110-365, §3(b)(1), substituted “Limitations” for “Limitation” in heading.

Subsec. (c)(12)(D)(iii), (iv). Pub. L. 110-365, §3(b)(2)–(4), added cls. (iii) and (iv).

Subsec. (c)(12)(E)(ii). Pub. L. 110-365, §3(c), amended cl. (ii) generally. Prior to amendment, text read as follows: “The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.”

Subsec. (c)(12)(E)(iii). Pub. L. 110-365, §3(d)(2), added cl. (iii). Former cl. (iii) redesignated (iv).

Subsec. (c)(12)(E)(iv). Pub. L. 110-365, §3(d)(1), (3), redesignated cl. (iii) as (iv) and substituted “contribution” for “service” in two places. Former cl. (iv) redesignated (v).

Subsec. (c)(12)(E)(v). Pub. L. 110-365, §3(d)(1), redesignated cl. (iv) as (v).

Subsec. (c)(12)(F). Pub. L. 110-365, §3(e), amended subpar. (F) generally. Prior to amendment, text read as follows: “The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in the 2 fiscal years preceding the date on which the project is initiated.”

Subsec. (c)(12)(H)(i). Pub. L. 110-365, §3(f)(1), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “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 2008.”

Subsec. (c)(12)(H)(iii). Pub. L. 110-365, §3(f)(2), added cl. (iii).

Subsec. (c)(13)(B). Pub. L. 110-365, §3(g), substituted “2010” for “2008”.

2002—Subsec. (c)(3)(E). Pub. L. 107-303, §102, added subpar. (E).

Subsec. (c)(12), (13). Pub. L. 107-303, §103, added pars. (12) and (13).

Subsec. (g). Pub. L. 107-303, §104, substituted “construed—” for “construed to affect”, inserted “(1) to affect” before “the jurisdiction”, substituted “Lakes; or” for “Lakes.”, and added par. (2).

Subsec. (h). Pub. L. 107-303, §105, substituted “not to exceed—” for “not to exceed \$11,000,000”, inserted “(1) \$11,000,000” before “per fiscal year for”, substituted “1991;” for “1991.”, added pars. (2) and (3), and struck out former last sentence which read as follows: “Of the amounts appropriated each fiscal year—

“(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

“(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

“(3) 30 percent or \$3,300,000, whichever is the lesser, shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.”

1990—Subsec. (a)(3)(F) to (J). Pub. L. 101-596, §103, added subpars. (F) to (J).

Subsec. (c)(2) to (11). Pub. L. 101-596, §§101, 102, 104, added pars. (2) to (5) after par. (1) and renumbered existing paragraphs accordingly, which was executed by renumbering pars. (2) to (6) as (6) to (10), respectively, redesignated existing provisions of par. (7) as subpar. (A) and added subpars. (B) and (C), and added par. (11).

Subsec. (e)(3). Pub. L. 101-596, §106, added par. (3).

Subsec. (h). Pub. L. 101-596, §105, substituted “and 1990, and \$25,000,000 for fiscal year 1991” for “1990, and 1991” in introductory provisions and inserted “or \$3,300,000, whichever is the lesser,” after “30 percent” in par. (3).

1988—Subsecs. (a)(1)(B), (2), (c)(1)(A), (6)(A), (D), (e)(2)(A), (f). Pub. L. 100-688 inserted “,” as amended by the Water Quality Agreement of 1987 and any other agreements and amendments,” after “the Great Lakes Water Quality Agreement of 1978”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security,

and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### FUNDS CONTRIBUTED BY A NON-FEDERAL SPONSOR

Pub. L. 108-447, div. I, title III, Dec. 8, 2004, 118 Stat. 3332, provided in part that: "The Administrator [of the Environmental Protection Agency] may hereafter receive and use funds contributed by a non-Federal sponsor as its share of the cost of a project to carry out a project under paragraph (c)(12) of section 118 of the Federal Water Pollution Control Act [33 U.S.C. 1268(c)(12)], as amended."

#### GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION

Pub. L. 101-640, title IV, § 401, Nov. 28, 1990, 104 Stat. 4644, as amended by Pub. L. 104-303, title V, § 515, Oct. 12, 1996, 110 Stat. 3763; Pub. L. 106-53, title V, § 505, Aug. 17, 1999, 113 Stat. 338; Pub. L. 106-541, title III, § 344, Dec. 11, 2000, 114 Stat. 2613; Pub. L. 110-114, title V, § 5012, Nov. 8, 2007, 121 Stat. 1195, provided that:

##### "(a) GREAT LAKES REMEDIAL ACTION PLANS.—

"(1) IN GENERAL.—The Secretary may provide technical, planning, and engineering assistance to State and local governments and nongovernmental entities designated by a State or local government in the development and implementation of remedial action plans for Areas of Concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978.

##### "(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, 35 percent of costs of activities for which assistance is provided under paragraph (1).

"(B) CONTRIBUTIONS BY ENTITIES.—Nonprofit public or private entities may contribute all or a portion of the non-Federal share.

##### "(b) SEDIMENT REMEDIATION PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency (acting through the Great Lakes National Program Office), may conduct pilot- and full-scale projects of promising technologies to remediate contaminated sediments in freshwater coastal regions in the Great Lakes basin. The Secretary shall conduct not fewer than 3 full-scale projects under this subsection.

"(2) SITE SELECTION FOR PROJECTS.—In selecting the sites for the technology projects, the Secretary shall give priority consideration to Saginaw Bay, Michigan, Sheboygan Harbor, Wisconsin, Grand Calumet River, Indiana, Ashtabula River, Ohio, Buffalo River, New York, and Duluth-Superior Harbor, Minnesota and Wisconsin.

"(3) NON-FEDERAL SHARE.—Non-Federal interests shall contribute 35 percent of costs of projects under this subsection. Such costs may be paid in cash or by providing in-kind contributions.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$10,000,000 for each of fiscal years 2001 through 2012."

#### EX. ORD. NO. 13340. ESTABLISHMENT OF GREAT LAKES INTERAGENCY TASK FORCE AND PROMOTION OF A REGIONAL COLLABORATION OF NATIONAL SIGNIFICANCE FOR THE GREAT LAKES

Ex. Ord. No. 13340, May 18, 2004, 69 F.R. 29043, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to help establish a regional collaboration of national significance for the Great Lakes, it is hereby ordered as follows:

SECTION 1. *Policy.* The Great Lakes are a national treasure constituting the largest freshwater system in

the world. The United States and Canada have made great progress addressing past and current environmental impacts to the Great Lakes ecology. The Federal Government is committed to making progress on the many significant challenges that remain. Along with numerous State, tribal, and local programs, over 140 Federal programs help fund and implement environmental restoration and management activities throughout the Great Lakes system. A number of intergovernmental bodies are providing leadership in the region to address environmental and resource management issues in the Great Lakes system. These activities would benefit substantially from more systematic collaboration and better integration of effort. It is the policy of the Federal Government to support local and regional efforts to address environmental challenges and to encourage local citizen and community stewardship. To this end, the Federal Government will partner with the Great Lakes States, tribal and local governments, communities, and other interests to establish a regional collaboration to address nationally significant environmental and natural resource issues involving the Great Lakes. It is the further policy of the Federal Government that its executive departments and agencies will ensure that their programs are funding effective, coordinated, and environmentally sound activities in the Great Lakes system.

##### SEC. 2. *Definitions.* For purposes of this order:

(a) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Marys River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border).

(b) "Great Lakes system" means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes.

##### SEC. 3. *Great Lakes Interagency Task Force.*

(a) Task Force Purpose. To further the policy described in section 1 of this order, there is established, within the Environmental Protection Agency for administrative purposes, the "Great Lakes Interagency Task Force" (Task Force) to:

(i) Help convene and establish a process for collaboration among the members of the Task Force and the members of the Working Group that is established in paragraph b(ii) of this section, with the Great Lakes States, local communities, tribes, regional bodies, and other interests in the Great Lakes region regarding policies, strategies, plans, programs, projects, activities, and priorities for the Great Lakes system.

(ii) Collaborate with Canada and its provinces and with bi-national bodies involved in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes system.

(iii) Coordinate the development of consistent Federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes system and assisting in the appropriate management of the Great Lakes system.

(iv) Develop outcome-based goals for the Great Lakes system relying upon, among other things, existing data and science-based indicators of water quality and related environmental factors. These goals shall focus on outcomes such as cleaner water, sustainable fisheries, and biodiversity of the Great Lakes system and ensure that Federal policies, strategies, projects, and priorities support measurable results.

(v) Exchange information regarding policies, strategies, projects, and activities of the agencies represented on the Task Force related to the Great Lakes system.

(vi) Work to coordinate government action associated with the Great Lakes system.

(vii) Ensure coordinated Federal scientific and other research associated with the Great Lakes system.

(viii) Ensure coordinated government development and implementation of the Great Lakes portion of the Global Earth Observation System of Systems.



(ix) Provide assistance and support to agencies represented on the Task Force in their activities related to the Great Lakes system.

(x) Submit a report to the President by May 31, 2005, and thereafter as appropriate, that summarizes the activities of the Task Force and provides any recommendations that would, in the judgment of the Task Force, advance the policy set forth in section 1 of this order.

(b) Membership and Operation.

(i) The Task Force shall consist exclusively of the following officers of the United States: the Administrator of the Environmental Protection Agency (who shall chair the Task Force), the Secretary of State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Homeland Security, the Secretary of the Army, and the Chairman of the Council on Environmental Quality. A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is part of the member's department, agency, or office and who is either an officer of the United States appointed by the President or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS-15 of the General Schedule. The Task Force shall report to the President through the Chairman of the Council on Environmental Quality.

(ii) The Task Force shall establish a "Great Lakes Regional Working Group" (Working Group) composed of the appropriate regional administrator or director with programmatic responsibility for the Great Lakes system for each agency represented on the Task Force including: the Great Lakes National Program Office of the Environmental Protection Agency; the United States Fish and Wildlife Service, National Park Service, and United States Geological Survey within the Department of the Interior; the Natural Resources Conservation Service and the Forest Service of the Department of Agriculture; the National Oceanic and Atmospheric Administration of the Department of Commerce; the Department of Housing and Urban Development; the Department of Transportation; the Coast Guard within the Department of Homeland Security; and the Army Corps of Engineers within the Department of the Army. The Working Group will coordinate and make recommendations on how to implement the policies, strategies, projects, and priorities of the Task Force.

(c) Management Principles for Regional Collaboration of National Significance. To further the policy described in section 1, the Task Force shall recognize and apply key principles and foster conditions to ensure successful collaboration. To that end, the Environmental Protection Agency will coordinate the development of a set of principles of successful collaboration.

SEC. 4. *Great Lakes National Program Office.* The Great Lakes National Program Office of the Environmental Protection Agency shall assist the Task Force and the Working Group in the performance of their functions. The Great Lakes National Program Manager shall serve as chair of the Working Group.

SEC. 5. *Preservation of Authority.* Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, regulatory, and legislative proposals. Nothing in this order shall be construed to affect the statutory authority or obligations of any Federal agency or any bi-national agreement with Canada.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

## § 1269. Long Island Sound

### (a) Office of Management Conference of the Long Island Sound Study

The Administrator shall continue the Management Conference of the Long Island Sound Study (hereinafter referred to as the "Conference") as established pursuant to section 1330 of this title, and shall establish an office (hereinafter referred to as the "Office") to be located on or near Long Island Sound.

### (b) Administration and staffing of Office

The Office shall be headed by a Director, who shall be detailed by the Administrator, following consultation with the Administrators of EPA regions I and II, from among the employees of the Agency who are in civil service. The Administrator shall delegate to the Director such authority and detail such additional staff as may be necessary to carry out the duties of the Director under this section.

### (c) Duties of Office

The Office shall assist the Management Conference of the Long Island Sound Study in carrying out its goals. Specifically, the Office shall—

(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 1330 of this title, including efforts to establish, within the process for granting watershed general permits, a system for promoting innovative methodologies and technologies that are cost-effective and consistent with the goals of the Plan;

(2) conduct or commission studies deemed necessary for strengthened implementation of the Comprehensive Conservation and Management Plan including, but not limited to—

(A) population growth and the adequacy of wastewater treatment facilities,

(B) the use of biological methods for nutrient removal in sewage treatment plants,

(C) contaminated sediments, and dredging activities,

(D) nonpoint source pollution abatement and land use activities in the Long Island Sound watershed,

(E) wetland protection and restoration,

(F) atmospheric deposition of acidic and other pollutants into Long Island Sound,

(G) water quality requirements to sustain fish, shellfish, and wildlife populations, and the use of indicator species to assess environmental quality,

(H) State water quality programs, for their adequacy pursuant to implementation of the Comprehensive Conservation and Management Plan, and

(I) options for long-term financing of wastewater treatment projects and water pollution control programs.

(3) coordinate the grant, research and planning programs authorized under this section;

(4) coordinate activities and implementation responsibilities with other Federal agencies which have jurisdiction over Long Island Sound and with national and regional marine monitoring and research programs established