

(Pub. L. 99-662, title XI, §1127, Nov. 17, 1986, 100 Stat. 4245.)

§ 2309. Great Lakes Commodities Marketing Board

(a) Congressional declaration of purpose

To ensure the coordinated economic revitalization and environmental enhancement of the Great Lakes and their connecting channels and the Saint Lawrence Seaway (hereinafter in this section referred to as the "Great Lakes"), known as the "Fourth Seacoast" of the United States, it is hereby declared to be the intent of Congress to recognize the importance of the economic vitality of the Great Lakes region, the importance of exports from the region in the United States balance of trade, and the need to assure an environmentally and socially responsible navigation system for the Great Lakes. Congress finds that the Great Lakes provide a diversity of agricultural, commercial, environmental, recreational, and related opportunities based on their extensive water resources and water transportation systems.

(b) Establishment; strategy development; composition of Board; Director; report; termination

(1) There is hereby established a Board to be known as the Great Lakes Commodities Marketing Board (hereinafter in this subsection referred to as the "Board").

(2)(A) The Board shall develop a strategy to improve the capacity of the Great Lakes region to produce, market, and transport commodities in a timely manner and to maximize the efficiency and benefits of marketing products produced in the Great Lakes region and products shipped through the Great Lakes.

(B) The strategy shall address, among other things, environmental issues relating to transportation on the Great Lakes and marketing difficulties experienced due to late harvest seasons in the Great Lakes region. The strategy shall include, as appropriate alternative storage, sales, marketing, multimodal transportation systems, and other systems, to assure optimal economic benefits to the region from agricultural and other commercial activities. The strategy shall develop—

(i) methods to improve and promote both bulk and general cargo trade through Great Lakes ports;

(ii) methods to accelerate the movement of grains and other agricultural commodities through the Great Lakes;

(iii) methods to provide needed flexibility to farmers in the Great Lakes region to market grains and other agricultural commodities; and

(iv) methods and materials to promote trade from the Great Lakes region and through Great Lakes ports, particularly with European, Mediterranean, African, Caribbean, Central American, and South American nations.

(C) In developing the strategy, the Board shall conduct and consider the results of—

(i) an analysis of the feasibility and costs of using iron ore vessels, which are not being utilized, to move grain and other agricultural commodities on the Great Lakes;

(ii) an economic analysis of transshipping such commodities through Montreal, Canada, and other ports;

(iii) an analysis of the economic feasibility of storing such commodities during the non-navigation season of the Great Lakes and the feasibility of and need for construction of new storage facilities for such commodities;

(iv) an analysis of the constraints on the flexibility of farmers in the Great Lakes region to market grains and other agricultural commodities, including harvest dates for such commodities and the availability of transport and storage facilities for such commodities; and

(v) an analysis of the amount of grain and other agricultural commodities produced in the United States which are being diverted to Canada by rail but which could be shipped on the Great Lakes if vessels were available for shipping such products during the navigation season.

(D) In developing the strategy, the Board shall consider weather problems and related costs and marketing problems resulting from the late harvest of agricultural commodities (including wheat and sunflower seeds) in the Great Lakes region.

(E) In developing the strategy, the Board shall consult United States ports on the Great Lakes and their users, including farm organizations (such as wheat growers and soybean growers), port authorities, water carrier organizations, and other interested persons.

(3) The Board shall be composed of seven members as follows:

(A) the chairman of the Great Lakes Commission or his or her delegate,

(B) the Secretary or his or her delegate,

(C) the Secretary of Transportation or his or her delegate,

(D) the Secretary of Commerce or his or her delegate,

(E) the Administrator of the Saint Lawrence Seaway Development Corporation or his or her delegate,

(F) the Secretary of Agriculture or his or her delegate, and

(G) the Administrator of the Environmental Protection Agency or his or her delegate.

(4)(A) Members of the Board shall serve for the life of the Board.

(B) Members of the Board shall serve without pay and those members who are full time officers or employees of the United States shall receive no additional pay by reason of their service on the Board, except that members of the Board shall be allowed travel or transportation expenses under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business and engaged in the actual performance of duties vested in the Board.

(C) Four members of the Board shall constitute a quorum but a lesser number may hold hearings.

(D) The co-chairmen of the Board shall be the Secretary or his or her delegate and the Administrator of the Saint Lawrence Seaway Development Corporation or his or her delegate.

(E) The Board shall meet at the call of the co-chairmen or a majority of its members.

(5)(A) The Board shall, without regard to section 5311(b)¹ of title 5, have a Director, who shall be appointed by the Board and shall be paid at a rate which the Board considers appropriate.

(B) Subject to such rules as may be prescribed by the Board, without regard to 5311(b)¹ of title 5, the Board may appoint and fix the pay of such additional personnel as the Board considers appropriate.

(C) Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties under this subsection.

(6)(A) The Board may, for purposes of carrying out this subsection, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate.

(B) Any member or agent of the Board may, if so authorized by the Board, take any action which the Board is authorized to take by this paragraph.

(C) The Board may secure directly from any department or agency of the United States any information necessary to enable it to carry out this subsection. Upon request of the co-chairmen of the Board, the head of such department or agency shall furnish such information to the Board.

(D) The Board may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(E) The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(7) Not later than September 30, 1989, the Board shall transmit to the President and to each House of the Congress a report stating the strategy developed under this subsection and the results of each analysis conducted under this subsection. Such report shall contain a detailed statement of the findings and conclusions of the Board together with its recommendations for such legislative and administrative actions as it considers appropriate to carry out such strategy and to assure maximum economic benefits to the users of the Great Lakes and to the Great Lakes region.

(8) The Board shall cease to exist 180 days after submitting its report pursuant to this subsection.

(9) The non-Federal share of the cost of carrying out this subsection shall be 25 percent. There is authorized to be appropriated such sums as may be necessary to carry out the Federal share of this subsection for fiscal years beginning after September 30, 1986, and ending before October 1, 1990.

(c) International advisory group

(1) The President shall invite the Government of Canada to join in the formation of an international advisory group whose duty it shall be (A) to develop a bilateral program for improving navigation, through a coordinated strategy, on the Great Lakes, and (B) to conduct investiga-

tions on a continuing basis and make recommendations for a system-wide navigation improvement program to facilitate optimum use of the Great Lakes. The advisory group shall be composed of five members representing the United States, five members representing Canada, and two members from the International Joint Commission established by the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington, January 11, 1909 (36 Stat. 2448). The five members representing the United States shall include the Secretary of State, one member of the Great Lakes Commodities Marketing Board (as designated by the Board), and three individuals appointed by the President representing commercial, shipping, and environmental interests, respectively.

(2) The United States representatives to the international advisory group shall serve without pay and the United States representatives to the advisory group who are full time officers or employees of the United States shall receive no additional pay by reason of their service on the advisory group, except that the United States representatives shall be allowed travel or transportation expenses under subchapter I of chapter 57 of title 5 while away from their homes or regular place of business and engaged in the actual performance of duties vested in the advisory group.

(3) The international advisory group established by this subsection shall report to Congress and to the Canadian Parliament on its progress in carrying out the duties set forth in this subsection not later than one year after the formation of such group and biennially thereafter.

(d) Review of environmental, economic, and social impacts of navigation in United States portion of Great Lakes

The Secretary and the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, and other appropriate Federal and non-Federal entities, shall carry out a review of the environmental, economic, and social impacts of navigation in the United States portion of the Great Lakes. In carrying out such review, the Secretary and the Administrator shall use existing research, studies, and investigations relating to such impacts to the maximum extent possible. Special emphasis shall be made in such review of the impacts of navigation on the shoreline and on fish and wildlife habitat, including, but not limited to, impacts associated with resuspension of bottom sediment. The Secretary and the Administrator shall submit to Congress an interim report of such review not later than September 30, 1988, and a final report of such review along with recommendations not later than September 30, 1990.

(Pub. L. 99-662, title XI, §1132, Nov. 17, 1986, 100 Stat. 4246.)

REFERENCES IN TEXT

Section 5311(b) of title 5, referred to in subsec. (b)(5)(A), (B), was repealed by Pub. L. 101-509, title V, §529 [title I, §104(c)(1)], Nov. 5, 1990, 104 Stat. 1427, 1447.

¹ See References in Text note below.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(3) of this section relating to the requirement that the international advisory group report biennially to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 193 of House Document No. 103-7.

§ 2309a. Project modifications for improvement of environment

(a) Determination of need

The Secretary is authorized to review water resources projects constructed by the Secretary to determine the need for modifications in the structures and operations of such projects for the purpose of improving the quality of the environment in the public interest and to determine if the operation of such projects has contributed to the degradation of the quality of the environment.

(b) Authority to make modifications

The Secretary is authorized to carry out a program for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary which the Secretary determines (1) are feasible and consistent with the authorized project purposes, and (2) will improve the quality of the environment in the public interest.

(c) Restoration of environmental quality

(1) In general

If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes.

(2) Control of sea lamprey

Congress finds that—

(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts on its fishery; and

(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.

(d) Non-Federal share; limitation on maximum Federal expenditure

The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) shall be 25 percent. The non-Federal share may be provided in kind, including a facility, supply, or service that is necessary to carry out the modification or measure. Not more than \$10,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.

(e) Coordination of actions

The Secretary shall coordinate any actions taken pursuant to this section with appropriate Federal, State, and local agencies.

(f) Omitted

(g) Nonprofit entities

Notwithstanding section 1962d-5b of title 42, a non-Federal sponsor for any project carried out under this section may include a nonprofit entity, with the consent of the affected local government.

(h) Authorization of appropriations

There is authorized to be appropriated not to exceed \$50,000,000 annually to carry out this section.

(i) Definition

In this section, the term “water resources project constructed by the Secretary” includes a water resources project constructed or funded jointly by the Secretary and the head of any other Federal agency (including the Natural Resources Conservation Service).

(Pub. L. 99-662, title XI, §1135, Nov. 17, 1986, 100 Stat. 4251; Pub. L. 100-676, §41, Nov. 17, 1988, 102 Stat. 4040; Pub. L. 101-640, title III, §304, Nov. 28, 1990, 104 Stat. 4634; Pub. L. 102-580, title II, §202, Oct. 31, 1992, 106 Stat. 4826; Pub. L. 104-303, title II, §204, Oct. 12, 1996, 110 Stat. 3678; Pub. L. 106-53, title V, §506, Aug. 17, 1999, 113 Stat. 338; Pub. L. 106-541, title II, §210(c), Dec. 11, 2000, 114 Stat. 2592; Pub. L. 110-114, title II, §2024, Nov. 8, 2007, 121 Stat. 1079; Pub. L. 113-121, title I, §1030(f), June 10, 2014, 128 Stat. 1232; Pub. L. 115-270, title I, §1157(g), Oct. 23, 2018, 132 Stat. 3794.)

CODIFICATION

Subsec. (f) of this section, which required the Secretary to transmit biennial reports to Congress on the results of reviews conducted under subsec. (a) of this section and on the programs conducted under subsecs. (b) and (c) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 72 of House Document No. 103-7.

Section was formerly set out as a note under section 2294 of this title.

AMENDMENTS

2018—Subsec. (h). Pub. L. 115-270 substituted “\$50,000,000” for “\$40,000,000”.

2014—Subsec. (d). Pub. L. 113-121 substituted “The non-Federal share may be provided” for “Not more than 80 percent of the non-Federal share may be” and “\$10,000,000” for “\$5,000,000”.

2007—Subsec. (h). Pub. L. 110-114 substituted “\$40,000,000” for “\$25,000,000”.

2000—Subsecs. (g) to (i). Pub. L. 106-541 added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1999—Subsec. (c). Pub. L. 106-53 designated existing provisions as par. (1), inserted heading, and added par. (2).

1996—Subsec. (a). Pub. L. 104-303, §204(a), struck out “the operation of” after “to review” and inserted before period at end “and to determine if the operation of such projects has contributed to the degradation of the quality of the environment”.

Subsec. (b). Pub. L. 104-303, §204(b), struck out at end “The non-Federal share of the cost of any modifica-