

## ESTUARIES AND CLEAN WATERS ACT OF 2000

OCTOBER 24, 2000.—Ordered to be printed

Mr. SHUSTER, from the committee on conference,  
submitted the following

### CONFERENCE REPORT

[To accompany S. 835]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 835), to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) *SHORT TITLE.*—*This Act may be cited as the “Estuaries and Clean Waters Act of 2000”.*

(b) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; table of contents.*

#### *TITLE I—ESTUARY RESTORATION*

*Sec. 101. Short title.*

*Sec. 102. Purposes.*

*Sec. 103. Definitions.*

*Sec. 104. Estuary habitat restoration program.*

*Sec. 105. Establishment of Estuary Habitat Restoration Council.*

*Sec. 106. Estuary habitat restoration strategy.*

*Sec. 107. Monitoring of estuary habitat restoration projects.*

*Sec. 108. Reporting.*

*Sec. 109. Funding.*

*Sec. 110. General provisions.*

#### *TITLE II—CHESAPEAKE BAY RESTORATION*

*Sec. 201. Short title.*

- Sec. 202. Findings and purposes.
- Sec. 203. Chesapeake Bay.

**TITLE III—NATIONAL ESTUARY PROGRAM**

- Sec. 301. Addition to national estuary program.
- Sec. 302. Grants.
- Sec. 303. Authorization of appropriations.

**TITLE IV—LONG ISLAND SOUND RESTORATION**

- Sec. 401. Short title.
- Sec. 402. Innovative methodologies and technologies.
- Sec. 403. Assistance for distressed communities.
- Sec. 404. Authorization of appropriations.

**TITLE V—LAKE PONTCHARTRAIN BASIN RESTORATION**

- Sec. 501. Short title.
- Sec. 502. Lake Pontchartrain basin.

**TITLE VI—ALTERNATIVE WATER SOURCES**

- Sec. 601. Short title.
- Sec. 602. Pilot program for alternative water source projects.

**TITLE VII—CLEAN LAKES**

- Sec. 701. Grants to States.
- Sec. 702. Demonstration program.

**TITLE VIII—TIJUANA RIVER VALLEY ESTUARY AND BEACH CLEANUP**

- Sec. 801. Short title.
- Sec. 802. Purpose.
- Sec. 803. Definitions.
- Sec. 804. Actions to be taken by the Commission and the Administrator.
- Sec. 805. Negotiation of new treaty minute.
- Sec. 806. Authorization of appropriations.

**TITLE IX—GENERAL PROVISIONS**

- Sec. 901. Purchase of American-made equipment and products.
- Sec. 902. Long-term estuary assessment.
- Sec. 903. Rural sanitation grants.

**TITLE I—ESTUARY RESTORATION**

**SEC. 101. SHORT TITLE.**

*This title may be cited as the “Estuary Restoration Act of 2000”.*

**SEC. 102. PURPOSES.**

*The purposes of this title are—*

- (1) to promote the restoration of estuary habitat;*
- (2) to develop a national estuary habitat restoration strategy for creating and maintaining effective estuary habitat restoration partnerships among public agencies at all levels of government and to establish new partnerships between the public and private sectors;*
- (3) to provide Federal assistance for estuary habitat restoration projects and to promote efficient financing of such projects; and*
- (4) to develop and enhance monitoring and research capabilities through the use of the environmental technology innovation program associated with the National Estuarine Research Reserve System established by section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) to ensure that estuary habitat restoration efforts are based on sound scientific understanding and innovative technologies.*

**SEC. 103. DEFINITIONS.**

*In this title, the following definitions apply:*

(1) **COUNCIL.**—*The term “Council” means the Estuary Habitat Restoration Council established by section 105.*

(2) **ESTUARY.**—*The term “estuary” means a part of a river or stream or other body of water that has an unimpaired connection with the open sea and where the sea water is measurably diluted with fresh water derived from land drainage. The term also includes near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries, including the area located in the Great Lakes biogeographic region and designated as a National Estuarine Research Reserve under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) as of the date of enactment of this Act.*

(3) **ESTUARY HABITAT.**—*The term “estuary habitat” means the physical, biological, and chemical elements associated with an estuary, including the complex of physical and hydrologic features and living organisms within the estuary and associated ecosystems.*

(4) **ESTUARY HABITAT RESTORATION ACTIVITY.**—

(A) **IN GENERAL.**—*The term “estuary habitat restoration activity” means an activity that results in improving degraded estuaries or estuary habitat or creating estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining system integrated into the surrounding landscape.*

(B) **INCLUDED ACTIVITIES.**—*The term “estuary habitat restoration activity” includes—*

(i) *the reestablishment of chemical, physical, hydrologic, and biological features and components associated with an estuary;*

(ii) *except as provided in subparagraph (C), the cleanup of pollution for the benefit of estuary habitat;*

(iii) *the control of nonnative and invasive species in the estuary;*

(iv) *the reintroduction of species native to the estuary, including through such means as planting or promoting natural succession;*

(v) *the construction of reefs to promote fish and shellfish production and to provide estuary habitat for living resources; and*

(vi) *other activities that improve estuary habitat.*

(C) **EXCLUDED ACTIVITIES.**—*The term “estuary habitat restoration activity” does not include an activity that—*

(i) *constitutes mitigation required under any Federal or State law for the adverse effects of an activity regulated or otherwise governed by Federal or State law; or*

(ii) *constitutes restoration for natural resource damages required under any Federal or State law.*

(5) **ESTUARY HABITAT RESTORATION PROJECT.**—*The term “estuary habitat restoration project” means a project to carry out an estuary habitat restoration activity.*

(6) **ESTUARY HABITAT RESTORATION PLAN.**—

(A) *IN GENERAL.*—The term “estuary habitat restoration plan” means any Federal or State plan for restoration of degraded estuary habitat that was developed with the substantial participation of appropriate public and private stakeholders.

(B) *INCLUDED PLANS AND PROGRAMS.*—The term “estuary habitat restoration plan” includes estuary habitat restoration components of—

(i) a comprehensive conservation and management plan approved under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(ii) a lakewide management plan or remedial action plan developed under section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268);

(iii) a management plan approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

(iv) the interstate management plan developed pursuant to the Chesapeake Bay program under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267).

(7) *INDIAN TRIBE.*—The term “Indian tribe” has the meaning given such term by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) *NON-FEDERAL INTEREST.*—The term “non-Federal interest” means a State, a political subdivision of a State, an Indian tribe, a regional or interstate agency, or, as provided in section 104(f)(2), a nongovernmental organization.

(9) *SECRETARY.*—The term “Secretary” means the Secretary of the Army.

(10) *STATE.*—The term “State” means the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, and Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and Guam.

**SEC. 104. ESTUARY HABITAT RESTORATION PROGRAM.**

(a) *ESTABLISHMENT.*—There is established an estuary habitat restoration program under which the Secretary may carry out estuary habitat restoration projects and provide technical assistance in accordance with the requirements of this title.

(b) *ORIGIN OF PROJECTS.*—A proposed estuary habitat restoration project shall originate from a non-Federal interest consistent with State or local laws.

(c) *SELECTION OF PROJECTS.*—

(1) *IN GENERAL.*—The Secretary shall select estuary habitat restoration projects from a list of project proposals submitted by the Estuary Habitat Restoration Council under section 105(b).

(2) *REQUIRED ELEMENTS.*—Each estuary habitat restoration project selected by the Secretary must—

(A) address restoration needs identified in an estuary habitat restoration plan;

(B) be consistent with the estuary habitat restoration strategy developed under section 106;

(C) include a monitoring plan that is consistent with standards for monitoring developed under section 107 to ensure that short-term and long-term restoration goals are achieved; and

(D) include satisfactory assurance from the non-Federal interests proposing the project that the non-Federal interests will have adequate personnel, funding, and authority to carry out items of local cooperation and properly maintain the project.

(3) **FACTORS FOR SELECTION OF PROJECTS.**—In selecting an estuary habitat restoration project, the Secretary shall consider the following factors:

(A) Whether the project is part of an approved Federal estuary management or habitat restoration plan.

(B) The technical feasibility of the project.

(C) The scientific merit of the project.

(D) Whether the project will encourage increased coordination and cooperation among Federal, State, and local government agencies.

(E) Whether the project fosters public-private partnerships and uses Federal resources to encourage increased private sector involvement, including consideration of the amount of private funds or in-kind contributions for an estuary habitat restoration activity.

(F) Whether the project is cost-effective.

(G) Whether the State in which the non-Federal interest is proposing the project has a dedicated source of funding to acquire or restore estuary habitat, natural areas, and open spaces for the benefit of estuary habitat restoration or protection.

(H) Other factors that the Secretary determines to be reasonable and necessary for consideration.

(4) **PRIORITY.**—In selecting estuary habitat restoration projects to be carried out under this title, the Secretary shall give priority consideration to a project if, in addition to meriting selection based on the factors under paragraph (3)—

(A) the project occurs within a watershed in which there is a program being carried out that addresses sources of pollution and other activities that otherwise would re-im-pair the restored habitat; or

(B) the project includes pilot testing of or a demonstration of an innovative technology having the potential for improved cost-effectiveness in estuary habitat restoration.

(d) **COST SHARING.**—

(1) **FEDERAL SHARE.**—Except as provided in paragraph (2) and subsection (e)(2), the Federal share of the cost of an estuary habitat restoration project (other than the cost of operation and maintenance of the project) carried out under this title shall not exceed 65 percent of such cost.

(2) **INNOVATIVE TECHNOLOGY COSTS.**—The Federal share of the incremental additional cost of including in a project pilot

testing of or a demonstration of an innovative technology described in subsection (c)(4)(B) shall be 85 percent.

(3) *NON-FEDERAL SHARE.*—The non-Federal share of the cost of an estuary habitat restoration project carried out under this title shall include lands, easements, rights-of-way, and relocations and may include services, or any other form of in-kind contribution determined by the Secretary to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the activity.

(4) *OPERATION AND MAINTENANCE.*—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(e) *INTERIM ACTIONS.*—

(1) *IN GENERAL.*—Pending completion of the estuary habitat restoration strategy to be developed under section 106, the Secretary may take interim actions to carry out an estuary habitat restoration activity.

(2) *FEDERAL SHARE.*—The Federal share of the cost of an estuary habitat restoration activity before the completion of the estuary habitat restoration strategy shall not exceed 25 percent of such cost.

(f) *COOPERATION OF NON-FEDERAL INTERESTS.*—

(1) *IN GENERAL.*—The Secretary may not carry out an estuary habitat restoration project until a non-Federal interest has entered into a written agreement with the Secretary in which the non-Federal interest agrees to—

(A) provide all lands, easements, rights-of-way, and relocations and any other elements the Secretary determines appropriate under subsection (d)(3); and

(B) provide for maintenance and monitoring of the project.

(2) *NONGOVERNMENTAL ORGANIZATIONS.*—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project to be undertaken under this title, the Secretary, in consultation and coordination with appropriate State and local governmental agencies and Indian tribes, may allow a nongovernmental organization to serve as the non-Federal interest for the project.

(g) *DELEGATION OF PROJECT IMPLEMENTATION.*—In carrying out this title, the Secretary may delegate project implementation to another Federal department or agency on a reimbursable basis if the Secretary, upon the recommendation of the Council, determines such delegation is appropriate.

**SEC. 105. ESTABLISHMENT OF ESTUARY HABITAT RESTORATION COUNCIL.**

(a) *COUNCIL.*—There is established a council to be known as the “Estuary Habitat Restoration Council”.

(b) *DUTIES.*—The Council shall be responsible for—

(1) soliciting, reviewing, and evaluating project proposals and developing recommendations concerning such proposals based on the factors specified in section 104(c)(3);

(2) submitting to the Secretary a list of recommended projects, including a recommended priority order and any recommendation as to whether a project should be carried out by

the Secretary or by another Federal department or agency under section 104(g);

(3) developing and transmitting to Congress a national strategy for restoration of estuary habitat;

(4) periodically reviewing the effectiveness of the national strategy in meeting the purposes of this title and, as necessary, updating the national strategy; and

(5) providing advice on the development of the database, monitoring standards, and report required under sections 107 and 108.

(c) **MEMBERSHIP.**—The Council shall be composed of the following members:

(1) The Secretary (or the Secretary's designee).

(2) The Under Secretary for Oceans and Atmosphere of the Department of Commerce (or the Under Secretary's designee).

(3) The Administrator of the Environmental Protection Agency (or the Administrator's designee).

(4) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service (or such Secretary's designee).

(5) The Secretary of Agriculture (or such Secretary's designee).

(6) The head of any other Federal agency designated by the President to serve as an *ex officio* member of the Council.

(d) **PROHIBITION OF COMPENSATION.**—Members of the Council may not receive compensation for their service as members of the Council.

(e) **CHAIRPERSON.**—The chairperson shall be elected by the Council from among its members for a 3-year term, except that the first elected chairperson may serve a term of fewer than 3 years.

(f) **CONVENING OF COUNCIL.**—

(1) **FIRST MEETING.**—The Secretary shall convene the first meeting of the Council not later than 60 days after the date of enactment of this Act for the purpose of electing a chairperson.

(2) **ADDITIONAL MEETINGS.**—The chairperson shall convene additional meetings of the Council as often as appropriate to ensure that this title is fully carried out, but not less often than annually.

(g) **COUNCIL PROCEDURES.**—The Council shall establish procedures for voting, the conduct of meetings, and other matters, as necessary.

(h) **PUBLIC PARTICIPATION.**—Meetings of the Council shall be open to the public. The Council shall provide notice to the public of such meetings.

(i) **ADVICE.**—The Council shall consult with persons with recognized scientific expertise in estuary or estuary habitat restoration, representatives of State agencies, local or regional government agencies, and nongovernmental organizations with expertise in estuary or estuary habitat restoration, and representatives of Indian tribes, agricultural interests, fishing interests, and other estuary users—

(A) to assist the Council in the development of the estuary habitat restoration strategy to be developed under section 106; and

(B) to provide advice and recommendations to the Council on proposed estuary habitat restoration projects,

*including advice on the scientific merit, technical merit, and feasibility of a project.*

**SEC. 106. ESTUARY HABITAT RESTORATION STRATEGY.**

*(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Council, shall develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects and to foster the coordination of Federal and non-Federal activities related to restoration of estuary habitat.*

*(b) GOAL.—The goal of the strategy shall be the restoration of 1,000,000 acres of estuary habitat by the year 2010.*

*(c) INTEGRATION OF ESTUARY HABITAT RESTORATION PLANS, PROGRAMS, AND PARTNERSHIPS.—In developing the estuary habitat restoration strategy, the Council shall—*

*(1) conduct a review of estuary management or habitat restoration plans and Federal programs established under other laws that authorize funding for estuary habitat restoration activities; and*

*(2) ensure that the estuary habitat restoration strategy is developed in a manner that is consistent with the estuary management or habitat restoration plans.*

*(d) ELEMENTS OF THE STRATEGY.—The estuary habitat restoration strategy shall include proposals, methods, and guidance on—*

*(1) maximizing the incentives for the creation of new public-private partnerships to carry out estuary habitat restoration projects and the use of Federal resources to encourage increased private sector involvement in estuary habitat restoration activities;*

*(2) ensuring that the estuary habitat restoration strategy will be implemented in a manner that is consistent with the estuary management or habitat restoration plans;*

*(3) promoting estuary habitat restoration projects to—*

*(A) provide healthy ecosystems in order to support—*

*(i) wildlife, including endangered and threatened species, migratory birds, and resident species of an estuary watershed; and*

*(ii) fish and shellfish, including commercial and recreational fisheries;*

*(B) improve surface and ground water quality and quantity, and flood control;*

*(C) provide outdoor recreation; and*

*(D) address other areas of concern that the Council determines to be appropriate for consideration;*

*(4) addressing the estimated historic losses, estimated current rate of loss, and extent of the threat of future loss or degradation of each type of estuary habitat;*

*(5) measuring the rate of change for each type of estuary habitat;*

*(6) selecting a balance of smaller and larger estuary habitat restoration projects; and*

*(7) ensuring equitable geographic distribution of projects funded under this title.*

*(e) PUBLIC REVIEW AND COMMENT.—Before the Council adopts a final or revised estuary habitat restoration strategy, the Secretary shall publish in the Federal Register a draft of the estuary habitat*

restoration strategy and provide an opportunity for public review and comment.

(f) *PERIODIC REVISION.*—Using data and information developed through project monitoring and management, and other relevant information, the Council may periodically review and update, as necessary, the estuary habitat restoration strategy.

**SEC. 107. MONITORING OF ESTUARY HABITAT RESTORATION PROJECTS.**

(a) *UNDER SECRETARY.*—In this section, the term “Under Secretary” means the Under Secretary for Oceans and Atmosphere of the Department of Commerce.

(b) *DATABASE OF RESTORATION PROJECT INFORMATION.*—The Under Secretary, in consultation with the Council, shall develop and maintain an appropriate database of information concerning estuary habitat restoration projects carried out under this title, including information on project techniques, project completion, monitoring data, and other relevant information.

(c) *MONITORING DATA STANDARDS.*—The Under Secretary, in consultation with the Council, shall develop standard data formats for monitoring projects, along with requirements for types of data collected and frequency of monitoring.

(d) *COORDINATION OF DATA.*—The Under Secretary shall compile information that pertains to estuary habitat restoration projects from other Federal, State, and local sources and that meets the quality control requirements and data standards established under this section.

(e) *USE OF EXISTING PROGRAMS.*—The Under Secretary shall use existing programs within the National Oceanic and Atmospheric Administration to create and maintain the database required under this section.

(f) *PUBLIC AVAILABILITY.*—The Under Secretary shall make the information collected and maintained under this section available to the public.

**SEC. 108. REPORTING.**

(a) *IN GENERAL.*—At the end of the third and fifth fiscal years following the date of enactment of this Act, the Secretary, after considering the advice and recommendations of the Council, shall transmit to Congress a report on the results of activities carried out under this title.

(b) *CONTENTS OF REPORT.*—A report under subsection (a) shall include—

(1) data on the number of acres of estuary habitat restored under this title, including descriptions of, and partners involved with, projects selected, in progress, and completed under this title that comprise those acres;

(2) information from the database established under section 107(b) related to ongoing monitoring of projects to ensure that short-term and long-term restoration goals are achieved;

(3) an estimate of the long-term success of varying restoration techniques used in carrying out estuary habitat restoration projects;

(4) a review of how the information described in paragraphs (1) through (3) has been incorporated in the selection and implementation of estuary habitat restoration projects;

- (5) a review of efforts made to maintain an appropriate database of restoration projects carried out under this title; and
- (6) a review of the measures taken to provide the information described in paragraphs (1) through (3) to persons with responsibility for assisting in the restoration of estuary habitat.

**SEC. 109. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **ESTUARY HABITAT RESTORATION PROJECTS.**—There is authorized to be appropriated to the Secretary for carrying out and providing technical assistance for estuary habitat restoration projects—

- (A) \$40,000,000 for fiscal year 2001;
- (B) \$50,000,000 for each of fiscal years 2002 and 2003;
- (C) \$60,000,000 for fiscal year 2004; and
- (D) \$75,000,000 for fiscal year 2005.

Such sums shall remain available until expended.

(2) **MONITORING.**—There is authorized to be appropriated to the Under Secretary for Oceans and Atmosphere of the Department of Commerce for the acquisition, maintenance, and management of monitoring data on restoration projects carried out under this title, \$1,500,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

(b) **SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF THE COUNCIL.**—Not to exceed 3 percent of the amounts appropriated for a fiscal year under subsection (a)(1) or \$1,500,000, whichever is greater, may be used by the Secretary for administration and operation of the Council.

**SEC. 110. GENERAL PROVISIONS.**

(a) **AGENCY CONSULTATION AND COORDINATION.**—In carrying out this title, the Secretary shall, as necessary, consult with, cooperate with, and coordinate its activities with the activities of other Federal departments and agencies.

(b) **COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.**—In carrying out this title, the Secretary may—

- (1) enter into cooperative agreements with Federal, State, and local government agencies and other entities; and
- (2) execute such memoranda of understanding as are necessary to reflect the agreements.

(c) **FEDERAL AGENCY FACILITIES AND PERSONNEL.**—Federal agencies may cooperate in carrying out scientific and other programs necessary to carry out this title, and may provide facilities and personnel, for the purpose of assisting the Council in carrying out its duties under this title.

(d) **IDENTIFICATION AND MAPPING OF DREDGED MATERIAL DISPOSAL SITES.**—In consultation with appropriate Federal and non-Federal public entities, the Secretary shall undertake, and update as warranted by changed conditions, surveys to identify and map sites appropriate for beneficial uses of dredged material for the protection, restoration, and creation of aquatic and ecologically related habitats, including wetlands, in order to further the purposes of this title.

(e) **STUDY OF BIOREMEDIATION TECHNOLOGY.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental

*Protection Agency, with the participation of the estuarine scientific community, shall begin a 2-year study on the efficacy of bioremediation products.*

*(2) REQUIREMENTS.—The study shall—*

*(A) evaluate and assess bioremediation technology—*

*(i) on low-level petroleum hydrocarbon contamination from recreational boat bilges;*

*(ii) on low-level petroleum hydrocarbon contamination from stormwater discharges;*

*(iii) on nonpoint petroleum hydrocarbon discharges; and*

*(iv) as a first response tool for petroleum hydrocarbon spills; and*

*(B) recommend management actions to optimize the return of a healthy and balanced ecosystem and make improvements in the quality and character of estuarine waters.*

## **TITLE II—CHESAPEAKE BAY RESTORATION**

### **SEC. 201. SHORT TITLE.**

*This title may be cited as the “Chesapeake Bay Restoration Act of 2000”.*

### **SEC. 202. FINDINGS AND PURPOSES.**

*(a) FINDINGS.—Congress finds that—*

*(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;*

*(2) over many years, the productivity and water quality of the Chesapeake Bay and its watershed were diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of population growth and development in the Chesapeake Bay watershed, and other factors;*

*(3) the Federal Government (acting through the Administrator of the Environmental Protection Agency), the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, the Governor of the Commonwealth of Pennsylvania, the Chairperson of the Chesapeake Bay Commission, and the mayor of the District of Columbia, as Chesapeake Bay Agreement signatories, have committed to a comprehensive cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;*

*(4) the cooperative program described in paragraph (3) serves as a national and international model for the management of estuaries; and*

*(5) there is a need to expand Federal support for monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the original and subsequent goals and commitments of the Chesapeake Bay Program.*

*(b) PURPOSES.—The purposes of this title are—*

*(1) to expand and strengthen cooperative efforts to restore and protect the Chesapeake Bay; and*

(2) to achieve the goals established in the Chesapeake Bay Agreement.

**SEC. 203. CHESAPEAKE BAY.**

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

**“SEC. 117. CHESAPEAKE BAY.**

**“(a) DEFINITIONS.—**In this section, the following definitions apply:

**“(1) ADMINISTRATIVE COST.—**The term ‘administrative cost’ means the cost of salaries and fringe benefits incurred in administering a grant under this section.

**“(2) CHESAPEAKE BAY AGREEMENT.—**The term ‘Chesapeake Bay Agreement’ means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem and signed by the Chesapeake Executive Council.

**“(3) CHESAPEAKE BAY ECOSYSTEM.—**The term ‘Chesapeake Bay ecosystem’ means the ecosystem of the Chesapeake Bay and its watershed.

**“(4) CHESAPEAKE BAY PROGRAM.—**The term ‘Chesapeake Bay Program’ means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

**“(5) CHESAPEAKE EXECUTIVE COUNCIL.—**The term ‘Chesapeake Executive Council’ means the signatories to the Chesapeake Bay Agreement.

**“(6) SIGNATORY JURISDICTION.—**The term ‘signatory jurisdiction’ means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

**“(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—**

**“(1) IN GENERAL.—**In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

**“(2) PROGRAM OFFICE.—**

**“(A) IN GENERAL.—**The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office.

**“(B) FUNCTION.—**The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

**“(i) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;**

**“(ii) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem;**

**“(iii) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the re-**

sponsibilities of the signatories to the Chesapeake Bay Agreement;

“(iv) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

“(I) improve the water quality and living resources in the Chesapeake Bay ecosystem; and

“(II) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

“(v) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

“(c) *INTERAGENCY AGREEMENTS.*—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

“(d) *TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.*—

“(1) *IN GENERAL.*—In cooperation with the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit organizations, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

“(2) *FEDERAL SHARE.*—

“(A) *IN GENERAL.*—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with guidance issued by the Administrator.

“(B) *SMALL WATERSHED GRANTS PROGRAM.*—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

“(3) *NON-FEDERAL SHARE.*—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

“(4) *ADMINISTRATIVE COSTS.*—Administrative costs shall not exceed 10 percent of the annual grant award.

“(e) *IMPLEMENTATION AND MONITORING GRANTS.*—

“(1) *IN GENERAL.*—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator—

“(A) shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate; and

“(B) may make a grant to a signatory jurisdiction for the purpose of monitoring the Chesapeake Bay ecosystem.

“(2) *PROPOSALS.*—

*“(A) IN GENERAL.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement.*

*“(B) CONTENTS.—A proposal under subparagraph (A) shall include—*

*“(i) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and its watershed or meeting applicable water quality standards or established goals and objectives under the Chesapeake Bay Agreement; and*

*“(ii) the estimated cost of the actions proposed to be taken during the fiscal year.*

*“(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for an award.*

*“(4) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 50 percent of the cost of implementing the management mechanisms during the fiscal year.*

*“(5) NON-FEDERAL SHARE.—A grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.*

*“(6) ADMINISTRATIVE COSTS.—Administrative costs shall not exceed 10 percent of the annual grant award.*

*“(7) REPORTING.—On or before October 1 of each fiscal year, the Administrator shall make available to the public a document that lists and describes, in the greatest practicable degree of detail—*

*“(A) all projects and activities funded for the fiscal year;*

*“(B) the goals and objectives of projects funded for the previous fiscal year; and*

*“(C) the net benefits of projects funded for previous fiscal years.*

*“(f) FEDERAL FACILITIES AND BUDGET COORDINATION.—*

*“(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.*

*“(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement, the Federal Agencies Chesapeake Ecosystem Unified Plan, and any subsequent agreements and plans.*

*“(3) BUDGET COORDINATION.—*

*“(A) IN GENERAL.—As part of the annual budget submission of each Federal agency with projects or grants re-*

lated to restoration, planning, monitoring, or scientific investigation of the Chesapeake Bay ecosystem, the head of the agency shall submit to the President a report that describes plans for the expenditure of the funds under this section.

“(B) DISCLOSURE TO THE COUNCIL.—The head of each agency referred to in subparagraph (A) shall disclose the report under that subparagraph with the Chesapeake Executive Council as appropriate.

“(g) CHESAPEAKE BAY PROGRAM.—

“(1) MANAGEMENT STRATEGIES.—The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement to achieve and maintain—

“(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the Chesapeake Bay and its watershed;

“(B) the water quality requirements necessary to restore living resources in the Chesapeake Bay ecosystem;

“(C) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Bay ecosystem or on human health;

“(D) habitat restoration, protection, creation, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, riparian forests, and other types of habitat associated with the Chesapeake Bay ecosystem; and

“(E) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement signatories for living resources associated with the Chesapeake Bay ecosystem.

“(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in cooperation with the Chesapeake Executive Council, shall—

“(A) establish a small watershed grants program as part of the Chesapeake Bay Program; and

“(B) offer technical assistance and assistance grants under subsection (d) to local governments and nonprofit organizations and individuals in the Chesapeake Bay region to implement—

“(i) cooperative tributary basin strategies that address the water quality and living resource needs in the Chesapeake Bay ecosystem; and

“(ii) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Chesapeake Bay ecosystem.

“(h) STUDY OF CHESAPEAKE BAY PROGRAM.—

“(1) IN GENERAL.—Not later than April 22, 2003, and every 5 years thereafter, the Administrator, in coordination with the Chesapeake Executive Council, shall complete a study and sub-

mit to Congress a comprehensive report on the results of the study.

“(2) REQUIREMENTS.—The study and report shall—

“(A) assess the state of the Chesapeake Bay ecosystem;

“(B) compare the current state of the Chesapeake Bay ecosystem with its state in 1975, 1985, and 1995;

“(C) assess the effectiveness of management strategies being implemented on the date of enactment of this section and the extent to which the priority needs are being met;

“(D) make recommendations for the improved management of the Chesapeake Bay Program either by strengthening strategies being implemented on the date of enactment of this section or by adopting new strategies; and

“(E) be presented in such a format as to be readily transferable to and usable by other watershed restoration programs.

“(i) SPECIAL STUDY OF LIVING RESOURCE RESPONSE.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall commence a 5-year special study with full participation of the scientific community of the Chesapeake Bay to establish and expand understanding of the response of the living resources of the Chesapeake Bay ecosystem to improvements in water quality that have resulted from investments made through the Chesapeake Bay Program.

“(2) REQUIREMENTS.—The study shall—

“(A) determine the current status and trends of living resources, including grasses, benthos, phytoplankton, zooplankton, fish, and shellfish;

“(B) establish to the extent practicable the rates of recovery of the living resources in response to improved water quality condition;

“(C) evaluate and assess interactions of species, with particular attention to the impact of changes within and among trophic levels; and

“(D) recommend management actions to optimize the return of a healthy and balanced ecosystem in response to improvements in the quality and character of the waters of the Chesapeake Bay.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.”.

### **TITLE III—NATIONAL ESTUARY PROGRAM**

#### **SEC. 301. ADDITION TO NATIONAL ESTUARY PROGRAM.**

Section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting “Lake Pontchartrain Basin, Louisiana and Mississippi;” before “and Peconic Bay, New York.”.

**SEC. 302. GRANTS.**

Section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) **PURPOSES.**—Grants under this subsection shall be made to pay for activities necessary for the development and implementation of a comprehensive conservation and management plan under this section.

“(3) **FEDERAL SHARE.**—The Federal share of a grant to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year—

“(A) shall not exceed—

“(i) 75 percent of the annual aggregate costs of the development of a comprehensive conservation and management plan; and

“(ii) 50 percent of the annual aggregate costs of the implementation of the plan; and

“(B) shall be made on condition that the non-Federal share of the costs are provided from non-Federal sources.”.

**SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended by striking “\$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991” and inserting “\$35,000,000 for each of fiscal years 2001 through 2005”.

## **TITLE IV—LONG ISLAND SOUND RESTORATION**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Long Island Sound Restoration Act”.

**SEC. 402. INNOVATIVE METHODOLOGIES AND TECHNOLOGIES.**

Section 119(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(1)) is amended by inserting “, 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” before the semicolon at the end.

**SEC. 403. ASSISTANCE FOR DISTRESSED COMMUNITIES.**

Section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) **ASSISTANCE TO DISTRESSED COMMUNITIES.**—

“(1) **ELIGIBLE COMMUNITIES.**—For the purposes of this subsection, a distressed community is any community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

“(2) **PRIORITY.**—In making assistance available under this section for the upgrading of wastewater treatment facilities, the Administrator may give priority to a distressed community.”.

**SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

*Section 119(f) of the Federal Water Pollution Control Act (as redesignated by section 403 of this Act) is amended—*

*(1) in paragraph (1) by striking “1991 through 2001” and inserting “2001 through 2005”; and*

*(2) in paragraph (2) by striking “not to exceed \$3,000,000 for each of the fiscal years 1991 through 2001” and inserting “not to exceed \$40,000,000 for each of fiscal years 2001 through 2005”.*

## **TITLE V—LAKE PONTCHARTRAIN BASIN RESTORATION**

**SEC. 501. SHORT TITLE.**

*This title may be cited as the “Lake Pontchartrain Basin Restoration Act of 2000”.*

**SEC. 502. LAKE PONTCHARTRAIN BASIN.**

*Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:*

**“SEC. 121. LAKE PONTCHARTRAIN BASIN.**

*“(a) ESTABLISHMENT OF RESTORATION PROGRAM.—The Administrator shall establish within the Environmental Protection Agency the Lake Pontchartrain Basin Restoration Program.*

*“(b) PURPOSE.—The purpose of the program shall be to restore the ecological health of the Basin by developing and funding restoration projects and related scientific and public education projects.*

*“(c) DUTIES.—In carrying out the program, the Administrator shall—*

*“(1) provide administrative and technical assistance to a management conference convened for the Basin under section 320;*

*“(2) assist and support the activities of the management conference, including the implementation of recommendations of the management conference;*

*“(3) support environmental monitoring of the Basin and research to provide necessary technical and scientific information;*

*“(4) develop a comprehensive research plan to address the technical needs of the program;*

*“(5) coordinate the grant, research, and planning programs authorized under this section; and*

*“(6) collect and make available to the public publications, and other forms of information the management conference determines to be appropriate, relating to the environmental quality of the Basin.*

*“(d) GRANTS.—The Administrator may make grants—*

*“(1) for restoration projects and studies recommended by a management conference convened for the Basin under section 320; and*

*“(2) for public education projects recommended by the management conference.*

*“(e) DEFINITIONS.—In this section, the following definitions apply:*

“(1) *BASIN.*—The term ‘Basin’ means the Lake Pontchartrain Basin, a 5,000 square mile watershed encompassing 16 parishes in the State of Louisiana and 4 counties in the State of Mississippi.

“(2) *PROGRAM.*—The term ‘program’ means the Lake Pontchartrain Basin Restoration Program established under subsection (a).

“(f) *AUTHORIZATION OF APPROPRIATIONS.*—

“(1) *IN GENERAL.*—There is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

“(2) *PUBLIC EDUCATION PROJECTS.*—Not more than 15 percent of the amount appropriated pursuant to paragraph (1) in a fiscal year may be expended on grants for public education projects under subsection (d)(2).”.

## **TITLE VI—ALTERNATIVE WATER SOURCES**

### **SEC. 601. SHORT TITLE.**

This title may be cited as the “Alternative Water Sources Act of 2000”.

### **SEC. 602. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.**

Title II the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following:

#### **“SEC. 220. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.**

“(a) *POLICY.*—Nothing in this section shall be construed to affect the application of section 101(g) of this Act and all of the provisions of this section shall be carried out in accordance with the provisions of section 101(g).

“(b) *IN GENERAL.*—The Administrator may establish a pilot program to make grants to State, interstate, and intrastate water resource development agencies (including water management districts and water supply authorities), local government agencies, private utilities, and nonprofit entities for alternative water source projects to meet critical water supply needs.

“(c) *ELIGIBLE ENTITY.*—The Administrator may make grants under this section to an entity only if the entity has authority under State law to develop or provide water for municipal, industrial, and agricultural uses in an area of the State that is experiencing critical water supply needs.

“(d) *SELECTION OF PROJECTS.*—

“(1) *LIMITATION.*—A project that has received funds under the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) shall not be eligible for grant assistance under this section.

“(2) *ADDITIONAL CONSIDERATION.*—In making grants under this section, the Administrator shall consider whether the project is located within the boundaries of a State or area referred to in section 1 of the Reclamation Act of June 17, 1902

(32 Stat. 385), and within the geographic scope of the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

“(3) GEOGRAPHICAL DISTRIBUTION.—Alternative water source projects selected by the Administrator under this section shall reflect a variety of geographical and environmental conditions.

“(e) COMMITTEE RESOLUTION PROCEDURE.—

“(1) IN GENERAL.—No appropriation shall be made for any alternative water source project under this section, the total Federal cost of which exceeds \$3,000,000, if such project has not been approved by a resolution adopted by the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate.

“(2) REQUIREMENTS FOR SECURING CONSIDERATION.—For purposes of securing consideration of approval under paragraph (1), the Administrator shall provide to a committee referred to in paragraph (1) such information as the committee requests and the non-Federal sponsor shall provide to the committee information on the costs and relative needs for the alternative water source project.

“(f) USES OF GRANTS.—Amounts from grants received under this section may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Such amounts may not be used for planning, feasibility studies or for operation, maintenance, replacement, repair, or rehabilitation.

“(g) COST SHARING.—The Federal share of the eligible costs of an alternative water source project carried out using assistance made available under this section shall not exceed 50 percent.

“(h) REPORTS.—On or before September 30, 2004, the Administrator shall transmit to Congress a report on the results of the pilot program established under this section, including progress made toward meeting the critical water supply needs of the participants in the pilot program.

“(i) DEFINITIONS.—In this section, the following definitions apply:

“(1) ALTERNATIVE WATER SOURCE PROJECT.—The term ‘alternative water source project’ means a project designed to provide municipal, industrial, and agricultural water supplies in an environmentally sustainable manner by conserving, managing, reclaiming, or reusing water or wastewater or by treating wastewater. Such term does not include water treatment or distribution facilities.

“(2) CRITICAL WATER SUPPLY NEEDS.—The term ‘critical water supply needs’ means existing or reasonably anticipated future water supply needs that cannot be met by existing water supplies, as identified in a comprehensive statewide or regional water supply plan or assessment projected over a planning period of at least 20 years.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of \$75,000,000

for fiscal years 2002 through 2004. Such sums shall remain available until expended.”.

## **TITLE VII—CLEAN LAKES**

### **SEC. 701. GRANTS TO STATES.**

Section 314(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1324(c)(2)) is amended by striking “\$50,000,000” the first place it appears and all that follows through “1990” and inserting “\$50,000,000 for each of fiscal years 2001 through 2005”.

### **SEC. 702. DEMONSTRATION PROGRAM.**

Section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended—

(1) in paragraph (2) by inserting “Otsego Lake, New York; Oneida Lake, New York; Raystown Lake, Pennsylvania; Swan Lake, Itasca County, Minnesota; Walker Lake, Nevada; Lake Tahoe, California and Nevada; Ten Mile Lakes, Oregon; Woahink Lake, Oregon; Highland Lake, Connecticut; Lily Lake, New Jersey; Strawbridge Lake, New Jersey; Baboosic Lake, New Hampshire; French Pond, New Hampshire; Dillon Reservoir, Ohio; Tohopekaliga Lake, Florida; Lake Apopka, Florida; Lake George, New York; Lake Wallenpaupack, Pennsylvania; Lake Allatoona, Georgia;” after “Sauk Lake, Minnesota;”;

(2) in paragraph (3) by striking “By” and inserting “Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; 109 Stat. 734-736), by”; and

(3) in paragraph (4)(B)(i) by striking “\$15,000,000” and inserting “\$25,000,000”.

## **TITLE VIII—TIJUANA RIVER VALLEY ESTUARY AND BEACH CLEANUP**

### **SEC. 801. SHORT TITLE.**

This title may be cited as the “Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000”.

### **SEC. 802. PURPOSE.**

The purpose of this title is to authorize the United States to take actions to address comprehensively the treatment of sewage emanating from the Tijuana River area, Mexico, that flows untreated or partially treated into the United States causing significant adverse public health and environmental impacts.

### **SEC. 803. DEFINITIONS.**

In this title, the following definitions apply:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **COMMISSION.**—The term “Commission” means the United States section of the International Boundary and Water Commission, United States and Mexico.

(3) **IWTP.**—The term “IWTP” means the South Bay International Wastewater Treatment Plant constructed under the provisions of the Federal Water Pollution Control Act (33

U.S.C. 1251 *et seq.*), section 510 of the Water Quality Act of 1987 (101 Stat. 80–82), and Treaty Minutes to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944.

(4) **SECONDARY TREATMENT.**—The term “secondary treatment” has the meaning such term has under the Federal Water Pollution Control Act and its implementing regulations.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of State.

(6) **MEXICAN FACILITY.**—The term “Mexican facility” means a proposed public-private wastewater treatment facility to be constructed and operated under this title within Mexico for the purpose of treating sewage flows generated within Mexico, which flows impact the surface waters, health, and safety of the United States and Mexico.

(7) **MGD.**—The term “mgd” means million gallons per day.

**SEC. 804. ACTIONS TO BE TAKEN BY THE COMMISSION AND THE ADMINISTRATOR.**

(a) **SECONDARY TREATMENT.**—

(1) **IN GENERAL.**—Subject to the negotiation and conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 1005 of this Act, and notwithstanding section 510(b)(2) of the Water Quality Act of 1987 (101 Stat. 81), the Commission is authorized and directed to provide for the secondary treatment of a total of not more than 50 mgd in Mexico—

(A) of effluent from the IWTP if such treatment is not provided for at a facility in the United States; and

(B) of additional sewage emanating from the Tijuana River area, Mexico.

(2) **ADDITIONAL AUTHORITY.**—Subject to the results of the comprehensive plan developed under subsection (b) revealing a need for additional secondary treatment capacity in the San Diego-Tijuana border region and recommending the provision of such capacity in Mexico, the Commission may provide not more than an additional 25 mgd of secondary treatment capacity in Mexico for treatment described in paragraph (1).

(b) **COMPREHENSIVE PLAN.**—Not later than 24 months after the date of enactment of this Act, the Administrator shall develop a comprehensive plan with stakeholder involvement to address the transborder sanitation problems in the San Diego-Tijuana border region. The plan shall include, at a minimum—

(1) an analysis of the long-term secondary treatment needs of the region;

(2) an analysis of upgrades in the sewage collection system serving the Tijuana area, Mexico; and

(3) an identification of options, and recommendations for preferred options, for additional sewage treatment capacity for future flows emanating from the Tijuana River area, Mexico.

(c) **CONTRACT.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations to carry out this subsection and notwithstanding any provision of Federal procurement law, upon conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 5, the Commission may enter into a fee-for-services con-

tract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) and make payments under such contract.

(2) *TERMS.*—Any contract under this subsection shall provide, at a minimum, for the following:

(A) *Transportation of the advanced primary effluent from the IWTP to the Mexican facility for secondary treatment.*

(B) *Treatment of the advanced primary effluent from the IWTP to the secondary treatment level in compliance with water quality laws of the United States, California, and Mexico.*

(C) *Return conveyance from the Mexican facility of any such treated effluent that cannot be reused in either Mexico or the United States to the South Bay Ocean Outfall for discharge into the Pacific Ocean in compliance with water quality laws of the United States and California.*

(D) *Subject to the requirements of subsection (a), additional sewage treatment capacity that provides for advanced primary and secondary treatment of sewage described in subsection (a)(1)(B) in addition to the capacity required to treat the advanced primary effluent from the IWTP.*

(E) *A contract term of 20 years.*

(F) *Arrangements for monitoring, verification, and enforcement of compliance with United States, California, and Mexican water quality standards.*

(G) *Arrangements for the disposal and use of sludge, produced from the IWTP and the Mexican facility, at a location or locations in Mexico.*

(H) *Maintenance by the owner of the Mexican facility at all times throughout the term of the contract of a 20 percent equity position in the capital structure of the Mexican facility.*

(I) *Payment of fees by the Commission to the owner of the Mexican facility for sewage treatment services with the annual amount payable to reflect all agreed upon costs associated with the development, financing, construction, operation, and maintenance of the Mexican facility, with such annual payment to maintain the owner's 20 percent equity position throughout the term of the contract.*

(J) *Provision for the transfer of ownership of the Mexican facility to the United States, and provision for a cancellation fee by the United States to the owner of the Mexican facility, if the Commission fails to perform its obligations under the contract. The cancellation fee shall be in amounts declining over the term of the contract anticipated to be sufficient to repay construction debt and other amounts due to the owner that remain unamortized due to early termination of the contract.*

(K) *Provision for the transfer of ownership of the Mexican facility to the United States, without a cancellation fee, if the owner of the Mexican facility fails to perform the obligations of the owner under the contract.*

(L) *The use of competitive procedures, consistent with title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), by the owner of the Mexican facility in the procurement of property or services for the engineering, construction, and operation and maintenance of the Mexican facility.*

(M) *An opportunity for the Commission to review and approve the selection of contractors providing engineering, construction, and operation and maintenance for the Mexican facility.*

(N) *The maintenance by the owner of the Mexican facility of all records (including books, documents, papers, reports, and other materials) necessary to demonstrate compliance with the terms of this section and the contract.*

(O) *Access by the Inspector General of the Department of State or the designee of the Inspector General for audit and examination of all records maintained pursuant to subparagraph (N) to facilitate the monitoring and evaluation required under subsection (d).*

(P) *Offsets or credits against the payments to be made by the Commission under this section to reflect an agreed upon percentage of payments that the owner of the Mexican facility receives through the sale of water treated by the facility.*

(d) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—*The Inspector General of the Department of State shall monitor the implementation of any contract entered into under this section and evaluate the extent to which the owner of the Mexican facility has met the terms of this section and fulfilled the terms of the contract.*

(2) **REPORT.**—*The Inspector General shall transmit to Congress a report containing the evaluation under paragraph (1) not later than 2 years after the execution of any contract with the owner of the Mexican facility under this section, 3 years thereafter, and periodically after the second report under this paragraph.*

**SEC. 805. NEGOTIATION OF NEW TREATY MINUTE.**

(a) **CONGRESSIONAL STATEMENT.**—*In light of the existing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Secretary is requested to give the highest priority to the negotiation and execution of a new Treaty Minute, or a modification of Treaty Minute 283, consistent with the provisions of this title, in order that the other provisions of this title to address such pollution may be implemented as soon as possible.*

(b) **NEGOTIATION.**—

(1) **INITIATION.**—*The Secretary is requested to initiate negotiations with Mexico, within 60 days after the date of enactment of this Act, for a new Treaty Minute or a modification of Treaty Minute 283 consistent with the provisions of this title.*

(2) **IMPLEMENTATION.**—*Implementation of a new Treaty Minute or of a modification of Treaty Minute 283 under this title shall be subject to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

(3) *MATTERS TO BE ADDRESSED.*—A new Treaty Minute or a modification of Treaty Minute 283 under paragraph (1) should address, at a minimum, the following:

(A) *The siting of treatment facilities in Mexico and in the United States.*

(B) *Provision for the secondary treatment of effluent from the IWTP at a Mexican facility if such treatment is not provided for at a facility in the United States.*

(C) *Provision for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, in addition to the treatment capacity for the advanced primary effluent from the IWTP at the Mexican facility.*

(D) *Provision for any and all approvals from Mexican authorities necessary to facilitate water quality verification and enforcement at the Mexican facility.*

(E) *Any terms and conditions considered necessary to allow for use in the United States of treated effluent from the Mexican facility, if there is reclaimed water which is surplus to the needs of users in Mexico and such use is consistent with applicable United States and California law.*

(F) *Any other terms and conditions considered necessary by the Secretary in order to implement the provisions of this title.*

**SEC. 806. AUTHORIZATION OF APPROPRIATIONS.**

*There is authorized to be appropriated a total of \$156,000,000 for fiscal years 2001 through 2005 to carry out this title. Such sums shall remain available until expended.*

## **TITLE IX—GENERAL PROVISIONS**

**SEC. 901. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**

(a) *IN GENERAL.*—*It is the sense of Congress that, to the extent practicable, all equipment and products purchased with funds made available under this Act should be American made.*

(b) *NOTICE TO RECIPIENTS OF ASSISTANCE.*—*The head of each Federal Agency providing financial assistance under this Act, to the extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).*

**SEC. 902. LONG-TERM ESTUARY ASSESSMENT.**

(a) *IN GENERAL.*—*The Secretary of Commerce (acting through the Under Secretary for Oceans and Atmosphere) and the Secretary of the Interior (acting through the Director of the Geological Survey) may carry out a long-term estuary assessment project (in this section referred to as the “project”) in accordance with the requirements of this section.*

(b) *PURPOSE.*—*The purpose of the project shall be to establish a network of strategic environmental assessment and monitoring projects for the Mississippi River south of Vicksburg, Mississippi, and the Gulf of Mexico, in order to develop advanced long-term assessment and monitoring systems and models relating to the Mississippi River and other aquatic ecosystems, including developing equipment and techniques necessary to implement the project.*

(c) *MANAGEMENT AGREEMENT.*—*To establish, operate, and implement the project, the Secretary of Commerce and the Secretary of the Interior may enter into a management agreement with a university-based consortium.*

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated—*

*(1) \$1,000,000 for fiscal year 2001 to develop the management agreement under subsection (c); and*

*(2) \$4,000,000 for each of fiscal years 2002, 2003, 2004, and 2005 to carry out the project.*

*Such sums shall remain available until expended.*

**SEC. 903. RURAL SANITATION GRANTS.**

*Section 303(e) of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a(e)) is amended by striking “\$15,000,000” and all that follows through “section.” and inserting the following: “to carry out this section \$40,000,000 for each of fiscal years 2001 through 2005.”*

*And the House agree to the same.*

BUD SHUSTER,  
DON YOUNG,  
SHERWOOD BOEHLERT,  
WAYNE T. GILCREST,  
TILLIE K. FOWLER,  
DON SHERWOOD,  
JOHN E. SWEENEY,  
STEVEN T. KUYKENDALL,  
DAVID VITTE,  
JIM OBERSTAR,  
BOB BORSKI,  
JIM BARCIA,  
BOB FILNER,  
EARL BLUMENAUER,  
JOHN BALDACCI,

*Managers on the Part of the House.*

BOB SMITH,  
JOHN W. WARNER,  
MICHAEL D. CRAPO,  
MAX BAUCUS,  
BARBARA BOXER,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 835), to improve and increase Federal, State and local efforts and to provide funding to protect and enhance estuaries across the U.S., and to address other clean water-related matters, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying Conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in Conference are noted below, except for clerical corrections and conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

The Conference substitute renames S. 835 as the “Estuaries and Clean Waters Act of 2000.”

### TITLE I—ESTUARY HABITAT RESTORATION

Title I of the Conference substitute establishes a new estuary habitat restoration program under the Secretary of the Army. Title I is similar to title I in both the Senate bill and House amendment. The Conferees adopted title I of the House amendment with amendments. Differences between the Senate bill, House amendment and Conference substitute are as follows:

#### SECTION 102. PURPOSES

##### *Senate bill*

Section 103 of the Senate bill states that the purposes of title I are to: restore one million acres of estuary habitat by the year 2010; ensure coordination of existing Federal, State, and local plans, programs, and studies; establish partnerships among public agencies at all levels of government and between the public and private sectors; promote efficient financing of estuary habitat restoration activities; and, develop and enhance monitoring and research capabilities through use of the environmental technology innovation program associated with the National Estuarine Research Reserve System (NERRs), to ensure that restoration efforts are

based on sound scientific understanding and innovative technologies.

*House amendment*

Section 102 of the House amendment states that the purposes of title I are to: promote the restoration of estuary habitat; develop a national estuary habitat restoration strategy for creating and maintaining effective estuary habitat restoration partnerships among public agencies at all levels of government and to establish new partnerships between the public and private sectors; to provide Federal assistance for estuary habitat restoration projects and to promote efficient financing of such projects; and, develop and enhance monitoring and research capabilities to ensure that estuary habitat restoration efforts are based on sound scientific understanding and to create a national database of estuary habitat restoration information.

*Conference substitute*

The purposes of the Senate bill and House amendment are substantially similar. The Conference substitute adopts the House amendment with an amendment. Section 102(4) is amended to clarify that monitoring and research capabilities for estuary habitat restoration efforts should be developed and enhanced through the use of the environmental technology innovation program associated with NERRs.

SECTION 103. DEFINITIONS

*Senate bill*

Section 104 of the Senate bill defines key terms used throughout the bill, including “Collaborative Council,” “Degraded Estuary Habitat,” “Estuary,” “Estuary Habitat,” “Estuary Habitat Restoration Activity,” “Estuary Habitat Restoration Project,” “Estuary Habitat Restoration Strategy,” “Federal Estuary Management or Habitat Restoration Plan,” “Secretary,” and “Under Secretary.”

“Estuary” is defined as a body of water and its associated physical, biological, and chemical elements, in which fresh water from a river or stream meets and mixes with salt water from the ocean. An exception to this definition is made for estuary-like areas in the Great Lakes biogeographic regions that are part of NERRs at the time of enactment of this legislation.

“Estuary Habitat” is defined as the complex of physical and hydrologic features and living organisms within estuaries and their associated ecosystems, including salt and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, maritime forests, coastal grasslands, tidal flats, natural shoreline areas, shellfish beds, sea grass meadows, kelp beds, river deltas, and river and stream banks under tidal influence.

“Estuary Habitat Restoration Activity” is defined as an activity that results in improving degraded estuary habitat, including both physical and functional restoration, with the goal of attaining a self-sustaining ecologically-based system that is integrated with the surrounding landscape. Eligible activities include: the reestablishment of physical features and biological and hydrologic functions;

the cleanup of contamination; the control of non-native and invasive species, such as phragmites; and the reintroduction of native species, such as the planting of eel grass. A project is ineligible if it constitutes mitigation for the adverse effects of an activity regulated or otherwise governed under Federal or State law, or restoration for natural resource damages required under any Federal or State law.

“Federal Estuary Management or Habitat Restoration Plan” is defined as any Federal plan for restoration of degraded estuary habitat that was developed by a public body with the substantial participation of appropriate public and private stakeholders and reflects a community-based planning process.

#### *House amendment*

Section 103 of the House amendment also defines key terms, including: “Council,” “Estuary,” “Estuary Habitat,” “Estuary Habitat Restoration Activity,” “Estuary Habitat Restoration Project,” “Estuary Habitat Restoration Plan,” “Indian Tribe,” “Non-Federal Interest,” “Secretary,” and “State.”

The definition of “Estuary” is based on section 104(n)(4) of the Clean Water Act. The House amendment also specifies that near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries are included in this definition for the purposes of this title to make such areas of the Great Lakes eligible for assistance under this title.

The definition of “Estuary Habitat” is similar to the Senate bill, but does not list included habitats.

The definition of “Estuary Habitat Restoration Activity” is similar to the Senate bill but includes creating estuary habitat and the construction of reefs.

“Estuary Habitat Restoration Plan” is defined as any Federal or State plan for restoration of degraded estuary habitat that was developed with the substantial participation of appropriate public and private stakeholders.

“Indian tribe” is defined by referencing the meaning that term has in section 4 of the Indian Self-Determination and Education Assistance Act, which includes Alaska Natives within the definition.

#### *Conference substitute*

Section 103 of the Conference substitute adopts the House amendment with the following amendment. The Conference substitute retains the House definition of the term “Estuary,” which includes the near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries. The Conference substitute adds a specific reference to the Old Woman’s Creek NERR in Ohio, which is captured in the House definition. This reference was included in the definition of “Estuary” in the Senate bill after the Senate adopted by voice vote an amendment offered by Senator Voinovich during the September 29, 1999 Senate Committee on Environment and Public Works business meeting on S. 835.

The Conference substitute retains the prohibition against any project that constitutes mitigation or restoration required under

Federal or State law. This provision does not prohibit the implementation of an estuary habitat restoration project that might also be eligible for funding under voluntary habitat restoration or environmental programs. This language also does not prohibit a non-Federal interest from using funds secured under damage settlements to enhance estuary habitat restoration projects.

#### SECTION 104. ESTUARY HABITAT RESTORATION PROGRAM

##### *Senate bill*

The Senate bill establishes a collaborative, interagency process for the selection of estuary habitat restoration projects to receive assistance under this title. The Senate bill is based on the premise that the non-Federal interest will implement the estuary habitat restoration project, with funding provided by the Secretary of the Army. This approach is intended to reduce delays, expedite project implementation, and reduce unnecessary oversight and paperwork costs.

Section 106(b) of the Senate bill sets out the process for selection of projects. This section specifies that a non-Federal interest must submit a project application for an estuary habitat restoration project to the Collaborative Council established under section 105 for review and approval, and must obtain, where appropriate, the approval of State or local agencies.

Section 106(b) also sets forth the factors and priorities that the Council is to use to select projects and the duties of the non-Federal project sponsors. One of the priorities listed is whether the project is part of an approved Federal estuary management or restoration plan. For example, the Sarasota Bay area in Florida is presently implementing a comprehensive conservation and management plan (CCMP) under the National Estuary Program (NEP), which focuses on restoring lost habitat. The NEP is authorized by section 320 of the Clean Water Act. The habitat restoration is being accomplished by: reducing nitrogen pollution to increase sea grass coverage; constructing saltwater wetlands; and, building artificial reefs for juvenile fish habitat. Narragansett Bay in Rhode Island also is in the process of implementing a CCMP. Current efforts to improve the Bay's water quality and restore its habitat address the uniqueness of the Narragansett Bay watershed.

Section 106(c) authorizes interim habitat restoration activities to be carried out before the Council completes an estuary habitat restoration strategy. Section 106(d) allows a nonprofit entity to serve as the non-Federal interest, after coordination with the local official responsible for the political jurisdiction in which the project will occur.

##### *House amendment*

Section 104(a) of the House amendment authorizes an estuary habitat restoration program to be carried out by the Secretary of the Army, acting through the Army Corps of Engineers.

Section 104(b) provides that estuary habitat restoration projects must be submitted by non-Federal interests, consistent with State or local laws.

Section 104(c) sets forth required elements that eligible estuary habitat restoration projects must have, including, among others, that the project address restoration needs identified in an estuary habitat restoration plan.

Section 104(d) sets forth the factors and priorities that the Secretary is to use to select which estuary habitat restoration projects the Corps of Engineers will carry out, after the Secretary considers the advice and recommendations of the Estuary Habitat Restoration Council established under section 105.

Section 104(e) establishes the cost-sharing required for each project. The non-Federal share of a project must include necessary lands, easements, rights-of-way and relocations, and may include services or any other form of in-kind contributions that the Secretary determines to be an appropriate contribution toward the monetary amount required for the non-Federal share.

Section 104(f) authorizes the Corps of Engineers to carry out interim habitat restoration activities before the Council completes an estuary habitat restoration strategy.

Section 104(g) requires cooperation of non-Federal interests and allows a nongovernmental organization to serve as the non-Federal interest for a project, upon the recommendation of the Governor of the State in which a project is located, and in consultation with appropriate local officials.

Section 104(h) authorizes the Secretary of the Army to delegate project implementation to other Federal agencies, after considering the advice and recommendations of the Estuary Habitat Restoration Council.

#### *Conference substitute*

The Conference substitute substantially adopts the House estuary habitat program structure.

Unlike the Senate bill, the House amendment does not authorize grants. The House amendment provides that the Secretary of the Army is responsible for implementing estuary habitat restoration projects, similar to the responsibilities in carrying out water resources projects under Water Resources Development Acts. The Conference substitute adopts the House approach. However, in the context of estuary habitat restoration projects, it is expected that the Corps of Engineers will streamline its process for review and selection of projects. In particular, it is expected that the Corps will not need to conduct a Feasibility Study, or prepare a Chief's Report, for an estuary habitat restoration project because the Council will have already reviewed and evaluated a project proposal for technical feasibility, merit, and cost-effectiveness. The Corps is also strongly encouraged to keep its oversight and review costs and time to carry out projects to a minimum.

The Conference substitute makes several modifications to the House amendment. First, the Conference substitute enhances the role of the Estuary Habitat Restoration Council established under section 105 of the House amendment in the selection of estuary habitat restoration projects. In the House amendment, the Secretary of the Army selects projects after considering the advice and recommendations of the Council. Section 104(c)(1) of the Conference substitute directs the Secretary to select projects from a list

developed and submitted by the Council. The Council is to review all project proposals submitted and prepare a list of eligible projects that meet the statutory criteria. The Council also is to prioritize the listed projects and make any recommendations regarding whether the projects should be delegated to other Federal agencies for implementation. The Secretary must select projects from that list; the Secretary may not use funds provided under this program to implement estuary habitat restoration projects that are not included on the list submitted by the Council.

The Conference substitute also makes minor revisions to the structure of the project selection process. The Conference substitute retains the factors for selection of a project from the House amendment and adds two factors from the Senate bill: technical feasibility, and whether the project is part of an approved Federal estuary management or habitat restoration plan.

The Conference substitute adds an innovative technology cost-share provision to section 104(d), based on similar language from section 107(e) of the Senate bill. New section 104(d)(2) provides that the Federal cost-share for the incremental additional cost of implementing innovative technologies in a project shall be 85 percent. The intent of this increased cost-share is to encourage the use of innovative technologies. Consistent with the stated purposes of this title, it is expected that NERRs will identify some of the innovative technologies that might be eligible for funding.

The Conference substitute also includes a new section 104(d)(4) on operation and maintenance costs that specifies that non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing and rehabilitating all projects carried out under this section.

Section 104(f) of the Conference substitute retains language from both the Senate bill and the House amendment that allows nongovernmental organizations to serve as the non-Federal interest in an estuary habitat restoration project with one modification. Under the Conference substitute, the Secretary is required to consult and coordinate with appropriate State and local agencies and tribes before allowing a nongovernmental organization to act as the non-Federal interest.

In selecting estuary habitat restoration projects, the Conferees direct the Secretary to give priority consideration to the Wetlands Recovery Project for the Los Cerritos Wetlands in Los Angeles County, California, and to a proposed project for restoration of estuary habitat in the Great Bay Estuary in New Hampshire.

#### SECTION 105. ESTABLISHMENT OF ESTUARY HABITAT RESTORATION COUNCIL

##### *Senate bill*

Section 105 of the Senate bill establishes an interagency Collaborative Council chaired by the Secretary of the Army, with the participation of the Department of Commerce, acting through the Under Secretary for Oceans and Atmosphere; the Administrator of the Environmental Protection Agency (EPA); and, the Secretary of the Interior, acting through the Fish and Wildlife Service.

Section 106 establishes the duties of the Collaborative Council. Section 106(a) requires the Council to draft a strategy that will serve as a national framework for restoring estuaries. Under section 106(b), the Council is also responsible for reviewing project applications and determining the eligibility of specific proposals for funding.

*House amendment*

Section 105 of the House amendment establishes the national Estuary Habitat Restoration Council. The Council's function is to review project proposals and make recommendations on projects and priorities to the Secretary. The Council also makes recommendations regarding whether specific projects should be delegated to other agencies for implementation. In addition, the Council is responsible for developing and periodically reviewing, and updating as necessary, a national strategy to restore estuary habitat and is to provide advice on monitoring and reporting requirements under this title. Under section 106, the Council is also directed to establish an Advisory Board, which provides advice and recommendations to the Council on the strategy and in the consideration of project proposals.

The Council has six members, including the Secretaries of the Army, the Interior (acting through the Director of the Fish and Wildlife Service), Commerce (acting through the Under Secretary for Oceans and Atmosphere), and Agriculture; the Administrator of EPA; and the head of any other Federal agency designated by the President.

*Conference substitute*

The Conference substitute adopts the House amendment with several amendments. First, in section 105(b), the Conference substitute revises the Estuary Habitat Restoration Council's duties so that the Council shall have a greater role in recommending projects for the Secretary to carry out or to delegate to another agency to carry out. The House amendment directs the Council to solicit, review, and evaluate project proposals and make recommendations to the Secretary, including recommending prioritization of projects and delegation of project implementation to another agency. The Conference substitute retains these provisions, but includes a requirement that the Council submit a list of recommended projects to the Secretary, which shall include prioritization and delegation recommendations. Section 104 of the Conference substitute requires the Secretary to select projects from this list.

The Conference substitute also adds a new section 105(i) that directs the Council to consult with a broad range of experts in estuary or estuary habitat restoration and with estuary users to assist in the development of the estuary habitat restoration strategy developed under section 106. The Council also shall seek the advice and recommendations of experts on proposed projects, including the projects' scientific and technical merit, and feasibility. In particular, the Council shall consult with scientific experts and representatives of State, local or regional agencies, and non-governmental organizations with expertise in estuary or estuary habitat restoration, as well as Indian Tribes, agricultural interests, fishing

interests, and other estuary users. This provision is similar to section 106(a)(4) of the Senate bill, and replaces section 106 in the House amendment that created a formal advisory board.

#### SECTION 106. ESTUARY HABITAT RESTORATION STRATEGY

##### *Senate bill*

Section 106(a) of the Senate bill requires the Collaborative Council, in consultation with non-Federal participants, to draft a strategy that will serve as a national framework for restoring estuaries. In developing the strategy, the Council is directed to consider the contributions of estuary habitat to wildlife; fish and shellfish; surface and ground water quality and quantity and flood control; outdoor recreation and other concerns; estimated historic losses of estuary habitat; and the most appropriate way to balance small and large estuary habitat restoration projects.

##### *House amendment*

Section 107 of the House amendment directs the Council, in consultation with the advisory board established under section 106, to develop a national estuary habitat restoration strategy. The strategy is intended to help maximize the benefits derived from estuary habitat restoration projects selected for implementation, and to foster coordination of Federal and non-Federal efforts to restore estuary habitat. The Council is directed to publish a draft of the strategy in the Federal Register and provide a public comment period of sufficient length to provide a meaningful opportunity for public review and comment.

Section 107(b) specifically provides that the goal of the strategy shall be to restore one million acres of estuary habitat by 2010.

##### *Conference substitute*

Section 106 of the Conference substitute adopts the House amendment with only minor changes. The Conference substitute specifically adopts the language establishing as the goal of the strategy the restoration of one million acres of estuary habitat. This goal is consistent with one of the stated purposes of the Senate bill.

#### SECTION 107. MONITORING OF ESTUARY HABITAT RESTORATION PROJECTS

##### *Senate bill*

Section 108(a) of the Senate bill directs the Under Secretary for Oceans and Atmosphere of the Department of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA), to maintain a database of restoration projects carried out under this title, including information on project techniques, project completion, monitoring data, and other relevant information. This section is intended to ensure that available information will be used to improve the methods for assuring successful long-term habitat restoration.

*House amendment*

Section 108 of the House amendment directs the Under Secretary for Oceans and Atmosphere of the Department of Commerce, in consultation with the Council, to develop and maintain, using existing NOAA programs, a database with information on estuary habitat restoration projects carried out under this title. The Under Secretary will also develop monitoring standards for data types and format, as well as for monitoring frequency.

*Conference substitute*

Section 107 of the Conference substitute adopts the House amendment.

## SECTION 108. REPORTING

*Senate bill*

Section 108(b) of the Senate bill directs the Council to submit a biennial report to Congress that describes program activities, including the number of acres of estuary habitat restored; the percent of restored habitat monitored under a plan; the types of restoration methods employed; the activities of governmental and non-governmental entities with respect to habitat restoration; and the effectiveness of the restoration projects.

*House amendment*

Section 109 of the House amendment requires the Secretary, after considering the advice and recommendations of the Council, to submit a report to Congress at the end of the third and fifth fiscal years after enactment of this title. The report must include information on the number of acres of estuary habitat restored; information from the database related to ongoing monitoring projects; an estimate of the long-term success of varying restoration techniques; a review of how the information on restoration techniques has been incorporated into the selection and implementation of estuary habitat restoration projects; and a review of efforts to maintain an appropriate database of habitat restoration projects.

*Conference substitute*

Section 108 of the Conference substitute adopts the House amendment.

## SECTION 109. FUNDING

*Senate bill*

Section 111 of the Senate bill authorizes a total of \$315 million over five years to assist States and other non-Federal persons in carrying out estuary habitat restoration projects as follows: \$40 million for fiscal year 2001; \$50 million for fiscal year 2002; and, \$75 million for each of fiscal years 2003 through 2005.

*House amendment*

Section 110 of the House amendment authorizes a total of \$200 million over five years for the Secretary of the Army to carry out and provide technical assistance for estuary habitat restoration

projects as follows: \$30 million for fiscal year 2001; \$35 million for fiscal year 2002; and \$45 million for each of fiscal years 2003 through 2005. Of the annual authorizations, the Secretary may use no more than three percent, or \$1.5 million, whichever is greater, for administration and operation of the Council.

The House amendment also authorizes \$1.5 million for each of fiscal years 2001 through 2005 for NOAA to acquire, maintain, and manage monitoring data on estuary habitat restoration projects.

*Conference substitute*

Section 109 of the Conference substitute adopts the House amendment with an amendment. It authorizes a total of \$275 million over five years to carry out and provide technical assistance for estuary habitat restoration projects as follows: \$40 million for fiscal year 2001; \$50 million for fiscal years 2002 and 2003; \$60 million for fiscal year 2004; and \$75 million for fiscal year 2005.

SECTION 110. GENERAL PROVISIONS

*Senate bill*

Section 113(a) of the Senate bill specifies that the Secretary of the Army has the authority to carry out estuary habitat restoration projects.

Section 113(b) makes certain sections of the Water Resources Development Act of 1986 inapplicable to this title.

Section 113(c) adds estuary habitat restoration as a mission of the Corps of Engineers.

Section 113(d) allows other Federal agencies to provide assistance to the Collaborative Council.

Section 113(e) requires an analysis of the personnel and funding needed for the Collaborative Council.

*House amendment*

Section 111(a) of the House amendment requires the Secretary of the Army to consult with other Federal agencies, as necessary.

Section 111(b) authorizes the Secretary of the Army to enter into cooperative agreements with Federal, State, and local agencies and other entities.

Section 111(c) authorizes other Federal agencies to cooperate in carrying out this title.

Section 111(d) requires the Secretary of the Army to identify and map sites appropriate for beneficial uses of dredged material.

Section 111(e) requires EPA to conduct a study of the efficacy of bioremediation products.

*Conference substitute*

Section 110 of the Conference substitute adopts the House amendment. The Secretary of the Army is to carry out this title in accordance with the provisions of this title, not Water Resources Development Acts.

TITLE II—CHESAPEAKE BAY RESTORATION

The Chesapeake Bay (the Bay) is the largest estuary in the United States, and the first estuary in the nation to be targeted for

restoration as a single ecosystem. The Bay covers 4,431 square miles, and the Bay watershed covers 64,000 square miles including areas of Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Over 100,000 streams and rivers drain into the Bay, with the Susquehanna River draining 42 percent of the watershed. The Bay is a national and regional resource that provides millions of pounds of seafood, functions as a center for shipping and commerce and is home to thousands of species of wildlife. In 1983, Maryland, Pennsylvania, Virginia, the District of Columbia, and EPA signed the Chesapeake Bay Agreement (the Agreement), which established the Chesapeake Bay Program.

The Chesapeake Bay Program has evolved considerably since 1983 and has become a model for other estuary restoration and protection programs around the world. The 1987 amendments to the Agreement expanded the initial restoration efforts by targeting nutrient over-enrichment as the Bay's major problem and establishing a goal to reduce nutrients flowing into the Bay by 40 percent. This Agreement included 28 other specific commitments to address key issues in habitat, water quality, population growth, public information and public access. The 1992 amendments to the Agreement moved the program upriver and committed the 40 percent nutrient reduction goal to the ten major tributaries of the Bay beyond the year 2000.

The Water Quality Act of 1987 formally authorized EPA's participation in the Chesapeake Bay Program by adding section 117 to the Clean Water Act. Section 117 created the Chesapeake Bay Program office within EPA. The office helps to coordinate State and Federal efforts to restore and protect the Bay, makes information available to the public and conducts scientific research on the Bay. Section 117 authorized \$3 million a year for fiscal years 1987 through 1990 to support the activities of the Chesapeake Bay Program office, and \$10 million a year for fiscal years 1987 through 1990 for matching interstate development grants.

Title II of the Conference substitute amends section 117 of the Clean Water Act and reauthorizes the Chesapeake Bay Program. Title II of the Senate bill and the House amendment also amend section 117 of the Clean Water Act, and are substantially the same. The Conferees adopted the House amendment with the following amendments:

In new section 117(d), the Conference substitute adopts language from the Senate bill authorizing EPA to make assistance grants to non-Federal entities to carry out this section. Such grants may include assistance for monitoring activities, data collection, and research.

In new section 117(g), the Conference substitute adopts language from the Senate bill that requires the Administrator to ensure that management plans are developed and implementation is begun by signatories of the Agreement not only to achieve, but also to maintain, the goals of that Agreement.

In new section 117(j), the Conference substitute authorizes \$40 million for each of fiscal years 2001 through 2005 to carry out this section.

## TITLE III—NATIONAL ESTUARY PROGRAM

Title III of the Conference substitute amends section 320 of the Clean Water Act and reauthorizes the NEP. This title is substantially similar to title III in the House amendment and section 112 of the Senate bill. The Conferees adopted title III of the House amendment with amendments. Differences between the Senate bill, House amendment and Conference substitute are as follows:

## SECTION 301. ADDITION TO NATIONAL ESTUARY PROGRAM

*Senate bill*

The Senate bill did not have a comparable provision.

*House amendment*

Section 301 of the House amendment amends section 320(a)(2)(B) of the Clean Water Act to identify two additional estuaries as priorities for inclusion in the NEP.

*Conference substitute*

Section 301 of the Conference substitute identifies only one additional estuary, Lake Pontchartrain Basin, as a priority for inclusion in the NEP.

## SECTION 302. GRANTS

*Senate bill*

Section 112(a) of the Senate bill amends section 320(g)(2) of the Clean Water Act to provide explicit authority for EPA to make grants to implement CCMPs. Examples of implementation activities include: enhanced monitoring activities; habitat mapping; habitat acquisition; best management practices to reduce urban and rural polluted runoff; and, the organization of workshops for local elected officials and professional water quality managers about habitat and water quality issues.

*House amendment*

Section 302 of the House amendment amends both paragraphs (2) and (3) of section 320(g) of the Clean Water Act. The amendment to paragraph (2) is identical to the Senate bill. The amendment to paragraph (3) establishes a Federal cost-share of up to 50 percent for implementation grants. Under this title, construction of projects that are treatment works as defined in the Clean Water Act will be subject to the requirements of the Davis-Bacon Act as provided in Section 513 of the Clean Water Act. Some of the construction authorized by the reported bill may not come within the definition of treatment works. The House has not addressed the issue of whether these construction projects should be covered by the Davis-Bacon Act, and the House amendment should not be considered as a precedent on this issue.

*Conference substitute*

Section 302 of the Conference substitute adopts the House amendment.

## SECTION 303. AUTHORIZATION OF APPROPRIATIONS

*Senate bill*

Section 112(b) of the Senate bill authorizes \$25 million for each of fiscal years 2001 and 2002 to carry out section 320 of the Clean Water Act.

*House amendment*

Section 303 of the House amendment authorizes \$50 million for each of fiscal years 2000 through 2004 to carry out section 320 of the Clean Water Act.

*Conference substitute*

Section 303 of the Conference substitute authorizes \$35 million for each of fiscal years 2001 through 2005 to carry out section 320 of the Clean Water Act.

## TITLE IV—LONG ISLAND SOUND RESTORATION

Title IV of the Conference substitute amends section 119 of the Clean Water Act and reauthorizes the Long Island Sound program. This title is similar to title V in the House amendment and title III in the Senate bill. The Conferees adopted title V of the House amendment with amendments. Differences between the Senate bill, House amendment and Conference substitute are as follows:

## SECTION 402. INNOVATIVE METHODOLOGIES AND TECHNOLOGIES

*Senate bill*

The Senate bill did not have a comparable section.

*House amendment*

Section 502 of the House amendment amends section 119(c)(1) of the Clean Water Act to encourage the Long Island Sound Office to assist and support efforts to establish, within the process for granting watershed general permits, a system for trading nitrogen credits and any other measures that are cost-effective and consistent with the goals of the CCMP for Long Island Sound. This amendment does not affect any existing regulatory authorities under the Clean Water Act.

*Conference substitute*

Section 402 of the Conference substitute amends the House amendment regarding the duties of the Long Island Sound Office. The amendment to section 119(c)(1) of the Clean Water Act encourages the Office to assist in the implementation of the Long Island Sound CCMP, including efforts, within the process of granting a watershed general permit, to promote innovative methodologies and technologies, and other cost effective measures consistent with the goals of the CCMP. EPA should support innovative methodologies and technologies through out the program.

This assistance is to be provided under the existing authorities of the Clean Water Act and the laws of New York and Connecticut, or any subsequent amendments to such authorities or laws. The

amendment does not affect any existing statutory or regulatory authorities under the Clean Water Act.

SECTION 403. ASSISTANCE FOR DISTRESSED COMMUNITIES

*Senate bill*

The Senate bill did not have a comparable section.

*House amendment*

Section 503 of the House amendment amends section 119 of the Clean Water Act by adding a new subsection authorizing New York and Connecticut to use their state revolving funds, established under title VI of the Clean Water Act, to provide additional subsidization when making a loan to a distressed community for the purposes of assisting the implementation of the CCMP for Long Island Sound. The total amount of loan subsidies made by a State may not exceed 30 percent of the amount of the capitalization grant received by the State for a year.

Under this section, the States of New York and Connecticut would establish affordability criteria, after public review and comment, to be used to determine which communities are distressed. In establishing these criteria, the States must consider the extent to which the rate of growth of a community's tax base has been historically slow such that implementing the CCMP would result in significant increases in any water or sewer rate charged by the community's publicly-owned wastewater treatment facility. EPA is authorized to publish information to assist States in establishing affordability criteria. A State is authorized to give priority to distressed communities in making assistance available under this section for the upgrading of wastewater treatment facilities.

*Conference substitute*

Section 403 of the Conference substitute adopts the House amendment with an amendment. The Conference substitute does not adopt the provisions of the House amendment allowing loan subsidies for loans made to distressed communities from a State's revolving loan funds. The Conference substitute addresses distressed communities by allowing EPA to give distressed communities, which are upgrading wastewater treatment facilities, priority in making assistance available under section 119(d). A distressed community is any community that meets affordability criteria established by the State in which the community is located, after public review and comment.

SECTION 404. REAUTHORIZATION OF APPROPRIATIONS

*Senate bill*

Section 404 of the Senate bill authorizes \$10 million for each of fiscal years 2001 through 2006 to carry out section 119(d) of the Clean Water Act.

*House amendment*

Section 504 of the House amendment authorizes \$80 million for each of fiscal years 2000 through 2003 to carry out section 119(d) of the Clean Water Act.

*Conference substitute*

Section 404 of the Conference substitute authorizes \$40 million for each of fiscal years 2001 through 2005 to carry out section 119(d) of the Clean Water Act.

## TITLE V—LAKE PONTCHARTRAIN BASIN RESTORATION

Title V of the Conference substitute amends title I of the Clean Water Act adding a new section 121 establishing the Lake Pontchartrain Basin Restoration Program within EPA. This title is substantially similar to title VI of the House amendment. The Senate bill had no comparable title. The Conferees agreed to adopt title VI of the House amendment with amendments. Differences between the House amendment and Conference substitute are as follows:

## SECTION 502. LAKE PONTCHARTRAIN BASIN

*House amendment*

Section 602 of the House amendment states a Congressional finding that the Lake Pontchartrain Basin is an estuary of national significance. It amends section 320(a)(2)(B) of the Clean Water Act to add the Lake Pontchartrain Basin to the list of estuaries to receive priority consideration for inclusion in the NEP.

Section 603 adds a new section 122 to title I of the Clean Water Act that establishes a Lake Pontchartrain Basin Program within EPA. The purpose of the program is to restore the ecological health of the Basin by developing and funding restoration projects and related scientific and public education projects.

To carry out the program, the new section 122 requires EPA: to provide administrative and technical assistance to a management conference for the Lake Pontchartrain Basin convened under the NEP; to assist and support the activities of the management conference, including implementation of recommendations of the management conference; to support environmental monitoring of the Basin and research to provide necessary technical and scientific information; to develop a comprehensive research plan to address the technical needs of the program; to coordinate the grant, research, and planning programs authorized under this section; and to collect, and make available to the public, publications and other forms of information that the management conference determines to be appropriate relating to the environmental quality of the Basin.

The new section 122 authorizes \$5 million in EPA grants for each of fiscal years 2001 through 2005 for restoration projects and studies and for public education projects recommended by the management conference, although no more than 15 percent of annual appropriations should be spent on grants for public education projects. It also authorizes \$100 million in EPA grants for an inflow and infiltration project sponsored by the New Orleans Sewerage and Water Board and Jefferson Parish, Louisiana.

*Conference substitute*

Section 502 of the Conference substitute adopts the House amendment with amendments. The substitute authorizes \$20 million in funding for the Lake Pontchartrain Basin Program for each

of fiscal years 2001 through 2005, and deletes the specific authorization for funding for the inflow and infiltration project.

The Conferees agreed to clarify several issues in House Transportation and Infrastructure Committee Report 106–594. In particular, the list of participants in the management conference to be convened to carry out the Lake Pontchartrain Basin Restoration Program in Report 106–594 is not exclusive. The management conference should be broad-based, and may also include local government representatives and representatives from affected industries and the general public, as determined under section 320(c). The Conferees also intend for the management conference to consult with the executives of all 16 Louisiana parishes and appropriate local government officials of four Mississippi counties located in the Lake Pontchartrain Basin. Further, priority should be given to funding for a parish-wide water and sewer systems study in Tammany Parish.

#### TITLE VI—ALTERNATIVE WATER SOURCES

Title VI of the Conference substitute amends title II of the Clean Water Act adding a new section 220 establishing a pilot program for alternative water sources. This title is similar to title VII of the House amendment. The Senate bill had no comparable title. The Conferees adopted title VII of the House amendment with amendments. Differences between the House amendment and Conference substitute are as follows:

##### SECTION 602. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCES

###### *House amendment*

Section 702 of the House amendment amends the Clean Water Act by adding a new section 220, “Grants for Alternative Water Source Projects.”

Section 220(a) authorizes EPA to make grants for alternative water source projects to meet critical water supply needs.

Section 220(b) specifies that eligibility for grants is restricted to those entities with authority under State law to develop or provide water for municipal and industrial, or agricultural uses in areas that are experiencing critical water supply needs.

Section 220(c)(1) prohibits a project that has received funds under the Bureau of Reclamation’s water reclamation and reuse program from being eligible for grant assistance under this section. Section 220(c)(2) requires EPA to consider whether a project is eligible under the Bureau of Reclamation’s water reclamation and reuse program when selecting projects for grants under this section.

Section 220(d)(1) prohibits the appropriation of funds for a project with a Federal cost greater than \$3 million if the project has not been approved by a resolution adopted by either the House or Senate authorizing committee of jurisdiction. In order to secure the appropriate authorizing committee’s consideration of a committee resolution for a proposed project, section 220(d)(2) requires EPA and the non-Federal sponsor for the proposed project to provide to the Committee the required information on the project, including project costs, and area water supply needs.

Section 220(e) provides that grant funding received under this section may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Such grant funding may not be used for operation, maintenance, replacement, repair or rehabilitation of such projects.

Section 220(f) provides that the Federal cost-share for a project receiving assistance under this section shall not exceed 50 percent of the eligible costs.

Section 220(g)(1) requires that each recipient of a grant under this section submit a report to EPA on the eligible activities carried out by the recipient using grant funding. This report shall be submitted to EPA no later than 18 months after the date the recipient receives grant funding and every two years thereafter, until the alternative water source project funded by the grant is complete. Section 220(g)(2) requires EPA to submit a report to Congress on the progress made toward meeting the critical water supply needs of the grant recipients under this section. This report is to be transmitted to Congress on or before September 30, 2004.

Section 220(h) defines key terms. "Alternative Water Source Project" means a project designed to provide municipal, industrial, and agricultural water supplies in an environmentally sustainable manner by conserving, managing, reclaiming, or reusing water or wastewater or by treating wastewater. These projects fall within the definition of treatment works in section 212 of the Clean Water Act. All such projects, including wastewater treatment projects, should be designed to provide water supplies in an environmentally sustainable manner. "Critical Water Supply Needs" means existing or reasonably anticipated future water supply needs that cannot be met by existing water supplies, as identified in a comprehensive statewide or regional water supply plan or assessment projected over a planning period of at least 20 years.

To carry out the new section 220, section 220(i) authorizes \$75 million for each of fiscal years 2000 through 2004.

#### *Conference substitute*

Section 602 of the Conference substitute adopts the House amendment with amendments, including narrowing the title to a pilot program.

Section 220(a) is added stating that nothing in the pilot program shall affect the application of section 101(g) of the Clean Water Act, which states Congressional policy that nothing in the Act shall supersede State authority to allocate water quantities or State rights to such quantities.

Section 220(d)(3) is added to require selected projects to reflect a variety of geographical and environmental conditions.

Section 220(h) is revised to require EPA to report to Congress on the results of the pilot program, including progress made by program participants in meeting their critical water supply needs.

In section 220(i)(1), the definition of "Alternative Water Source Project" adopts the House definition with a clarification that such term does not include water treatment or distribution facilities.

Section 220(j) authorizes a total of \$75 million for the pilot program for fiscal years 2002 through 2004.

## TITLE VII—CLEAN LAKES

Title VII of the Conference substitute reauthorizes and amends the Clean Lakes Program under section 314 of the Clean Water Act. This title is substantially similar to title VIII of the House amendment. The Senate bill had no comparable title. The Conferees adopted title VIII of the House amendment with amendments. Differences between the House amendment and Conference substitute are as follows:

## SECTION 702. DEMONSTRATION PROGRAM

*House amendment*

Section 801 of the House amendment amends section 314(c)(2) of the Clean Water Act by authorizing \$50 million for grants to States to implement the Clean Lakes Program for each of fiscal years 2001 through 2005.

Section 802 amends section 314(d) of the Clean Water Act by: adding several lakes to the list of lakes to receive priority consideration for demonstration projects in paragraph (2); preventing the report to Congress on the Clean Lakes demonstration program in paragraph (3) from expiring under the Federal Reports Elimination and Sunset Act of 1995; and, increasing the special authorization of financial assistance to States to carry out methods and procedures to mitigate harmful effects of high acidity from acid deposition or acid mine drainage in paragraph (4) from \$15 million to \$25 million.

*Conference substitute*

Section 702 of the Conference substitute amends section 314(d)(2) of the Clean Water Act authorizing demonstration projects to be undertaken in the following lakes, in addition to those in the House amendment: Lake Tahoe, California and Nevada; Highland Lake, Connecticut; Lake Apopka and Tohopekaliga Lake, Florida; Lake Allatoona, Georgia; Walker Lake, Nevada; Baboosic Lake and French Pond, New Hampshire; Lily Lake and Strawbridge Lake, New Jersey; Lake George, New York; Dillon Reservoir, Ohio; Ten Mile Lakes, and Woahink Lake, Oregon; and, Lake Wallenpaupack, Pennsylvania.

## TITLE VIII—TIJUANA RIVER VALLEY ESTUARY AND BEACH CLEANUP

Title VIII of the Conference substitute authorizes certain actions to address the comprehensive treatment of sewage emanating from the Tijuana River to reduce water pollution in the San Diego, California border region. This title is substantially similar to title X of the House amendment. The Senate bill had no comparable title. The Conferees adopted title X of the House amendment with amendments. Differences between the House amendment and Conference substitute are as follows:

## SECTION 804. ACTIONS TO BE TAKEN BY THE COMMISSION AND THE ADMINISTRATOR

*House amendment*

Subject to the negotiation and conclusion of a new treaty minute or amendment to Minute 283, section 1004(a) of the House amendment authorizes and directs the International and Boundary Water Commission (the Commission) to provide secondary treatment for a total of not more than 50 million gallons per day (mgd) in Mexico of both primary advanced effluent pumped from the International Wastewater Treatment Plant (IWTP) in San Diego and any additional sewage emanating from the Tijuana River area in Mexico.

Section 1004(b) directs EPA to develop a comprehensive plan with stakeholder involvement within two years of the date of enactment of the title. The comprehensive plan will analyze the long-term secondary treatment needs for the San Diego-Tijuana border region, and make recommendations for preferred options to provide additional treatment capacity for future flows emanating from the Tijuana River area. If the comprehensive plan includes a recommendation for additional treatment capacity to be provided in Mexico rather than in the U.S., the Commission is authorized to provide not more than an additional 25 mgd of such capacity in Mexico.

Subject to the availability of appropriations, section 1004(c) authorizes the Commission to enter into a fee-for-services contract and make payments on behalf of the U.S. for treatment services rendered under the contract with the owner of a Mexican facility. Section 1004(c)(2) requires the contract to include, at a minimum, the terms listed in the following subparagraphs:

(A) that the advanced primary effluent from the IWTP be transported to the Mexican facility;

(B) that the advanced primary effluent from the IWTP be treated to the secondary treatment level in compliance with U.S., California, and Mexican water quality laws;

(C) that any effluent treated at the Mexican facility not reused in Mexico or the U.S. is returned for discharge through the South Bay Ocean Outfall off the coast of San Diego, and that it is in compliance with U.S. and California water quality laws;

(D) that the Mexican facility may provide sewage treatment capacity in addition to the capacity needed to treat the advanced primary effluent pumped from the IWTP, if recommended as a preferred option in the EPA comprehensive plan analyzing the long-term treatment needs and recommending preferred options to provide such treatment;

(E) that the contract has a term of 30 years;

(F) that arrangements are made for the monitoring, verification, and enforcement of compliance with U.S., California and Mexican water quality standards;

(G) that arrangements are made for the disposal and use of sludge in Mexico, which is from the IWTP and the Mexican facility;

(H) that the Commission pays an annual fee to the owner of the Mexican facility covering the costs of development, financing, construction, and operation and maintenance of the facility;

(I) that, if the Commission fails to perform its contractual obligations, the ownership of the facility is transferred to the U.S. after the U.S. pays a cancellation fee to the owner of the facility, which reflects the costs of repayment of construction debt and other contractual losses resulting from early termination of the contract. The cancellation fee owed to the owner of the facility shall be in amounts declining over the term of the contract;

(J) that, if the owner of the Mexican facility fails to perform its contractual obligations, ownership of the facility will be transferred to the U.S. without a cancellation fee;

(K) that the owner of the Mexican facility uses competitive procedures to the extent practicable in the procurement of property or services for the engineering, construction, and operation and maintenance of the facility;

(L) that the Commission may review and approve the contractors providing for the engineering, construction, and operation and maintenance of the facility;

(M) that the owner of the Mexican facility maintains all records to demonstrate compliance with this section and the contract; and,

(N) that the U.S. Department of State Inspector General has access to all pertinent records to conduct audits to ensure the owner of the Mexican facility is complying with the terms of this title and the contract.

Section 1004(c)(3) states that the Contract Disputes Act of 1978 does not apply to a contract executed under this section.

Section 1004(d) requires the U.S. Department of State Inspector General to monitor the implementation of contracts entered into under this section and to evaluate whether the owner of the Mexican facility has complied with the terms of the section and fulfilled the contract terms.

#### *Conference substitute*

The Conference substitute adopts the House amendment with several amendments to the contract terms listed in section 804(c)(2).

In order to ensure greater accountability with respect to the costs of developing, financing, constructing, and operating and maintaining the facility, the Conference substitute requires the owner of the facility to share in all of these costs. New subparagraph (H) requires that the owner of the facility maintain 20 percent equity in the capital structure of the facility throughout the term of the contract. Under new subparagraph (I), the Commission's annual payments shall maintain the owner's 20 percent equity position throughout the term of the contract. Revised subparagraph (E) limits the contract term to 20 years.

The Conference substitute requires, in new subparagraph (P), that the owner of the facility provide offsets or credits in the event that the owner is able to sell the treated wastewater from the facility. The parties negotiating the contract may determine the amount of offsets or credits.

The Conference substitute also requires the owner of the facility to competitively bid all subcontracts for the facility. Revised subparagraph (L) specifically applies title III of the Federal Prop-

erty and Administrative Services Act of 1949, as amended by the Competition in Contracting Act.

Finally, the Conference substitute does not provide an exemption from the Contract Disputes Act.

#### SECTION 806. AUTHORIZATION OF APPROPRIATIONS

##### *House amendment*

Section 1006 of the House amendment authorizes such sums as necessary to be appropriated to carry out the title.

##### *Conference substitute*

Section 806 of the Conference substitute changes the authorization from “such sums as necessary to carry out” the title to a five-year authorization of \$156 million for fiscal years 2001 through 2005. The Conferees acknowledge that the title also authorizes the Commission to enter into a 20-year fee-for-services contract with the owner of a Mexican facility. The five-year authorization is included to be consistent with the authorizations throughout the Conference substitute, and the Conferees do not intend this to affect the Commission’s obligations under the 20-year contract.

#### TITLE IX—GENERAL PROVISIONS

Other than section 901, this title includes new provisions that were not in the Senate bill or the House amendment.

#### SECTION 901. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

##### *House amendment*

Titles II, VI, VII, and VIII of the House amendment each contained a provision regarding the purchase of American-made equipment and products.

##### *Conference substitute*

The Conference substitute deletes the relevant provisions in titles II, VI, VII and VIII in the House amendment, and replaces them with a new section 901. This section states that it is the Sense of Congress, to the extent practicable, for all equipment and products purchased with funds made available under this Act to be made in America. Also, each Federal agency head providing financial assistance under this bill is directed to provide such notice to each recipient of financial assistance, to the extent practicable.

#### SECTION 902. LONG-TERM ESTUARY ASSESSMENT

##### *Conference substitute*

Section 902 of the Conference substitute authorizes the Secretary of Commerce and the Secretary of the Interior to carry out a long-term estuary assessment project for the Mississippi River south of Vicksburg, Mississippi and the Gulf of Mexico. The authorized appropriation levels are \$1 million for fiscal year 2001 for the management agreement with a university-based consortium, and \$4 million for each of fiscal years 2002 through 2005 to carry out the project.

The Conferees are aware that the Center for Bioenvironmental Research at Tulane University and Xavier University in New Orleans, Louisiana have formed a university-based consortium called the "Long-term Estuary Assessment Group" for the purpose of developing advanced long-term assessment and monitoring systems relating to the Mississippi River and other aquatic ecosystems and encourages the Secretaries of Commerce and of the Interior to examine the work begun by the Center for Bioenvironmental Research and this consortium when selecting a university-based consortium to manage this project.

SECTION 903. ALASKA RURAL SANITATION GRANTS

*Conference substitute*

Section 903 of the Conference substitute amends section 303(e) of the Safe Drinking Water Act Amendments of 1996 by reauthorizing \$40 million for each of fiscal years 2001 through 2005.

ADDITIONAL ITEMS

*House amendment*

Title IV of the House amendment establishes an EPA grant program to improve water quality in the Florida Keys. Title IX establishes an EPA Mississippi Sound restoration program.

*Conference substitute*

The Conference substitute deletes titles IV and IX of the House amendment.

BUD SHUSTER,  
DON YOUNG,  
SHERWOOD BOEHLERT,  
WAYNE T. GILCHREST,  
TILLIE K. FOWLER,  
DON SHERWOOD,  
JOHN E. SWEENEY,  
STEVEN T. KUYKENDALL,  
DAVID VITTER,  
JIM OBERSTAR,  
BOB BORSKI,  
JIM BARCIA,  
BOB FILNER,  
EARL BLUMENAUER,  
JOHN BALDACCI,

*Managers on the Part of the House.*

BOB SMITH,  
JOHN W. WARNER,  
MICHAEL D. CRAPO,  
MAX BAUCUS,  
BARBARA BOXER,

*Managers on the Part of the Senate.*