Public Law 107–303
107th Congress

An Act

To amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

Nov. 27, 2002
[H.R. 1070]

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

Great Lakes and Lake Champlain Act of 2002.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

33 USC 1251 note.

(a) SHORT TITLE.—This Act may be cited as the "Great Lakes and Lake Champlain Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.
Sec. 102. Report on remedial action plans.
Sec. 103. Remediation of sediment contamination in areas of concern in the Great Lakes.
Sec. 104. Relationship to Federal and State authorities.
Sec. 105. Authorization of appropriations.
Sec. 106. Research and development program.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.
Sec. 202. Lake Champlain Basin Program.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.
Sec. 302. Preservation of reporting requirements.
Sec. 303. Repeal.
Sec. 304. Cross Harbor Freight Movement Project EIS, New York City.
Sec. 305. Center for Brownfields Excellence.
Sec. 306. Louisiana Highway 1026 Project, Louisiana.

TITLE I—GREAT LAKES

Great Lakes Legacy Act of 2002.

SEC. 101. SHORT TITLE.

33 USC 1251 note.

This title may be cited as the "Great Lakes Legacy Act of 2002".

SEC. 102. REPORT ON REMEDIAL ACTION PLANS.

Section 118(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)) is amended by adding at the end the following:

Deadline.

"(E) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods,

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and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

"(i) this paragraph; and

"(ii) the Great Lakes Water Quality Agreement.".

SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

"(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

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

"(B) ELIGIBLE PROJECTS.—A project meets the requirements of this subparagraph if the project is to be carried out in an area of concern located wholly or partially in the United States and the project—

"(i) monitors or evaluates contaminated sediment;

"(ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment; or

"(iii) prevents further or renewed contamination of sediment.

"(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

"(i) constitutes remedial action for contaminated sediment;

"(ii)(I) has been identified in a Remedial Action Plan submitted under paragraph (3); and

"(II) is ready to be implemented;

"(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or

"(iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

"(D) LIMITATION.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

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

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

"(E) NON-FEDERAL SHARE.—

"(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

"(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.

"(iii) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project carried out under this paragraph—

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

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

"(iv) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

"(F) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in the 2 fiscal years preceding the date on which the project is initiated.

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

"(H) AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2008.

"(ii) AVAILABILITY.—Funds made available under clause (i) shall remain available until expended.

"(13) PUBLIC INFORMATION PROGRAM.—

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

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2004 through 2008.".

SEC. 104. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

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

(1) by striking "construed to affect" and inserting the following: "construed—

"(1) to affect";

(2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

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

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

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

(1) by striking the second sentence; and

(2) in the first sentence—

(A) by striking "not to exceed $11,000,000" and inserting "not to exceed—

"(1) $11,000,000";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

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

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

33 USC 1271a.

SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—In coordination with other Federal, State, and local officials, the Administrator of the Environmental Protection Agency may conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern that are located wholly or partially in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2008.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE II—LAKE CHAMPLAIN

Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002.
33 USC 1251 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002".

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) is amended—

(1) by striking the section heading and all that follows through "There is established" in subsection (a) and inserting the following:

"SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established";

(2) in subsection (a) (as amended by paragraph (1)), by adding at the end the following:

"(2) IMPLEMENTATION.—The Administrator—

"(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

"(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.";

(3) in subsection (d), by striking "(1)";

(4) in subsection (e)—

(A) in paragraph (1), by striking "(hereafter in this section referred to as the 'Plan')"; and

(B) in paragraph (2)—

(i) in subparagraph (D), by striking "and" at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.";

(5) in subsection (f)—

(A) in paragraph (1), by striking "the Management Conference," and inserting "participants in the Lake Champlain Basin Program,"; and

(B) in paragraph (2), by striking "development of the Plan" and all that follows and inserting "development and implementation of the Plan.";

(6) in subsection (g)—

(A) by striking "(g)" and all that follows through "the term" and inserting the following:

"(g) DEFINITIONS.—In this section:

"(1) LAKE CHAMPLAIN BASIN PROGRAM.—The term 'Lake Champlain Basin Program' means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

"(2) LAKE CHAMPLAIN DRAINAGE BASIN.—The term";

(B) in paragraph (2) (as designated by subparagraph (A))—

(i) by inserting "Hamilton," after "Franklin,"; and

(ii) by inserting "Bennington," after "Rutland,"; and

(C) by adding at the end the following:

"(3) PLAN.—The term 'Plan' means the plan developed under subsection (e).";

(7) by striking subsection (h) and inserting the following:

"(h) NO EFFECT ON CERTAIN AUTHORITY.—Nothing in this section—

"(1) affects the jurisdiction or powers of—

"(A) any department or agency of the Federal Government or any State government; or

"(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

"(2) provides new regulatory authority for the Environmental Protection Agency; or

"(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note).";; and

(8) in subsection (i)—

(A) by striking "section $2,000,000" and inserting "section—

"(1) $2,000,000";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

"(3) $11,000,000 for each of fiscal years 2004 through 2008.".

TITLE III—MISCELLANEOUS

SEC. 301. PHASE II STORM WATER PROGRAM.

Notwithstanding any other provision of law, for fiscal year 2003, funds made available to a State to carry out nonpoint source management programs under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) may, at the option of the State, be used to carry out projects and activities in the State relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the rule entitled "National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges", promulgated by the Administrator of the Environmental Protection Agency on December 8, 1999 (64 Fed. Reg. 68722).

SEC. 302. PRESERVATION OF REPORTING REQUIREMENTS.

31 USC 1113 note.

(a) IN GENERAL.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; Public Law 104–66) does not apply to any report required to be submitted under any of the following provisions of law:

(1) EFFECTS OF POLLUTION ON ESTUARIES OF THE UNITED STATES.—Section 104(n)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)).

(2) IMPLEMENTATION OF GREAT LAKES WATER QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(10)).

(3) COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR LONG ISLAND SOUND.—Section 119(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(7)).

(4) LEVEL B PLAN ON ALL RIVER BASINS.—Section 209(b) of the Federal Water Pollution Control Act (33 U.S.C. 1289(b)).

(5) STATE REPORTS ON WATER QUALITY OF ALL NAVIGABLE WATERS.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)).

(6) EXEMPTIONS FROM WATER POLLUTION CONTROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—Section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)).

(7) STATUS OF WATER QUALITY IN UNITED STATES LAKES.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)).

(8) NATIONAL ESTUARY PROGRAM ACTIVITIES.—Section 320(j)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(j)(2)).

(9) REPORTS ON CONTRACTS ENTERED INTO RELATING TO PROCUREMENT FROM VIOLATORS OF WATER QUALITY STANDARDS.—Section 508(e) of the Federal Water Pollution Control Act (33 U.S.C. 1368(e)).

(10) NATIONAL REQUIREMENTS AND COSTS OF WATER POLLUTION CONTROL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375).

(b) OTHER REPORTS.—

(1) IN GENERAL.—Effective November 10, 1998, section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) is amended by striking subsections (a), (b), (c), and (d).

Effective date.

33 USC 1254, 1266, 1285, 1290, 1324, 1329, 1330, 1375.

(2) APPLICABILITY.—The Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)) shall be applied and administered on and after the date of enactment of this Act as if the amendments made by subsections (a), (b), (c), and (d) of section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) had not been enacted.

33 USC 1254 note.

SEC. 303. REPEAL.

20 USC 50 note.

Title VII of Public Law 105–78 (20 U.S.C. 50 note; 111 Stat. 1524) (other than section 702) is repealed.

SEC. 304. CROSS HARBOR FREIGHT MOVEMENT PROJECT EIS, NEW YORK CITY.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 305) is amended in item number 1320 of the table by striking "Reconstruct 79th Street Traffic Circle, New York City" and inserting "Cross Harbor Freight Movement Project EIS, New York City".

SEC. 305. CENTER FOR BROWNFIELDS EXCELLENCE.

(a) IN GENERAL.—To demonstrate the transfer of technology and expertise from the Federal Government to the private sector, and to demonstrate the effectiveness of the reuse by the private sector of properties and assets that the Federal Government has determined, through applicable statutes and processes, that it no longer needs, the Administrator of the Environmental Protection Agency shall make a grant to not less than one eligible sponsor to establish and operate a center for Brownfields Excellence.

(b) RESPONSIBILITIES OF CENTER.—The responsibilities of a center established under this section shall include the transfer of technology and expertise in the redevelopment of abandoned or underutilized property that may have environmental contamination and the dissemination of information regarding successful models for such redevelopment.

(c) PRIORITY.—In carrying out this section, the Administrator shall give priority consideration to a grant application submitted by an eligible sponsor that meets the following criteria:

(1) Demonstrated ability to facilitate the return of property that may have environmental contamination to productive use.

(2) Demonstrated ability to facilitate public-private partnerships and regional cooperation.

(3) Capability to provide leadership in making both national and regional contributions to addressing the problem of underutilized or abandoned properties.

(4) Demonstrated ability to work with Federal departments and agencies to facilitate reuse by the private sector of properties and assets no longer needed by the Federal Government.

(5) Demonstrated ability to foster technology transfer.

(d) ELIGIBLE SPONSOR DEFINED.—In this section, the term "eligible sponsor" means a regional nonprofit community redevelopment organization assisting an area that—

(1) has lost jobs due to the closure of a private sector or Federal installation; and

(2) as a result, has an underemployed workforce and underutilized or abandoned properties.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

SEC. 306. LOUISIANA HIGHWAY 1026 PROJECT, LOUISIANA.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 272) is amended in item number 426 of the table by striking "Louisiana Highway 16" and inserting the following: "Louisiana Highway 1026".

Approved November 27, 2002.

LEGISLATIVE HISTORY—H.R. 1070:

HOUSE REPORTS: No. 107–587, Pt. 1 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 107–312 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Oct. 17, considered and passed Senate, amended.

Nov. 12, House concurred in Senate amendment.