

105TH CONGRESS  
2D SESSION

# S. 1222

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## AN ACT

To catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

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

4        (a) SHORT TITLE.—This Act may be cited as the  
5        “Estuary Habitat Restoration Partnership Act of 1998”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—ESTUARY HABITAT RESTORATION

Sec. 101. Findings.

Sec. 102. Purposes.

Sec. 103. Definitions.

Sec. 104. Establishment of Collaborative Council.

Sec. 105. Duties of Collaborative Council.

Sec. 106. Cost sharing of estuary habitat restoration projects.

Sec. 107. Monitoring and maintenance of estuary habitat restoration projects.

Sec. 108. Cooperative agreements; memoranda of understanding.

Sec. 109. Distribution of appropriations for estuary habitat restoration activities.

Sec. 110. Authorization of appropriations.

Sec. 111. National estuary program.

Sec. 112. General provisions.

#### TITLE II—CHESAPEAKE BAY AND OTHER REGIONAL INITIATIVES

Sec. 201. Chesapeake Bay.

Sec. 202. Chesapeake Bay gateways and watertrails.

Sec. 203. Pfiesteria and other aquatic toxins research and grant program.

Sec. 204. Long Island Sound.

Sec. 205. National Environmental Waste Technology Testing and Evaluation Center.

## 3 **TITLE I—ESTUARY HABITAT** 4 **RESTORATION**

### 5 **SEC. 101. FINDINGS.**

6 Congress finds that—

7 (1) estuaries provide some of the most eco-  
 8 logically and economically productive habitat for an  
 9 extensive variety of plants, fish, wildlife, and water-  
 10 fowl;

11 (2) the estuaries and coastal regions of the  
 12 United States are home to one-half the population of  
 13 the United States and provide essential habitat for

1 75 percent of the Nation's commercial fish catch  
2 and 80 to 90 percent of its recreational fish catch;

3 (3) estuaries are gravely threatened by habitat  
4 alteration and loss from pollution, development, and  
5 overuse;

6 (4) successful restoration of estuaries demands  
7 the coordination of Federal, State, and local estuary  
8 habitat restoration programs; and

9 (5) the Federal, State, local, and private co-  
10 operation in estuary habitat restoration activities in  
11 existence on the date of enactment of this Act  
12 should be strengthened and new public and public-  
13 private estuary habitat restoration partnerships es-  
14 tablished.

15 **SEC. 102. PURPOSES.**

16 The purposes of this title are—

17 (1) to establish a voluntary program to restore  
18 1,000,000 acres of estuary habitat by 2010;

19 (2) to ensure coordination of Federal, State,  
20 and community estuary habitat restoration pro-  
21 grams, plans, and studies;

22 (3) to establish effective estuary habitat res-  
23 toration partnerships among public agencies at all  
24 levels of government and between the public and pri-  
25 vate sectors;

1           (4) to promote efficient financing of estuary  
2           habitat restoration activities; and

3           (5) to develop and enhance monitoring and re-  
4           search capabilities to ensure that restoration efforts  
5           are based on sound scientific understanding.

6 **SEC. 103. DEFINITIONS.**

7           In this title:

8           (1) COLLABORATIVE COUNCIL.—The term “Col-  
9           laborative Council” means the interagency council  
10          established by section 104.

11          (2) DEGRADED ESTUARY HABITAT.—The term  
12          “degraded estuary habitat” means estuary habitat  
13          where natural ecological functions have been im-  
14          paired and normal beneficial uses have been reduced.

15          (3) ESTUARY.—The term “estuary” means—

16                (A) a body of water in which fresh water  
17                from a river or stream meets and mixes with  
18                salt water from the ocean; and

19                (B) the physical, biological, and chemical  
20                elements associated with such a body of water.

21          (4) ESTUARY HABITAT.—

22                (A) IN GENERAL.—The term “estuary  
23                habitat” means the complex of physical and hy-  
24                drologic features and living organisms within  
25                estuaries and associated ecosystems.

1 (B) INCLUSIONS.—The term “estuary  
2 habitat” includes salt and fresh water coastal  
3 marshes, coastal forested wetlands and other  
4 coastal wetlands, maritime forests, coastal  
5 grasslands, tidal flats, natural shoreline areas,  
6 shellfish beds, sea grass meadows, kelp beds,  
7 river deltas, and river and stream banks under  
8 tidal influence.

9 (5) ESTUARY HABITAT RESTORATION ACTIV-  
10 ITY.—

11 (A) IN GENERAL.—The term “estuary  
12 habitat restoration activity” means an activity  
13 that results in improving degraded estuary  
14 habitat (including both physical and functional  
15 restoration), with the goal of attaining a self-  
16 sustaining system integrated into the surround-  
17 ing landscape.

18 (B) INCLUDED ACTIVITIES.—The term  
19 “estuary habitat restoration activity” in-  
20 cludes—

21 (i) the reestablishment of physical fea-  
22 tures and biological and hydrologic func-  
23 tions;

24 (ii) except as provided in subpara-  
25 graph (C)(ii), the cleanup of contamination

1 related to the restoration of estuary habi-  
2 tat;

3 (iii) the control of non-native and  
4 invasive species;

5 (iv) the reintroduction of native spe-  
6 cies through planting or natural succes-  
7 sion; and

8 (v) other activities that improve estu-  
9 ary habitat.

10 (C) EXCLUDED ACTIVITIES.—The term  
11 “estuary habitat restoration activity” does not  
12 include—

13 (i) an act that constitutes mitigation  
14 for the adverse effects of an activity regu-  
15 lated or otherwise governed by Federal or  
16 State law; or

17 (ii) an act that constitutes restitution  
18 for natural resource damages required  
19 under any Federal or State law.

20 (6) ESTUARY HABITAT RESTORATION  
21 PROJECT.—The term “estuary habitat restoration  
22 project” means an estuary habitat restoration activ-  
23 ity under consideration or selected by the Collabo-  
24 rative Council, in accordance with this title, to re-

1       ceive financial, technical, or another form of assist-  
2       ance.

3               (7) ESTUARY HABITAT RESTORATION STRAT-  
4       EGY.—The term “estuary habitat restoration strat-  
5       egy” means the estuary habitat restoration strategy  
6       developed under section 105(a).

7               (8) FEDERAL ESTUARY MANAGEMENT OR HABI-  
8       TAT RESTORATION PLAN.—The term “Federal estu-  
9       ary management or habitat restoration plan” means  
10      any Federal plan for restoration of degraded estuary  
11      habitat that—

12                   (A) was developed by a public body with  
13                   the substantial participation of appropriate  
14                   public and private stakeholders; and

15                   (B) reflects a community-based planning  
16                   process.

17               (9) SECRETARY.—The term “Secretary” means  
18      the Secretary of the Army, or a designee.

19               (10) UNDER SECRETARY.—The term “Under  
20      Secretary” means the Under Secretary for Oceans  
21      and Atmosphere of the Department of Commerce, or  
22      a designee.

1 **SEC. 104. ESTABLISHMENT OF COLLABORATIVE COUNCIL.**

2 (a) **COLLABORATIVE COUNCIL.**—There is established  
3 an interagency council to be known as the “Estuary Habi-  
4 tat Restoration Collaborative Council”.

5 (b) **MEMBERSHIP.**—

6 (1) **IN GENERAL.**—The Collaborative Council  
7 shall be composed of the Secretary, the Under Sec-  
8 retary, the Administrator of the Environmental Pro-  
9 tection Agency, and the Secretary of the Interior  
10 (acting through the Director of the United States  
11 Fish and Wildlife Service), or their designees.

12 (2) **CHAIRPERSON; LEAD AGENCY.**—The Sec-  
13 retary, or designee, shall chair the Collaborative  
14 Council, and the Department of the Army shall  
15 serve as the lead agency.

16 (c) **CONVENING OF COLLABORATIVE COUNCIL.**—The  
17 Secretary shall—

18 (1) convene the first meeting of the Collabo-  
19 rative Council not later than 30 days after the date  
20 of enactment of this Act; and

21 (2) convene additional meetings as often as ap-  
22 propriate to ensure that this title is fully carried out,  
23 but not less often than quarterly.

24 (d) **COLLABORATIVE COUNCIL PROCEDURES.**—

25 (1) **QUORUM.**—Three members of the Collabo-  
26 rative Council shall constitute a quorum.



1           (2) VOTING AND MEETING PROCEDURES.—The  
2 Collaborative Council shall establish procedures for  
3 voting and the conduct of meetings by the Council.

4 **SEC. 105. DUTIES OF COLLABORATIVE COUNCIL.**

5           (a) ESTUARY HABITAT RESTORATION STRATEGY.—

6           (1) IN GENERAL.—Not later than 1 year after  
7 the date of enactment of this Act, the Collaborative  
8 Council, in consultation with non-Federal partici-  
9 pants, including nonprofit sectors, as appropriate,  
10 shall develop an estuary habitat restoration strategy  
11 designed to ensure a comprehensive approach to the  
12 selection and prioritization of estuary habitat res-  
13 toration projects and the coordination of Federal  
14 and non-Federal activities related to restoration of  
15 estuary habitat.

16           (2) INTEGRATION OF PREVIOUSLY AUTHORIZED  
17 ESTUARY HABITAT RESTORATION PLANS, PROGRAMS,  
18 AND PARTNERSHIPS.—In developing the estuary  
19 habitat restoration strategy, the Collaborative Coun-  
20 cil shall—

21                   (A) conduct a review of—

22                           (i) Federal estuary management or  
23                           habitat restoration plans; and

1           (ii) Federal programs established  
2           under other law that provide funding for  
3           estuary habitat restoration activities;

4           (B) develop a set of proposals for—

5                 (i) using programs established under  
6                 this or any other Act to maximize the in-  
7                 centives for the creation of new public-pri-  
8                 vate partnerships to carry out estuary  
9                 habitat restoration projects; and

10                (ii) using Federal resources to encour-  
11                age increased private sector involvement in  
12                estuary habitat restoration activities; and

13           (C) ensure that the estuary habitat res-  
14           toration strategy is developed and will be imple-  
15           mented in a manner that is consistent with the  
16           findings and requirements of Federal estuary  
17           management or habitat restoration plans.

18           (3) ELEMENTS TO BE CONSIDERED.—Consist-  
19           ent with the requirements of this section, the Col-  
20           laborative Council, in the development of the estuary  
21           habitat restoration strategy, shall consider—

22                 (A) the contributions of estuary habitat  
23                 to—

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

4 (ii) fish and shellfish, including com-  
5 mercial and sport fisheries;

6 (iii) surface and ground water quality  
7 and quantity, and flood control;

8 (iv) outdoor recreation; and

9 (v) other areas of concern that the  
10 Collaborative Council determines to be ap-  
11 propriate for consideration;

12 (B) the estimated historic losses, estimated  
13 current rate of loss, and extent of the threat of  
14 future loss or degradation of each type of estu-  
15 ary habitat; and

16 (C) the most appropriate method for se-  
17 lecting a balance of smaller and larger estuary  
18 habitat restoration projects.

19 (4) ADVICE.—The Collaborative Council shall  
20 seek advice in restoration of estuary habitat from ex-  
21 perts in the private and nonprofit sectors to assist  
22 in the development of an estuary habitat restoration  
23 strategy.

24 (5) PUBLIC REVIEW AND COMMENT.—Before  
25 adopting a final estuary habitat restoration strategy,

1 the Collaborative Council shall publish in the Fed-  
2 eral Register a draft of the estuary habitat restora-  
3 tion strategy and provide an opportunity for public  
4 review and comment.

5 (b) PROJECT APPLICATIONS.—

6 (1) IN GENERAL.—An application for an estu-  
7 ary habitat restoration project shall originate from a  
8 non-Federal organization and shall require, when ap-  
9 propriate, the approval of State or local agencies.

10 (2) FACTORS TO BE TAKEN INTO ACCOUNT.—

11 In determining the eligibility of an estuary habitat  
12 restoration project for financial assistance under this  
13 title, the Collaborative Council shall consider the fol-  
14 lowing:

15 (A) Whether the proposed estuary habitat  
16 restoration project meets the criteria specified  
17 in the estuary habitat restoration strategy.

18 (B) The technical merit and feasibility of  
19 the proposed estuary habitat restoration  
20 project.

21 (C) Whether the non-Federal persons pro-  
22 posing the estuary habitat restoration project  
23 provide satisfactory assurances that they will  
24 have adequate personnel, funding, and author-

1           ity to carry out and properly maintain the estu-  
2           ary habitat restoration project.

3           (D) Whether, in the State in which a pro-  
4           posed estuary habitat restoration project is to  
5           be carried out, there is a State dedicated source  
6           of funding for programs to acquire or restore  
7           estuary habitat, natural areas, and open spaces.

8           (E) Whether the proposed estuary habitat  
9           restoration project will encourage the increased  
10          coordination and cooperation of Federal, State,  
11          and local government agencies.

12          (F) The amount of private funds or in-  
13          kind contributions for the estuary habitat res-  
14          toration project.

15          (G) Whether the proposed habitat restora-  
16          tion project includes a monitoring plan to en-  
17          sure that short-term and long-term restoration  
18          goals are achieved.

19          (H) Other factors that the Collaborative  
20          Council determines to be reasonable and nec-  
21          essary for consideration.

22          (4) PRIORITY ESTUARY HABITAT RESTORATION  
23          PROJECTS.—An estuary habitat restoration project  
24          shall be given a higher priority in receipt of funding

1 under this title if, in addition to meeting the selec-  
2 tion criteria specified in this section—

3 (A) the estuary habitat restoration project  
4 is part of an approved Federal estuary manage-  
5 ment or habitat restoration plan;

6 (B) the non-Federal share with respect to  
7 the estuary habitat restoration project exceeds  
8 50 percent; or

9 (C) there is a program within the water-  
10 shed of the estuary habitat restoration project  
11 that addresses sources of water pollution that  
12 would otherwise re-impair the restored habitat.

13 (c) INTERIM ACTIONS.—

14 (1) IN GENERAL.—Pending completion of the  
15 estuary habitat restoration strategy developed under  
16 subsection (a), the Collaborative Council may pay  
17 the Federal share of the cost of an interim action to  
18 carry out an estuary habitat restoration activity.

19 (2) FEDERAL SHARE.—The Federal share shall  
20 not exceed 25 percent.

21 (d) COOPERATION OF NON-FEDERAL PARTNERS.—

22 (1) IN GENERAL.—The Collaborative Council  
23 shall not select an estuary habitat restoration project  
24 until a non-Federal interest has entered into a writ-  
25 ten agreement with the Secretary in which it agrees

1 to provide the required non-Federal cooperation for  
2 the project.

3 (2) NONPROFIT ENTITIES.—Notwithstanding  
4 section 221 of the Flood Control Act of 1970 (42  
5 U.S.C. 1962d–5b(b)), for any project undertaken  
6 under this section, the Secretary may, after coordi-  
7 nation with the official responsible for the political  
8 jurisdiction in which a project would occur, allow a  
9 nonprofit entity to serve as the non-Federal interest.

10 (3) MAINTENANCE AND MONITORING.—A co-  
11 operation agreement entered into under paragraph  
12 (1) shall provide for maintenance and monitoring of  
13 the estuary habitat restoration project to the extent  
14 determined necessary by the Collaborative Council.

15 (e) LEAD COLLABORATIVE COUNCIL MEMBER.—The  
16 Collaborative Council shall designate a lead Collaborative  
17 Council member for each proposed estuary habitat res-  
18 toration project. The lead Collaborative Council member  
19 shall have primary responsibility for overseeing and assist-  
20 ing others in implementing the proposed project.

21 (f) AGENCY CONSULTATION AND COORDINATION.—  
22 In carrying out this section, the Collaborative Council  
23 shall, as the Collaborative Council determines it to be nec-  
24 essary, consult with, cooperate with, and coordinate its ac-

1 tivities with the activities of other appropriate Federal  
2 agencies.

3 (g) BENEFITS AND COSTS OF ESTUARY HABITAT  
4 RESTORATION PROJECTS.—The Collaborative Council  
5 shall evaluate the benefits and costs of estuary habitat res-  
6 toration projects in accordance with section 907 of the  
7 Water Resources Development Act of 1986 (33 U.S.C.  
8 2284).

9 (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
10 authorized to be appropriated to the Department of the  
11 Army for the administration and operation of the Collabo-  
12 rative Council \$4,000,000 for each of fiscal years 1999  
13 through 2003.

14 **SEC. 106. COST SHARING OF ESTUARY HABITAT RESTORA-**  
15 **TION PROJECTS.**

16 (a) IN GENERAL.—No financial assistance in carry-  
17 ing out an estuary habitat restoration project shall be  
18 available under this title from any Federal agency unless  
19 the non-Federal applicant for assistance demonstrates  
20 that the estuary habitat restoration project meets—

- 21 (1) the requirements of this title; and  
22 (2) any criteria established by the Collaborative  
23 Council under this title.



1 (b) FEDERAL SHARE.—The Federal share of the cost  
2 of an estuary habitat restoration and protection project  
3 assisted under this title shall be not more than 65 percent.

4 (c) NON-FEDERAL SHARE.—The non-Federal share  
5 of the cost of an estuary habitat restoration project may  
6 be provided in the form of land, easements, rights-of-way,  
7 services, or any other form of in-kind contribution deter-  
8 mined by the Collaborative Council to be an appropriate  
9 contribution equivalent to the monetary amount required  
10 for the non-Federal share of the estuary habitat restora-  
11 tion project.

12 (d) ALLOCATION OF FUNDS BY STATES TO POLITI-  
13 CAL SUBDIVISIONS.—With the approval of the Secretary,  
14 a State may allocate to any local government, area-wide  
15 agency designated under section 204 of the Demonstration  
16 Cities and Metropolitan Development Act of 1966 (42  
17 U.S.C. 3334), regional agency, or interstate agency, a por-  
18 tion of any funds disbursed in accordance with this title  
19 for the purpose of carrying out an estuary habitat restora-  
20 tion project.

21 **SEC. 107. MONITORING AND MAINTENANCE OF ESTUARY**  
22 **HABITAT RESTORATION PROJECTS.**

23 (a) DATABASE OF RESTORATION PROJECT INFORMA-  
24 TION.—The Under Secretary shall maintain an appro-  
25 priate database of information concerning estuary habitat

1 restoration projects funded under this title, including in-  
2 formation on project techniques, project completion, mon-  
3 itoring data, and other relevant information.

4 (b) REPORT.—

5 (1) IN GENERAL.—The Collaborative Council  
6 shall biennially submit a report to the Committee on  
7 Environment and Public Works of the Senate and  
8 the Committee on Transportation and Infrastructure  
9 of the House of Representatives on the results of ac-  
10 tivities carried out under this title.

11 (2) CONTENTS OF REPORT.—A report under  
12 paragraph (1) shall include—

13 (A) data on the number of acres of estuary  
14 habitat restored under this title, including the  
15 number of projects approved and completed  
16 that comprise those acres;

17 (B) the percentage of restored estuary  
18 habitat monitored under a plan to ensure that  
19 short-term and long-term restoration goals are  
20 achieved;

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

24 (D) a review of how the information de-  
25 scribed in subparagraphs (A) through (C) has

1           been incorporated in the selection and imple-  
 2           mentation of estuary habitat restoration  
 3           projects;

4           (E) a review of efforts made to maintain  
 5           an appropriate database of restoration projects  
 6           funded under this title; and

7           (F) a review of the measures taken to pro-  
 8           vide the information described in subparagraphs  
 9           (A) through (C) to persons with responsibility  
 10          for assisting in the restoration of estuary habi-  
 11          tat.

12 **SEC. 108. COOPERATIVE AGREEMENTS; MEMORANDA OF**  
 13 **UNDERSTANDING.**

14          In carrying out this title, the Collaborative Council  
 15          may—

16           (1) enter into cooperative agreements with Fed-  
 17           eral, State, and local government agencies and other  
 18           persons and entities; and

19           (2) execute such memoranda of understanding  
 20           as are necessary to reflect the agreements.

21 **SEC. 109. DISTRIBUTION OF APPROPRIATIONS FOR ESTU-**  
 22 **ARY HABITAT RESTORATION ACTIVITIES.**

23          The Secretary shall allocate funds made available to  
 24          carry out this title based on the need for the funds and

1 such other factors as are determined to be appropriate to  
2 carry out this title.

3 **SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) AUTHORIZATION OF APPROPRIATIONS UNDER  
5 OTHER LAW.—Funds authorized to be appropriated  
6 under section 908 of the Water Resources Development  
7 Act of 1986 (33 U.S.C. 2285) and section 206 of the  
8 Water Resources Development Act of 1996 (33 U.S.C.  
9 2330) may be used by the Secretary in accordance with  
10 this title to assist States and other non-Federal persons  
11 in carrying out estuary habitat restoration projects or in-  
12 terim actions under section 105(c).

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated to the Secretary to carry  
15 out estuary habitat restoration activities—

- 16 (1) \$40,000,000 for fiscal year 1999;  
17 (2) \$50,000,000 for fiscal year 2000; and  
18 (3) \$75,000,000 for each of fiscal years 2001  
19 through 2003.

20 **SEC. 111. NATIONAL ESTUARY PROGRAM.**

21 (a) GRANTS FOR COMPREHENSIVE CONSERVATION  
22 AND MANAGEMENT PLANS.—Section 320(g)(2) of the  
23 Federal Water Pollution Control Act (33 U.S.C.  
24 1330(g)(2)) is amended by inserting “and implementa-  
25 tion” after “development”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
2 320(i) of the Federal Water Pollution Control Act (33  
3 U.S.C. 1330(i)) is amended by striking “1987” and all  
4 that follows through “1991” and inserting the following:  
5 “1987 through 1991, such sums as may be necessary for  
6 fiscal years 1992 through 1998, and \$25,000,000 for each  
7 of fiscal years 1999 and 2000”.

8 **SEC. 112. GENERAL PROVISIONS.**

9 (a) ADDITIONAL AUTHORITY FOR ARMY CORPS OF  
10 ENGINEERS.—The Secretary—

11 (1) may carry out estuary habitat restoration  
12 projects in accordance with this title; and

13 (2) shall give estuary habitat restoration  
14 projects the same consideration as projects relating  
15 to irrigation, navigation, or flood control.

16 (b) INAPPLICABILITY OF CERTAIN LAW.—Sections  
17 203, 204, and 205 of the Water Resources Development  
18 Act of 1986 (33 U.S.C. 2231, 2232, and 2233) shall not  
19 apply to an estuary habitat restoration project selected in  
20 accordance with this title.

21 (c) ESTUARY HABITAT RESTORATION MISSION.—  
22 The Secretary shall establish restoration of estuary habi-  
23 tat as a primary mission of the Army Corps of Engineers.

24 (d) FEDERAL AGENCY FACILITIES AND PERSON-  
25 NEL.—

1           (1) IN GENERAL.—Federal agencies may co-  
2           operate in carrying out scientific and other programs  
3           necessary to carry out this title, and may provide fa-  
4           cilities and personnel, for the purpose of assisting  
5           the Collaborative Council in carrying out its duties  
6           under this title.

7           (2) REIMBURSEMENT FROM COLLABORATIVE  
8           COUNCIL.—Federal agencies may accept reimburse-  
9           ment from the Collaborative Council for providing  
10          services, facilities, and personnel under paragraph  
11          (1).

12          (e) ADMINISTRATIVE EXPENSES AND STAFFING.—  
13          Not later than 180 days after the date of enactment of  
14          this title, the Comptroller General of the United States  
15          shall submit to Congress and the Secretary an analysis  
16          of the extent to which the Collaborative Council needs ad-  
17          ditional personnel and administrative resources to fully  
18          carry out its duties under this title. The analysis shall in-  
19          clude recommendations regarding necessary additional  
20          funding.

## 21 **TITLE II—CHESAPEAKE BAY AND** 22 **OTHER REGIONAL INITIATIVES**

### 23 **SEC. 201. CHESAPEAKE BAY.**

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

1 **“SEC. 117. CHESAPEAKE BAY.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) CHESAPEAKE BAY AGREEMENT.—The  
4 term ‘Chesapeake Bay Agreement’ means the for-  
5 mal, voluntary agreements, amendments, directives,  
6 and adoption statements executed to achieve the  
7 goal of restoring and protecting the Chesapeake Bay  
8 ecosystem and the living resources of the ecosystem  
9 and signed by the Chesapeake Executive Council.

10 “(2) CHESAPEAKE BAY PROGRAM.—The term  
11 ‘Chesapeake Bay Program’ means the program di-  
12 rected by the Chesapeake Executive Council in ac-  
13 cordance with the Chesapeake Bay Agreement.

14 “(3) CHESAPEAKE BAY WATERSHED.—The  
15 term ‘Chesapeake Bay watershed’ shall have the  
16 meaning determined by the Administrator.

17 “(4) CHESAPEAKE EXECUTIVE COUNCIL.—The  
18 term ‘Chesapeake Executive Council’ means the sig-  
19 natories to the Chesapeake Bay Agreement.

20 “(5) SIGNATORY JURISDICTION.—The term  
21 ‘signatory jurisdiction’ means a jurisdiction of a sig-  
22 natory to the Chesapeake Bay Agreement.

23 “(b) CONTINUATION OF CHESAPEAKE BAY PRO-  
24 GRAM.—

25 “(1) IN GENERAL.—In cooperation with the  
26 Chesapeake Executive Council (and as a member of

1 the Council), the Administrator shall continue the  
2 Chesapeake Bay Program.

3 “(2) PROGRAM OFFICE.—The Administrator  
4 shall maintain in the Environmental Protection  
5 Agency a Chesapeake Bay Program Office. The  
6 Chesapeake Bay Program Office shall provide sup-  
7 port to the Chesapeake Executive Council by—

8 “(A) implementing and coordinating  
9 science, research, modeling, support services,  
10 monitoring, data collection, and other activities  
11 that support the Chesapeake Bay Program;

12 “(B) developing and making available,  
13 through publications, technical assistance, and  
14 other appropriate means, information pertain-  
15 ing to the environmental quality and living re-  
16 sources of the Chesapeake Bay;

17 “(C) assisting the signatories to the Chesa-  
18 peake Bay Agreement, in cooperation with ap-  
19 propriate Federal, State, and local authorities,  
20 in developing and implementing specific action  
21 plans to carry out the responsibilities of the sig-  
22 natories to the Chesapeake Bay Agreement;

23 “(D) coordinating the actions of the Envi-  
24 ronmental Protection Agency with the actions  
25 of the appropriate officials of other Federal



1 agencies and State and local authorities in de-  
2 veloping strategies to—

3 “(i) improve the water quality and liv-  
4 ing resources of the Chesapeake Bay; and

5 “(ii) obtain the support of the appro-  
6 priate officials of the agencies and authori-  
7 ties in achieving the objectives of the  
8 Chesapeake Bay Agreement; and

9 “(E) implementing outreach programs for  
10 public information, education, and participation  
11 to foster stewardship of the resources of the  
12 Chesapeake Bay.

13 “(c) INTERAGENCY AGREEMENTS.—The Adminis-  
14 trator may enter into an interagency agreement with a  
15 Federal agency to carry out this section.

16 “(d) TECHNICAL ASSISTANCE AND ASSISTANCE  
17 GRANTS.—

18 “(1) IN GENERAL.—In consultation with other  
19 members of the Chesapeake Executive Council, the  
20 Administrator may provide technical assistance, and  
21 assistance grants, to nonprofit private organizations  
22 and individuals, State and local governments, col-  
23 leges, universities, and interstate agencies to carry  
24 out this section, subject to such terms and condi-  
25 tions as the Administrator considers appropriate.

1           “(2) FEDERAL SHARE.—

2                   “(A) IN GENERAL.—Except as provided in  
3           subparagraph (B), the Federal share of an as-  
4           sistance grant provided under paragraph (1)  
5           shall be determined by the Administrator in ac-  
6           cordance with Environmental Protection Agency  
7           guidance.

8                   “(B) SMALL WATERSHED GRANTS PRO-  
9           GRAM.—The Federal share of an assistance  
10          grant provided under paragraph (1) to carry  
11          out an implementing activity under subsection  
12          (g)(2) shall not exceed 75 percent of eligible  
13          project costs, as determined by the Adminis-  
14          trator.

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

20                  “(4) ADMINISTRATIVE COSTS.—Administrative  
21          costs (including salaries, overhead, and indirect costs  
22          for services provided and charged against projects  
23          supported by funds made available under this sub-  
24          section) incurred by a person described in paragraph  
25          (1) in carrying out a project under this subsection

1 during a fiscal year shall not exceed 10 percent of  
2 the grant made to the person under this subsection  
3 for the fiscal year.

4 “(e) IMPLEMENTATION GRANTS.—

5 “(1) IN GENERAL.—If a signatory jurisdiction  
6 has approved and committed to implement all or  
7 substantially all aspects of the Chesapeake Bay  
8 Agreement, on the request of the chief executive of  
9 the jurisdiction, the Administrator shall make a  
10 grant to the jurisdiction for the purpose of imple-  
11 menting the management mechanisms established  
12 under the Chesapeake Bay Agreement, subject to  
13 such terms and conditions as the Administrator con-  
14 siders appropriate.

15 “(2) PROPOSALS.—A signatory jurisdiction de-  
16 scribed in paragraph (1) may apply for a grant  
17 under this subsection for a fiscal year by submitting  
18 to the Administrator a comprehensive proposal to  
19 implement management mechanisms established  
20 under the Chesapeake Bay Agreement. The proposal  
21 shall include—

22 “(A) a description of proposed manage-  
23 ment mechanisms that the jurisdiction commits  
24 to take within a specified time period, such as  
25 reducing or preventing pollution in the Chesa-

1           peake Bay and to meet applicable water quality  
2           standards; and

3                   “(B) the estimated cost of the actions pro-  
4           posed to be taken during the fiscal year.

5                   “(3) APPROVAL.—If the Administrator finds  
6           that the proposal is consistent with the Chesapeake  
7           Bay Agreement and the national goals established  
8           under section 101(a), the Administrator may ap-  
9           prove the proposal for a fiscal year.

10                   “(4) FEDERAL SHARE.—The Federal share of  
11           an implementation grant provided under this sub-  
12           section shall not exceed 50 percent of the costs of  
13           implementing the management mechanisms during  
14           the fiscal year.

15                   “(5) NON-FEDERAL SHARE.—An implementa-  
16           tion grant under this subsection shall be made on  
17           the condition that non-Federal sources provide the  
18           remainder of the costs of implementing the manage-  
19           ment mechanisms during the fiscal year.

20                   “(6) ADMINISTRATIVE COSTS.—Administrative  
21           costs (including salaries, overhead, and indirect costs  
22           for services provided and charged against projects  
23           supported by funds made available under this sub-  
24           section) incurred by a signatory jurisdiction in car-  
25           rying out a project under this subsection during a

1 fiscal year shall not exceed 10 percent of the grant  
2 made to the jurisdiction under this subsection for  
3 the fiscal year.

4 “(f) COMPLIANCE OF FEDERAL FACILITIES.—

5 “(1) SUBWATERSHED PLANNING AND RESTORA-  
6 TION.—A Federal agency that owns or operates a  
7 facility (as defined by the Administrator) within the  
8 Chesapeake Bay watershed shall participate in re-  
9 gional and subwatershed planning and restoration  
10 programs.

11 “(2) COMPLIANCE WITH AGREEMENT.—The  
12 head of each Federal agency that owns or occupies  
13 real property in the Chesapeake Bay watershed shall  
14 ensure that the property, and actions taken by the  
15 agency with respect to the property, comply with the  
16 Chesapeake Bay Agreement.

17 “(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY,  
18 AND RIVER BASIN PROGRAM.—

19 “(1) NUTRIENT AND WATER QUALITY MANAGE-  
20 MENT STRATEGIES.—Not later than 1 year after the  
21 date of enactment of this subsection, the Adminis-  
22 trator, in consultation with other members of the  
23 Chesapeake Executive Council, shall ensure that  
24 management plans are developed and implementa-  
25 tion is begun by signatories to the Chesapeake Bay

1 Agreement for the tributaries of the Chesapeake Bay  
2 to achieve and maintain—

3 “(A) the nutrient goals of the Chesapeake  
4 Bay Agreement for the quantity of nitrogen and  
5 phosphorus entering the main stem Chesapeake  
6 Bay;

7 “(B) the water quality requirements nec-  
8 essary to restore living resources in both the  
9 tributaries and the main stem of the Ches-  
10 peake Bay;

11 “(C) the Chesapeake Bay basinwide toxics  
12 reduction and prevention strategy goal of reduc-  
13 ing or eliminating the input of chemical con-  
14 taminants from all controllable sources to levels  
15 that result in no toxic or bioaccumulative im-  
16 pact on the living resources that inhabit the  
17 Bay or on human health; and

18 “(D) habitat restoration, protection, and  
19 enhancement goals established by Chesapeake  
20 Bay Agreement signatories for wetlands, forest  
21 riparian zones, and other types of habitat asso-  
22 ciated with the Chesapeake Bay and the tribu-  
23 taries of the Chesapeake Bay.

24 “(2) SMALL WATERSHED GRANTS PROGRAM.—

25 The Administrator, in consultation with other mem-

1       bers of the Chesapeake Executive Council, may offer  
2       the technical assistance and assistance grants au-  
3       thorized under subsection (d) to local governments  
4       and nonprofit private organizations and individuals  
5       in the Chesapeake Bay watershed to implement—

6               “(A) cooperative tributary basin strategies  
7               that address the Chesapeake Bay’s water qual-  
8               ity and living resource needs; or

9               “(B) locally based protection and restora-  
10              tion programs or projects within a watershed  
11              that complement the tributary basin strategies.

12       “(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not  
13 later than December 31, 2000, and every 3 years there-  
14 after, the Administrator, in cooperation with other mem-  
15 bers of the Chesapeake Executive Council, shall complete  
16 a study and submit a comprehensive report to Congress  
17 on the results of the study. The study and report shall,  
18 at a minimum—

19              “(1) assess the commitments and goals of the  
20              management strategies established under the Chesa-  
21              peake Bay Agreement and the extent to which the  
22              commitments and goals are being met;

23              “(2) assess the priority needs required by the  
24              management strategies and the extent to which the  
25              priority needs are being met;

1           “(3) assess the effects of air pollution deposi-  
2           tion on water quality of the Chesapeake Bay;

3           “(4) assess the state of the Chesapeake Bay  
4           and its tributaries and related actions of the Ches-  
5           apeake Bay Program;

6           “(5) make recommendations for the improved  
7           management of the Chesapeake Bay Program; and

8           “(6) provide the report in a format transferable  
9           to and usable by other watershed restoration pro-  
10          grams.

11          “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
12          authorized to be appropriated to carry out this section  
13          \$30,000,000 for each of fiscal years 1999 through 2003.”.

14          **SEC. 202. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.**

15          (a)       CHESAPEAKE     BAY     GATEWAYS     AND  
16          WATERTRAILS NETWORK.—

17               (1) IN GENERAL.—The Secretary of the Inte-  
18               rior (referred to in this section as the “Secretary”),  
19               in cooperation with the Administrator of the Envi-  
20               ronmental Agency (referred to in this section as the  
21               “Administrator”), shall provide technical and finan-  
22               cial assistance, in cooperation with other Federal  
23               agencies, State and local governments, nonprofit or-  
24               ganizations, and the private sector—



1 (A) to identify, conserve, restore, and in-  
2 terpret natural, recreational, historical, and cul-  
3 tural resources within the Chesapeake Bay Wa-  
4 tershed;

5 (B) to identify and utilize the collective re-  
6 sources as Chesapeake Bay Gateways sites for  
7 enhancing public education of and access to the  
8 Chesapeake Bay;

9 (C) to link the Chesapeake Bay Gateways  
10 sites with trails, tour roads, scenic byways, and  
11 other connections as determined by the Sec-  
12 retary;

13 (D) to develop and establish Chesapeake  
14 Bay Watertrails comprising water routes and  
15 connections to Chesapeake Bay Gateways sites  
16 and other land resources within the Chesapeake  
17 Bay Watershed; and

18 (E) to create a network of Chesapeake Bay  
19 Gateways sites and Chesapeake Bay  
20 Watertrails.

21 (2) COMPONENTS.—Components of the Chesa-  
22 peake Bay Gateways and Watertrails Network may  
23 include—

24 (A) State or Federal parks or refuges;

25 (B) historic seaports;

1 (C) archaeological, cultural, historical, or  
2 recreational sites; or

3 (D) other public access and interpretive  
4 sites as selected by the Secretary.

5 (b) CHESAPEAKE BAY GATEWAYS GRANTS ASSIST-  
6 ANCE PROGRAM.—

7 (1) IN GENERAL.—The Secretary, in coopera-  
8 tion with the Administrator, shall establish a Ches-  
9 peake Bay Gateways Grants Assistance Program to  
10 aid State and local governments, local communities,  
11 nonprofit organizations, and the private sector in  
12 conserving, restoring, and interpreting important  
13 historic, cultural, recreational, and natural resources  
14 within the Chesapeake Bay Watershed.

15 (2) CRITERIA.—The Secretary, in cooperation  
16 with the Administrator, shall develop appropriate eli-  
17 gibility, prioritization, and review criteria for grants  
18 under this section.

19 (3) MATCHING FUNDS AND ADMINISTRATIVE  
20 EXPENSES.—A grant under this section—

21 (A) shall not exceed 50 percent of eligible  
22 project costs;

23 (B) shall be made on the condition that  
24 non-Federal sources, including in-kind contribu-

1           tions of services or materials, provide the re-  
2           mainder of eligible project costs; and

3                   (C) shall be made on the condition that not  
4           more than 10 percent of all eligible project  
5           costs be used for administrative expenses.

6           (c) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
7           authorized to be appropriated to carry out this section  
8           \$3,000,000 for each of fiscal years 1999 through 2003.

9           **SEC. 203. PFIESTERIA AND OTHER AQUATIC TOXINS RE-**  
10                                   **SEARCH AND GRANT PROGRAM.**

11           (a) **IN GENERAL.**—The Administrator of the Envi-  
12           ronmental Protection Agency, the Secretary of Commerce  
13           (acting through the Director of the National Marine Fish-  
14           eries Service of the National Oceanic and Atmospheric Ad-  
15           ministration), the Secretary of Health and Human Serv-  
16           ices (acting through the Director of the National Institute  
17           of Environmental Health Sciences and the Director of the  
18           Centers for Disease Control and Prevention), and the Sec-  
19           retary of Agriculture shall—

20                   (1) establish a research program for the eradi-  
21           cation or control of *Pfiesteria piscicida* and other  
22           aquatic toxins; and

23                   (2) make grants to colleges, universities, and  
24           other entities in affected States for the eradication

1 or control of *Pfiesteria piscicida* and other aquatic  
2 toxins.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 authorized to be appropriated to carry out this section  
5 \$5,000,000 for each of fiscal years 1999 and 2000.

6 **SEC. 204. LONG ISLAND SOUND.**

7 Section 119(e) of the Federal Water Pollution Con-  
8 trol Act (33 U.S.C. 1269(e)) is amended—

9 (1) in paragraph (1), by striking “1991  
10 through 2001” and inserting “1999 through 2003”;  
11 and

12 (2) in paragraph (2), by striking “not to exceed  
13 \$3,000,000 for each of the fiscal years 1991 through  
14 2001” and inserting “\$10,000,000 for each of fiscal  
15 years 1999 through 2003”.

16 **SEC. 205. NATIONAL ENVIRONMENTAL WASTE TECH-**  
17 **NOLOGY TESTING AND EVALUATION CENTER.**

18 (a) IN GENERAL.—The Administrator of the Envi-  
19 ronmental Protection Agency is authorized to provide fi-  
20 nancial assistance to the National Environmental Waste  
21 Technology Testing and Evaluation Center in Butte, Mon-  
22 tana.

1       (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$10,000,000 for each of fiscal years 1998 through 2002.

      Passed the Senate October 14 (legislative day, October 2), 1998.

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1222**

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**AN ACT**

To catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

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