

106TH CONGRESS  
1ST SESSION

# H. R. 1775

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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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1999

Mr. GILCHREST (for himself, Mrs. TAUSCHER, Mr. FORBES, Mr. GOSS, Mr. BILBRAY, Mr. SHAYS, Mr. CARDIN, Mr. PRICE of North Carolina, Mrs. MORELLA, Mr. SAXTON, Mr. FOLEY, Mr. BENTSEN, Mr. McDERMOTT, Mr. METCALF, Mr. SMITH of Washington, Mr. GREENWOOD, Mr. INSLEE, Mr. DICKS, Ms. DELAURO, Mrs. LOWEY, Mr. ENGLISH, Mrs. KELLY, Mr. TAUZIN, and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Estuary Habitat Restoration Partnership Act of 1999”.

4 (b) **TABLE OF CONTENTS.**—

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 Estuary Habitat Restoration Council.

Sec. 105. Establishment of regional councils.

Sec. 106. Estuary habitat restoration strategy.

Sec. 107. Applications for estuary habitat restoration projects.

Sec. 108. Administrative provisions.

Sec. 109. Monitoring and maintenance of estuary habitat restoration projects.

Sec. 110. Funding.

Sec. 111. General provisions.

**TITLE II—CHESAPEAKE BAY PROGRAM**

Sec. 201. Reauthorization of Chesapeake Bay Program.

5 **TITLE I—ESTUARY HABITAT**  
6 **RESTORATION**

7 **SEC. 101. FINDINGS.**

8 Congress finds that—

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

13 (2) the estuaries and coastal regions of the  
14 United States are home to one-half the population of  
15 the United States and provide essential habitat for  
16 75 percent of the Nation’s commercial fish catch  
17 and 80 to 90 percent of its recreational fish catch;

1           (3) estuaries are gravely threatened by habitat  
2 alteration and loss from pollution, development,  
3 overuse, sea level rise, and the introduction of harm-  
4 ful nonindigenous species;

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

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

14 **SEC. 102. PURPOSES.**

15       The purposes of this Act are—

16           (1) to promote the restoration of 1,000,000  
17 acres of estuary habitat by 2010;

18           (2) to develop strategies to obtain national and  
19 regional objectives for estuary habitat restoration;

20           (3) to foster coordination of Federal, State, and  
21 community estuary habitat restoration programs,  
22 plans, and studies;

23           (4) to establish effective estuary habitat res-  
24 toration partnerships among public agencies at all

1 levels of government and between the public and pri-  
2 vate sectors;

3 (5) to promote efficient financing of estuary  
4 habitat restoration activities; and

5 (6) to develop and enhance monitoring and re-  
6 search capabilities to ensure that estuary habitat  
7 restoration efforts are based on sound scientific un-  
8 derstanding.

9 **SEC. 103. DEFINITIONS.**

10 In this Act, the following definitions apply:

11 (1) COUNCIL.—The term “Council” means the  
12 Estuary Habitat Restoration Council established by  
13 section 104.

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

18 (3) ESTUARY.—The term “estuary” means a  
19 part of a river or stream or other body of water that  
20 has an unimpaired connection with the open sea and  
21 where the sea water is measurably diluted with fresh  
22 water derived from land drainage.

23 (4) ESTUARY HABITAT.—

24 (A) IN GENERAL.—The term “estuary  
25 habitat” means the physical, biological, and

1 chemical elements associated with an estuary,  
2 including the complex of physical and hydro-  
3 logic features and living organisms within the  
4 estuary and associated ecosystems.

5 (B) INCLUDED HABITAT.—The term “es-  
6 tuary habitat” includes salt and fresh water  
7 coastal marshes, coastal forested wetlands and  
8 other coastal wetlands, maritime forests, coastal  
9 grasslands, tidal flats, natural shoreline areas,  
10 shellfish beds, sea grass meadows, kelp beds,  
11 river deltas, river and stream banks under tidal  
12 influence, and beds of submerged aquatic vege-  
13 tation.

14 (5) ESTUARY HABITAT RESTORATION ACTIV-  
15 ITY.—

16 (A) IN GENERAL.—The term “estuary  
17 habitat restoration activity” means an activity  
18 that results in improving degraded estuary  
19 habitat (including both physical and functional  
20 restoration), with the goal of attaining a self-  
21 sustaining system integrated into the sur-  
22 rounding landscape.

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

1 (i) the reestablishment of physical fea-  
2 tures and biological and hydrologic func-  
3 tions;

4 (ii) except as provided in section  
5 107(e), the cleanup of contamination re-  
6 lated to the restoration of estuary habitat;

7 (iii) the control of nonnative and  
8 invasive species;

9 (iv) the reintroduction of native spe-  
10 cies through planting or natural succes-  
11 sion; and

12 (v) other activities that improve estu-  
13 ary habitat.

14 (6) ESTUARY HABITAT RESTORATION  
15 PROJECT.—The term “estuary habitat restoration  
16 project” means an estuary habitat restoration activ-  
17 ity under consideration or selected by the Council, in  
18 accordance with this Act, to receive financial, tech-  
19 nical, or another form of assistance.

20 (7) ESTUARY HABITAT RESTORATION STRAT-  
21 EGY.—The term “estuary habitat restoration strat-  
22 egy” means the estuary habitat restoration strategy  
23 developed under section 106.

24 (8) ESTUARY MANAGEMENT OR HABITAT RES-  
25 TORATION PLAN.—The term “estuary management

1 or habitat restoration plan” means any plan for res-  
2 toration of degraded estuary habitat that—

3 (A) was developed by, or in cooperation  
4 with, a public body with the substantial partici-  
5 pation of appropriate public and private stake-  
6 holders; and

7 (B) reflects a community-based planning  
8 process.

9 (9) GULF REGION.—The term “Gulf region”  
10 means the region consisting of the States of Florida,  
11 Alabama, Mississippi, Louisiana, and Texas.

12 (10) MIDDLE ATLANTIC REGION.—The term  
13 “Middle Atlantic region” means the region con-  
14 sisting of the States of New Jersey, Delaware,  
15 Maryland, Pennsylvania, and Virginia.

16 (11) NORTHEAST REGION.—The term “North-  
17 east region” means the region consisting of the  
18 States of Maine, New Hampshire, New York, Mas-  
19 sachusetts, Rhode Island, and Connecticut.

20 (12) NORTHWEST REGION.—The term “North-  
21 west region” means the region consisting of the  
22 States of Oregon, Washington, and Alaska.

23 (13) REGIONAL COUNCIL.—The term “Regional  
24 Council” means a Regional Council of the Estuary

1 Habitat Restoration Council established by section  
2 105.

3 (14) SECRETARY.—The term “Secretary”  
4 means the Secretary of the Army (or the Secretary’s  
5 designee).

6 (15) SOUTHEAST REGION.—The term “South-  
7 east region” means the region consisting of the  
8 States of North Carolina, South Carolina, Georgia,  
9 and Florida.

10 (16) SOUTHWEST REGION.—The term “South-  
11 west region” means the region consisting of the  
12 States of California and Hawaii.

13 **SEC. 104. ESTABLISHMENT OF ESTUARY HABITAT RES-**  
14 **TORATION COUNCIL.**

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

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

18 (1) reviewing project applications forwarded to  
19 the Council from the Regional Councils and selecting  
20 from the project applications projects that are eligi-  
21 ble for assistance made available under this Act;

22 (2) developing a national strategy for restora-  
23 tion of estuary habitat; and

24 (3) periodically reviewing the effectiveness of  
25 the national strategy in meeting the purposes of this



1 Act, and making recommendations for improvements  
2 in the national strategy.

3 (c) MEMBERSHIP.—The Council shall be composed of  
4 12 members as follows:

5 (1) The Secretary (or the Secretary’s designee).

6 (2) The Under Secretary for Oceans and At-  
7 mosphere of the Department of Commerce (or the  
8 Under Secretary’s designee).

9 (3) The Administrator of the Environmental  
10 Protection Agency (or the Administrator’s designee).

11 (4) The Secretary of the Interior, acting  
12 through the Director of the United States Fish and  
13 Wildlife Service (or the Secretary’s designee).

14 (5) The Secretary of Agriculture (or the Sec-  
15 retary’s designee).

16 (6) The Secretary of Transportation (or the  
17 Secretary’s designee).

18 (7) One representative from each of the 6 Re-  
19 gional Councils established under section 105 to be  
20 appointed by the Secretary from among individuals  
21 who are not officers or employees of the United  
22 States.

23 (d) APPOINTMENT AND TERMS.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), members of the Council under subsection  
3           (c)(7) shall be appointed for a term of 3 years.

4           (2) INITIAL MEMBERS.—Of the members first  
5           appointed under subsection (c)(7)—

6                   (A) 2 shall be appointed for a term of 1  
7           year;

8                   (B) 2 shall be appointed for a term of 2  
9           years; and

10                  (C) 2 shall be appointed for a term of 3  
11           years.

12           (3) VACANCIES.—Whenever a vacancy occurs  
13           among members of the Council appointed under sub-  
14           section (c)(7), the Secretary shall appoint an indi-  
15           vidual in accordance with such subsection to fill that  
16           vacancy for the remainder of the applicable term.

17           (e) PROHIBITION OF COMPENSATION.—Members of  
18           the Council may not receive compensation for their service  
19           as members of the Council.

20           (f) NONVOTING MEMBERS.—The Secretary is au-  
21           thorized and encouraged to include as nonvoting members  
22           of the Commission representatives of nonprofit charitable  
23           organizations and Native American interests, including  
24           tribal organizations, that undertake estuary habitat res-  
25           toration activities.

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

5 (h) CONVENING OF COUNCIL.—The chairperson  
6 shall—

7 (1) convene the first meeting of the Council not  
8 later than 30 days after the date of enactment of  
9 this Act; and

10 (2) convene additional meetings as often as ap-  
11 propriate to ensure that this Act is fully carried out,  
12 but not less often than annually.

13 (i) COUNCIL PROCEDURES.—

14 (1) QUORUM.—A majority of the voting mem-  
15 bership of the Council shall constitute a quorum for  
16 the transaction of business.

17 (2) VOTING AND MEETING PROCEDURES.—The  
18 Council shall establish procedures for voting and the  
19 conduct of meetings by the Council.

20 (3) PUBLIC PARTICIPATION.—Council meetings  
21 shall be open to the public. The Council shall pro-  
22 vide notice to the public of such meetings.

23 (4) REMOVAL OF MEMBERS.—If a Council  
24 member appointed under subsection (c)(7) misses 3  
25 consecutive regularly scheduled meetings, the Sec-

1       retary may remove that individual in accordance  
2       with subsection (d)(3).

3       (j) COORDINATOR.—The Secretary shall appoint a  
4       Coordinator who shall—

5             (1) be educated and experienced in estuary pro-  
6       tection, restoration, and program management;

7             (2) be responsible, with assistance from the  
8       Secretary, for facilitating consideration of estuary  
9       habitat restoration projects by the Council and Re-  
10      gional Councils and otherwise assisting the Council  
11      and Regional Councils in carrying out their respon-  
12      sibilities under this Act; and

13            (3) be compensated with funds available under  
14      section 110(b).

15   **SEC. 105. ESTABLISHMENT OF REGIONAL COUNCILS.**

16       (a) REGIONAL COUNCILS.—There are established 6  
17      Regional Councils of the Estuary Restoration Council.  
18      Each Regional Council shall represent a different one of  
19      the following regions:

20            (1) The Gulf region.

21            (2) The Middle Atlantic region.

22            (3) The Northeast region.

23            (4) The Northwest region.

24            (5) The Southeast region.

25            (6) The Southwest region.

1 (b) MEMBERSHIP.—A Regional Council shall be com-  
2 posed of the Governor of each State in the region rep-  
3 resented by the Regional Council (or the Governor’s des-  
4 ignee) and such other members as the Governors shall  
5 jointly designate.

6 (c) NONVOTING MEMBERSHIP.—A Regional Council  
7 may appoint nonvoting members of the Regional Council  
8 from relevant agencies, programs, and organizations,  
9 including—

10 (1) relevant State agencies and regional and  
11 field staff of relevant Federal agencies;

12 (2) representatives of relevant coastal and estu-  
13 ary programs, such as those developed according to  
14 the Coastal Zone Management Program and the Na-  
15 tional Estuary Program; and

16 (3) representatives of nonprofit and charitable  
17 organizations that undertake estuary habitat res-  
18 toration activities.

19 (d) CHAIRPERSON.—A Regional Council shall select  
20 a chairperson from among its members.

21 (e) DUTIES.—A Regional Council shall be responsible  
22 for—

23 (1) developing a regional strategy that is con-  
24 sistent with the national strategy for the selection

1 and prioritization of project proposals within the re-  
2 gion;

3 (2) establishing technical criteria for project  
4 proposals, which are consistent with the goals and  
5 priorities of the regional and national strategies;

6 (3) soliciting, evaluating, and forwarding to the  
7 Council applications for estuary habitat restoration  
8 projects; and

9 (4) periodically reviewing the effectiveness of  
10 the regional strategy toward meeting the goals and  
11 objectives of the national strategy and recom-  
12 mending and implementing improvements.

13 (f) TECHNICAL SUPPORT.—Technical support shall  
14 be provided to a Regional Council by regional and field  
15 staff of the Corps of Engineers, the Environmental Pro-  
16 tection Agency, the National Oceanic and Atmospheric  
17 Administration, the United States Fish and Wildlife Serv-  
18 ice, and the Department of Agriculture. The Secretary  
19 shall coordinate the provision of such assistance.

20 (g) ADMINISTRATIVE SUPPORT SERVICES.—Upon  
21 the request of a Regional Council, the Secretary shall pro-  
22 vide to the Regional Council the administrative support  
23 services necessary for the Regional Council to carry out  
24 its responsibilities under this Act.

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

2 (a) IN GENERAL.—Not later than 1 year after the  
3 date of enactment of this Act, the Council, in consultation  
4 with State and other non-Federal entities, including non-  
5 profit entities, as appropriate, shall develop an estuary  
6 habitat restoration strategy designed to ensure a com-  
7 prehensive approach to maximize benefits derived from es-  
8 tuary habitat restoration projects and to foster the coordi-  
9 nation of Federal and non-Federal activities related to res-  
10 toration of estuary habitat.

11 (b) INTEGRATION OF ESTUARY HABITAT RESTORA-  
12 TION PLANS, PROGRAMS, AND PARTNERSHIPS.—In devel-  
13 oping the estuary habitat restoration strategy, the Council  
14 shall—

15 (1) conduct a review of—

16 (A) estuary management or habitat res-  
17 toration plans; and

18 (B) Federal programs established under  
19 other laws that authorize funding for estuary  
20 habitat restoration activities;

21 (2) develop a set of proposals for—

22 (A) using programs established under this  
23 Act or any other Act to maximize the incentives  
24 for the creation of new public-private partner-  
25 ships to carry out estuary habitat restoration  
26 projects; and

1 (B) using Federal resources to encourage  
2 increased private sector involvement in estuary  
3 habitat restoration activities; and

4 (3) ensure that the estuary habitat restoration  
5 strategy is developed and will be implemented in a  
6 manner that is consistent with the estuary manage-  
7 ment or habitat restoration plans.

8 (c) ELEMENTS TO BE CONSIDERED.—Consistent  
9 with the requirements of this section, the Council in the  
10 development of the estuary habitat restoration strategy,  
11 shall consider—

12 (1) the contributions of estuary habitat to—

13 (A) providing healthy ecosystems in order  
14 to support—

15 (i) wildlife, including endangered and  
16 threatened species, migratory birds, and  
17 resident species of an estuary watershed;  
18 and

19 (ii) fish and shellfish, including com-  
20 mercial and recreational fisheries;

21 (B) surface and ground water quality and  
22 quantity, and flood control;

23 (C) outdoor recreation and other direct  
24 and indirect values; and



1           (D) other areas of concern that the Coun-  
2           cil determines to be appropriate for consider-  
3           ation;

4           (2) the estimated historic losses, estimated cur-  
5           rent rate of loss, and extent of the threat of future  
6           loss or degradation of each type of estuary habitat;  
7           and

8           (3) the most appropriate method for selecting a  
9           balance of smaller and larger estuary habitat res-  
10          toration projects.

11          (d) ADVICE.—The Council shall seek the advice of ex-  
12          perts in restoration of estuary habitat to assist in the de-  
13          velopment of an estuary habitat restoration strategy.

14          (e) PUBLIC REVIEW AND COMMENT.—Before adopt-  
15          ing a final estuary habitat restoration strategy, the Coun-  
16          cil shall publish in the Federal Register a draft of the estu-  
17          ary habitat restoration strategy and provide an oppor-  
18          tunity for public review and comment.

19          (f) PERIODIC REVISION.—Using data and informa-  
20          tion developed through project monitoring, management,  
21          and other relevant information, the Council shall periodi-  
22          cally review and update, as necessary, the estuary habitat  
23          restoration strategy.

1 **SEC. 107. APPLICATIONS FOR ESTUARY HABITAT RESTORA-**  
2 **TION PROJECTS.**

3 (a) IN GENERAL.—An application for an estuary  
4 habitat restoration project shall originate from a State or  
5 other non-Federal entity and shall require the approval of  
6 the appropriate State or local agencies, if such approval  
7 is required under State or local laws.

8 (b) REVIEW BY REGIONAL COUNCILS.—

9 (1) IN GENERAL.—An application for an estu-  
10 ary habitat restoration project shall first be sub-  
11 mitted to the appropriate Regional Council for re-  
12 view.

13 (2) TECHNICAL ASSISTANCE.—A Regional  
14 Council receiving an application from an applicant  
15 under paragraph (1) shall provide, as necessary,  
16 technical assistance to the applicant to ensure that  
17 the application is complete.

18 (3) SELECTION.—A Regional Council shall se-  
19 lect for each fiscal year those applications for estu-  
20 ary habitat restoration projects that the Regional  
21 Council determines are eligible for funding under the  
22 factors specified in subsection (c) and shall transmit  
23 such applications to the Council for further review.

24 (4) CONSIDERATION BY COUNCIL.—The Council  
25 may provide financial assistance to an estuary habi-  
26 tat restoration project under this Act only if the

1 project has been transmitted to the Council by a Re-  
2 gional Council under paragraph (3).

3 (c) FACTORS TO BE TAKEN INTO ACCOUNT.—In de-  
4 termining the eligibility of an estuary habitat restoration  
5 project for financial assistance under this Act, the Council  
6 shall consider the following factors:

7 (1) Whether the proposed estuary habitat res-  
8 toration project meets the criteria specified in the  
9 estuary habitat restoration strategy.

10 (2) The technical merit and feasibility of the  
11 proposed estuary habitat restoration project.

12 (3) Whether the non-Federal entities proposing  
13 the estuary habitat restoration project provide satis-  
14 factory assurances that they will have adequate per-  
15 sonnel, funding, and authority to carry out and  
16 properly maintain the estuary habitat restoration  
17 project.

18 (4) Whether the proposed estuary habitat res-  
19 toration project will encourage the increased coordi-  
20 nation and cooperation of Federal, State, and local  
21 government agencies.

22 (5) The amount of private funds or in-kind con-  
23 tributions for the estuary habitat restoration project.

24 (6) Whether the proposed habitat restoration  
25 project includes a monitoring plan that is consistent

1 with standards for monitoring developed under sec-  
2 tion 109 to ensure that short-term and long-term  
3 restoration goals are achieved.

4 (7) Other factors that the Council determines  
5 to be reasonable and necessary for consideration.

6 (d) PRIORITY ESTUARY HABITAT RESTORATION  
7 PROJECTS.—An estuary habitat restoration project shall  
8 be given a higher priority in receipt of funding under this  
9 Act if, in addition to meeting the selection criteria estab-  
10 lished by the Council—

11 (1) the estuary habitat restoration project is  
12 part of an estuary management or habitat restora-  
13 tion plan; or

14 (2) there is a program within the watershed of  
15 the estuary habitat restoration project that address-  
16 es sources of pollution and other activities that oth-  
17 erwise would re-impair the restored habitat.

18 (e) EXCLUDED ACTIVITIES.—An activity shall not be  
19 considered to be an estuary habitat restoration activity  
20 under this Act if the activity—

21 (1) constitutes mitigation for the adverse effects  
22 of an activity regulated or otherwise governed by  
23 Federal or State law; or

24 (2) constitutes restoration for natural resource  
25 damages required under any Federal or State law.

1 **SEC. 108. ADMINISTRATIVE PROVISIONS.**

2 (a) COOPERATIVE AGREEMENTS; MEMORANDA OF  
3 UNDERSTANDING.—In carrying out this Act, the Council  
4 may—

5 (1) enter into cooperative agreements with Fed-  
6 eral, State, and local government agencies and other  
7 entities; and

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

10 (b) DISTRIBUTION OF APPROPRIATIONS FOR ESTU-  
11 ARY HABITAT RESTORATION ACTIVITIES.—The Secretary  
12 shall allocate funds made available to carry out this Act  
13 based on the need for the funds and such other factors  
14 as are determined to be appropriate to carry out this Act.

15 (c) COST SHARING OF ESTUARY HABITAT RESTORA-  
16 TION PROJECTS.—

17 (1) IN GENERAL.—No financial assistance in  
18 carrying out an estuary habitat restoration project  
19 shall be available under this Act from any Federal  
20 agency unless the non-Federal applicant for assist-  
21 ance demonstrates that the estuary habitat restora-  
22 tion project meets—

23 (A) the requirements of this Act; and

24 (B) any criteria established by the Council  
25 under this Act.

1           (2) FEDERAL SHARE.—The Federal share of  
2 the cost of an estuary habitat restoration and pro-  
3 tection project assisted under this Act shall not ex-  
4 ceed 65 percent.

5           (3) NON-FEDERAL SHARE.—The non-Federal  
6 share of the cost of an estuary habitat restoration  
7 project may be provided in the form of land, ease-  
8 ments, rights-of-way, services, or any other form of  
9 in-kind contribution determined by the Council to be  
10 an appropriate contribution equivalent to the mone-  
11 tary amount required for the non-Federal share of  
12 the estuary habitat restoration project.

13 (d) INTERIM ACTIONS.—

14           (1) IN GENERAL.—Pending completion of the  
15 estuary habitat restoration strategy developed under  
16 section 106, the Council may pay the Federal share  
17 of the cost of an interim action to carry out an estu-  
18 ary habitat restoration activity.

19           (2) FEDERAL SHARE.—The Federal share of  
20 the cost of an estuary habitat restoration activity as-  
21 sisted under this Act before the completion of the es-  
22 tuary habitat restoration strategy shall not exceed  
23 25 percent.

24 (e) COOPERATION OF NON-FEDERAL PARTNERS.—

1           (1) IN GENERAL.—The Council shall not select  
2           an estuary habitat restoration project until a non-  
3           Federal interest has entered into a written agree-  
4           ment with the Secretary in which the non-Federal  
5           interest agrees to provide the required non-Federal  
6           cooperation for the project.

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

15          (3) MAINTENANCE AND MONITORING.—A co-  
16          operation agreement entered into under paragraph  
17          (1) shall provide for maintenance and monitoring of  
18          the estuary habitat restoration project to the extent  
19          determined necessary.

20          (f) AGENCY CONSULTATION AND COORDINATION.—  
21          In carrying out this Act, the Council shall, as the Council  
22          determines it to be necessary, consult with, cooperate with,  
23          and coordinate its activities with the activities of other  
24          Federal agencies.

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

6 (h) ALLOCATION OF FUNDS BY STATES.—With the  
7 approval of the Secretary, a State may allocate to any  
8 local government, area-wide agency designated under sec-  
9 tion 204 of the Demonstration Cities and Metropolitan  
10 Development Act of 1966 (42 U.S.C. 3334), regional  
11 agency, interstate agency, or nonprofit entity a portion of  
12 any funds disbursed in accordance with this Act for the  
13 purpose of carrying out an estuary habitat restoration  
14 project.

15 **SEC. 109. MONITORING AND MAINTENANCE OF ESTUARY**  
16 **HABITAT RESTORATION PROJECTS.**

17 (a) DATABASE OF RESTORATION PROJECT INFORMA-  
18 TION.—The Under Secretary for Oceans and Atmosphere  
19 of the Department of Commerce shall develop and main-  
20 tain an appropriate database of information concerning es-  
21 tuary habitat restoration projects funded under this Act,  
22 including information on project techniques, project com-  
23 pletion, monitoring data, and other relevant information.

24 (b) MONITORING DATA STANDARDS.—The Council  
25 shall develop standard data formats for monitoring



1 projects, along with requirements for types of data col-  
2 lected and frequency of monitoring.

3 (c) REPORT.—

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

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 Act, 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 Act; 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. 110. FUNDING.**

13       (a) AUTHORIZATION OF APPROPRIATIONS.—

14           (1) ESTUARY HABITAT RESTORATION ACTIVI-  
15          TIES.—There is authorized to be appropriated to the  
16          Secretary for estuary habitat restoration activities—

17           (A) \$40,000,000 for fiscal year 2001;

18           (B) \$50,000,000 for fiscal year 2002; and

19           (C) \$75,000,000 for each of fiscal years  
20          2003 through 2005.

21           (2) MONITORING.—There is authorized to be  
22          appropriated to the Under Secretary for Oceans and  
23          Atmosphere of the Department of Commerce for the  
24          acquisition, maintenance, and management of moni-  
25          toring data on restoration projects funded under this

1 Act, \$2,000,000 for each of fiscal years 2001  
2 through 2005.

3 (b) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF  
4 THE COUNCIL AND REGIONAL COUNCILS.—Not to exceed  
5 3 percent of the amounts appropriated for a fiscal year  
6 under subsection (a)(1) or \$2,000,000, whichever is great-  
7 er, may be used by the Secretary for administration and  
8 operation of the Council and Regional Councils.

9 **SEC. 111. GENERAL PROVISIONS.**

10 (a) ADDITIONAL AUTHORITY FOR ARMY CORPS OF  
11 ENGINEERS.—The Secretary may carry out estuary habi-  
12 tat restoration projects in accordance with this Act.

13 (b) INAPPLICABILITY OF CERTAIN LAW.—Sections  
14 203, 204, and 205 of the Water Resources Development  
15 Act of 1986 (33 U.S.C. 2231, 2232, and 2233) shall not  
16 apply to an estuary habitat restoration project selected in  
17 accordance with this Act.

18 (c) ESTUARY HABITAT RESTORATION MISSION.—  
19 The Secretary shall ensure that restoration of estuary  
20 habitat is included as a primary mission of the Corps of  
21 Engineers under section 306 of Water Resources Develop-  
22 ment Act of 1990 (33 U.S.C. 2316).

23 (d) FEDERAL AGENCY FACILITIES AND PER-  
24 SONNEL.—

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

6           (2) REIMBURSEMENT FROM COUNCIL.—Federal  
7           agencies may accept reimbursement from the Coun-  
8           cil for providing services, facilities, and personnel  
9           under paragraph (1).

10          (e) ADMINISTRATIVE EXPENSES AND STAFFING.—  
11         Not later than 180 days after the date of enactment of  
12         this Act, the Comptroller General of the United States  
13         shall submit to Congress and the Secretary an analysis  
14         of the extent to which the Council needs additional per-  
15         sonnel and administrative resources to fully carry out its  
16         duties under this Act. The analysis shall include rec-  
17         ommendations regarding necessary additional funding.

18                 **TITLE II—CHESAPEAKE BAY**  
19                         **PROGRAM**

20         **SEC. 201. REAUTHORIZATION OF CHESAPEAKE BAY PRO-**  
21                         **GRAM.**

22           Section 117(d) of the Federal Water Pollution Con-  
23         trol Act (33 U.S.C. 1267(d)) is amended to read as fol-  
24         lows:

1       “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 is authorized to be appropriated to carry out this section  
3 such sums as may be necessary for fiscal years 1991  
4 through 2000 and \$30,000,000 for each of fiscal years  
5 2001 through 2005, of which no more than \$3,000,000  
6 is authorized to be appropriated for any such fiscal year  
7 to carry out subsection (a). Such sums shall remain avail-  
8 able until expended.”.

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