

Coastal Wetlands Planning, Protection & Restoration Act
Public Law 101-646, Title III
(abbreviated summary of the Act, not part of the Act)

SECTION 303, Priority Louisiana Coastal Wetlands Restoration Projects

Section 303a, Priority Project List

- NLT Jan 91, Sec. of Army (Secretary) will convene a Task Force
 - Secretary
 - Administrator, EPA
 - Governor, Louisiana
 - Secretary, Interior
 - Secretary, Agriculture
 - Secretary, Commerce
- NLT 28 Nov. 91, Task Force will prepare and transmit to Congress a Priority List of wetland restoration projects based on cost effectiveness and wetland quality.
- Priority List is revised and submitted annually as part of President's budget

Section 303b Federal and State Project Planning

- NLT 28 Nov 93, Task Force will prepare a comprehensive coastal wetland Restoration Plan for Louisiana
- Restoration Plan will consist of a list of wetland projects ranked by cost effectiveness and wetland quality
- Completed Priority Plan will become Priority List
- Secretary will insure that navigation and flood control projects are consistent with the purpose of the Restoration Plan
- Upon Submission of the Restoration Plan to Congress, the Task Force will conduct a scientific evaluation of the completed wetland restoration projects every 3 years and report findings to Congress

SECTION 304, Louisiana Coastal Wetlands Conservation Planning

Secretary: Administrator, EPA: and Director, USFWS will:

- Sign an agreement with the Governor specifying how Louisiana will develop and implement the Conservation Plan
- Approve the Conservation Plan
- Provide Congress with specific status reports on the Plan implementation

NLT 3 years after the agreement is signed, Louisiana will develop a Wetland Conservation Plan to achieve no net loss of wetlands resulting from development

SECTION 305, National Coastal Wetlands Conservation Grants.

Director USFWS, will make matching grants to any coastal state to implement Wetland Conservation Projects (Projects to acquire, restore, manage, and enhance real property interest in coastal lands and waters)
Cost sharing is 50% Federal / 50% State

SECTION 306, Distribution of Appropriations

70% of annual appropriations not to exceed (NTE) \$70 million used as follows:

- NTE \$15 million to fund Task Force completion of Priority List and restoration Plan – Secretary disburses the funds.
- NTE \$10 million to fund 75% of Louisiana's cost to complete Conservation Plan, - Administrator disburses funds
- Balance to fund wetland restoration projects at 75% Federal, 25% Louisiana Secretary disburses funds

15% of annual appropriations, NTE \$15 million for Wetland Conservation Grants – Director, USFWS disburses funds

15% of annual appropriations, NTE \$15 million for projects by North American Wetlands Conservation Act – Secretary, Interior disburses funds

SECTION 307, Additional Authority for the Corps of Engineers,

Section 307a, Secretary authorized to:

Carry out projects to protect, restore, and enhance wetlands and aquatic/coastal ecosystems.

Section 307b, Secretary authorized and directed to study feasibility of modifying MR&T to increase flows and sediment to the Atchafalaya River for land building wetland nourishment.

- 25% if the state has dedicated trust funds from which principal is not spent
- 15% when Louisiana's Conservation Plan is approved

Sec. 301. SHORT TITLE.

This title may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act".

Sec. 302. DEFINITIONS.

As used in this title, the term--

- (1) "Secretary" means the Secretary of the Army;
- (2) "Administrator" means the Administrator of the Environmental Protection Agency;
- (3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;
- (4) "State" means the State of Louisiana;
- (5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;
- (6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this title or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;
- (7) "coastal wetlands conservation project" means--
 - (A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and
 - (B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term

conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana;

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) "Director" means the Director of the United States Fish and Wildlife Service.

SEC. 303. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.--

(1) PREPARATION OF LIST.--Within forty-five days after the date of enactment of this title, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.--The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 304 of this Act.

(3) TRANSMITTAL OF LIST.--No later than one year after the date of enactment of this title, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this title.

(4) LIST OF CONTENTS.--

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION--The list of priority coastal wetlands restoration projects shall include, but not be limited to--

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.--Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.--The Secretary shall, with the funds made available in accordance with section 306 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.--

(1) PLAN PREPARATION.--The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this title.

(2) PURPOSE OF THE PLAN.--The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.--In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana

Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.--The restoration plan developed pursuant to this subsection shall include--

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.--The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.--Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) PLAN EVALUATION.--Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in

creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.--Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.--(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.--The Secretary shall, with the funds made available in accordance with this title, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) COST-SHARING.--

(1) FEDERAL SHARE.--Amounts made available in accordance with section 306 of this title to carry out coastal wetlands restoration projects under this title shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.--Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this title, and such conservation plan is approved pursuant to section 304 of this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: Provided, however, that such reversion to the lower cost share level shall not occur until the Governor, has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has

been given ninety days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.--The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 304. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) DEVELOPMENT OF CONSERVATION PLAN.--

(1) AGREEMENT.--The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.--

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall--

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.--Upon the date of signing the agreement--

(A) the Administrator shall, in consultation with the Director, with the funds made available in accordance with section 306 of this title, make grants during the

development of the conservation plan to assist the designated State agency in developing such plan. Such grants shall not exceed 75 percent of the cost of developing the plan; and

(B) the Secretary, the Director, and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

(b) CONSERVATION PLAN GOAL.--If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of the preceding section of this title.

(c) ELEMENTS OF CONSERVATION PLAN.--The conservation plan authorized by this section shall include--

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of the preceding section of this title;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurance that the State will have adequate personnel, funding, and authority to implement the plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.--

(1) IN GENERAL.--If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.--The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that -

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the plan was developed in accordance with terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.--

(1) NONCOMPLIANCE.--If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.--If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the Director, and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.--If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.--If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.--A conservation plan approved under this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.--

(1) INITIAL REPORT TO CONGRESS.--Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including and accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORT TO CONGRESS.--Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary, the Director, and the Administrator shall, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 305 NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.--The Director shall, with the funds made available in accordance with the next following section of this title, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.--Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are--

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces. In addition, priority consideration shall be given to coastal wetlands conservation projects in maritime forests on coastal barrier islands.

(c) CONDITIONS.--The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.--

(1) FEDERAL SHARE.--Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.--The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) IN-KIND CONTRIBUTIONS.--In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) PARTIAL PAYMENTS.--

(1) The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata

share of any such project in conformity with subsection (d) of this section.

(2) The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

(f) WETLANDS ASSESSMENT.--The Director shall, with the funds made available in accordance with the next following section of this title, direct the U.S. Fish and Wildlife Service's National Wetlands Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

SEC. 306. DISTRIBUTION OF APPROPRIATIONS.

(a) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.--Of the total amount appropriated during a given fiscal year to carry out this title, 70 percent, not to exceed \$70,000,000, shall be available, and shall remain available until expended, for the purposes of making expenditures--

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under this title and the plan required under this title, including preparation of--

(A) preliminary assessments;

(B) general or site-specific inventories;

(C) reconnaissance, engineering or other studies;

(D) preliminary design work; and

(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetlands restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this title;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this title;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this title.

(b) COASTAL WETLANDS CONSERVATION GRANTS.--Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed \$15,000,000 shall be available, and shall remain available to the Director, for purposes of making grants--

(1) to any coastal State, except States eligible to receive funding under section 306(a), to carry out coastal wetlands conservation projects in accordance with section 305 of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) NORTH AMERICAN WETLANDS CONSERVATION.--Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed \$15,000,000, shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in any coastal State under section 8 of the North American Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

SEC. 307. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.--The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) STUDY.--The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

SEC. 308. CONFORMING AMENDMENT.

16 U.S.C. 777c is amended by adding the following after the first sentence: "The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: Provided, That, notwithstanding the provisions of section 777b, such sums shall remain available to carry out such Act through fiscal year 1999."

Legislative History:
Coastal, Wetlands Planning, Protection and Restoration Act (CWPPRA)

Funding History:

- (1) **CWPPRA ORIGINAL FUNDING:** Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, Title IX, Section 11211, dated 05 Nov 1990, effective 01 Dec 1990)

Provided dedicated funding for CWPPRA via the transfer of small engine fuel taxes from the Highway Trust Fund to the Sport Fish Restoration Account through FY94, thus providing CWPPRA with funds through FY95.

- (2) **CWPPRA 2nd FUNDING:** Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, Title VIII, Section 8002, dated 18 Dec 1991)

Provided dedicated funding for CWPPRA via the transfer of small engine fuel taxes from the Highway Trust Fund to the Sport Fish Restoration Account through FY98, thus providing CWPPRA with funds through FY99.

- (3) **CWPPRA 3rd FUNDING:** Transportation Equity Act for the 21st Century (Public Law 105-178, Title IX, Section 9002, dated 09 Jun 1998)

Provided dedicated funding for CWPPRA via the transfer of small engine fuel taxes from the Highway Trust Fund to the Sport Fish Restoration Account through FY05, thus providing CWPPRA with funds through FY06.

- (4) **CWPPRA 4th Funding:** Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFTEA LU) (Public Law 109-59, Title XI, Section 11101, dated 10Aug2005)

Provided dedicated funding for CWPPRA via the transfer of small engine fuel taxes from the Highway Trust Fund to the Sport Fish Restoration Account through FY11, thus providing CWPPRA with funds through FY12.

Authorization History:

- (1) **CWPPRA ORIGINAL AUTHORIZATION:** Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646, Title III, dated 29 Nov 1990)

Authorized CWPPRA through 1999.

- (2) **CWPPRA 2nd AUTHORIZATION:** Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74, Title IV, General Provisions, dated 20Oct1999)

SEC. 430. Section 4(a) of the Act of August 9, 1950 (16 U.S.C. 777c(a)), is amended in the second sentence by striking “1999” and inserting “2000”.

- (3) **CWPPRA 3rd AUTHORIZATION:** Fish and Wildlife Programs Improvement and Nation Wildlife Refuge System Centennial Act of 2000 (Public Law 106-408, Section 123, dated 01 Nov 2000)

SEC. 123. Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking “2000” and inserting “2009”.

- (4) **CWPPRA 4th AUTHORIZATION:** Consolidated Appropriations Act (Public Law 108-447, Division D, Title X, Section 114, dated 08Dec2004)

Sec. 114. Coastal Wetland Conservation Project Funding.

- (b) PERIOD OF AUTHORIZATION. — Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act 16 U.S.C. 777c (a) is amended in the second sentence by striking “2009” and inserting “2019”.

Additional History:

- (1) **CWPPRA PRESIDENTIAL STATEMENT:**
H.R. 5390 (S. 2244) SENATE REPORTS: No. 101-523 accompanying S. 2244 (Comm. On Environmental and Public Works).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 1, considered and passed House.

Oct. 26, considered and passed Senate, amended, in lieu of S. 2244.

Oct. 27, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 29, Presidential statement.

Statement on signing the Bill on Wetland and Coastal Inland Waters Protection and Restoration Programs, November 29, 1990.

Today I am signing H.R. 5390, ““An Act to prevent and control infestation of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic species to reauthorize the National Sea Grant College Program, and for other purposes.”” This Act is designed to minimize, monitor, and control nonindigenous species that become established in the United States, particularly the zebra mussel; establish wetlands protection and restoration programs in Louisiana and nationally; and promote fish and wildlife conservation in the Great Lakes.

Title III of this Act designates a State official not subject to executive control as a member of the Louisiana Coastal Wetlands Conservation and Restoration Task Force. This official would be the only member of the Task Force whose appointment would not conform to the Appointments Clause of the Constitution.

The Task Force will set priorities for wetland restoration and formulate Federal conservation plans. Certain of its duties, which ultimately determine funding levels for particular restoration projects, are an exercise of significant authority that must be undertaken by an officer of the United States, appointed in accordance with the Appointments Clause, Article II, sec. 2, cl. 2, of the Constitution.

In order to constitutionally enforce this program, I instruct the Task Force to promulgate its priorities list under section 303(a)(2) "by a majority vote of those Task Force members who are present and voting," and to consider the State official to be a nonvoting member of the Task Force for this purpose. Moreover, the Secretary of the Army should construe "lead Task Force member" to include only those members appointed in conformity with the Appointments Clause.

George Bush

The White House,
November 29, 1990.

- (2) **CWPPRA COST SHARING FOR 1996 AND 1997: Water Resources Development Act OF 1996 (Public Law 104-303, Section 532, dated Oct. 12, 1996)**

SEC. 532. COASTAL WETLANDS RESTORATION PROJECTS, LOUISIANA. Section 303(f) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3952(f); 104 Stat. 4782-4783) is amended--

- (1) in paragraph (4) by striking "and (3)" and inserting "(3), and (5)"; and
- (2) by adding at the end the following:
"(5) Federal share in calendar 1996 and 1997, -- Notwithstanding paragraphs (1) and (2), under approval of the conservation plan under section 304 and a determination by the Secretary that a reduction in the non-Federal share is warranted, amounts made available in accordance with section 306 to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such project."

(Note: Calendar years 1996 and 1997 correspond to Priority Project Lists 5 and 6, respectively.)

(3) CWPPRA FUNDING AMENDMENT: Consolidated Appropriations Act (Public Law 108-447, Division D, Title X, Section 114, dated 08Dec2004)

SEC. 114. COASTAL WETLAND CONSERVATION PROJECT FUNDING.

(a) FUNDING. — Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended

- (1) in subsection (a), by striking “, not to exceed \$70,000,000,”;
- (2) in subsection (b), by striking “, not to exceed \$15,000,000”;
- (3) in subsection 9c), by striking “, not to exceed \$15,000,000.”.

(4) CWPPRA ANNUAL APPROPRIATIONS AND CREATION OF SPORT FISH RESTORATION AND BOATING SAFETY TRUST FUND AMENDMENT: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFTEA LU) (Public Law 109-59, Title XI, Section 10113 and 11115, dated 10Aug2005)

SEC. 10113. DIVISION OF ANNUAL APPROPRIATIONS. Section 4 (16 U.S.C. 777c) is amended--

(1) by striking subsections (a) through (c) and redesignating subsections (d), (e), (f), and (g) as subsections (b), (c), (d), and (e), respectively;

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following:

“(a) In General. -- For each of fiscal years 2006 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

“(1) Coastal wetlands. -- An amount equal to 18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq).”

Sec. 11115. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) Simplification of Funding for Boat Safety Account.

(1) In general.--Paragraph (4) of section 9503(c) (relating to transfers from Trust Fund for motorboat fuel taxes) is amended--

- (A) by striking so much of that paragraph as precedes subparagraph (D),
- (B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively, and
- (C) by inserting before subparagraph (C) (as so redesignated) the following:

“(4) Transfers from the trust fund for motorboat fuel taxes.--

- “(A) Transfer to land and water conservation fund.--
 - “(i) In general.--The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts (as determined by the Secretary) equivalent to the motorboat fuel taxes received on or after October 1, 2005, and before October 1, 2011.
 - “(ii) Limitation.--The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$1,000,000.
- “(B) Excess funds transferred to sport fish restoration and boating trust fund.--Any amounts in the Highway Trust Fund--
 - “(i) which are attributable to motorboat fuel taxes, and
 - “(ii) which are not transferred from the Highway Trust Fund under subparagraph (A), shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund.”.

(2) Conforming amendment.--Paragraph (5) of section 9503(c) is amended by striking “Account in the Aquatic Resources” in subparagraph (A) and inserting “and Boating”.

(b) Merging of Accounts.--

(1) In general.--Subsection (a) of section 9504 is amended to read as follows:

“(a) Creation of Trust Fund.--There is hereby established in the Treasury of the United States a trust fund to be known as the ‘Sport Fish Restoration and Boating Trust Fund’. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), section 9503(c)(5), or section 9602(b).”.

(2) Conforming amendments.--

(A) Subsection (b) of section 9504, as amended by section 11101 of this Act, is amended--

- (i) by striking “Account” in the heading thereof and inserting “and Boating Trust Fund”,
- (ii) by striking “Account” both places it appears in paragraphs (1) and (2) and inserting “and Boating Trust Fund”, and
- (iii) by striking “account” both places it appears in the headings for paragraphs (1) and (2) and inserting “trust fund”.

(B) Subsection (d) of section 9504, as amended by

section 11101 of this Act, is amended--

(i) by striking "Aquatic Resources" in the heading thereof,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sport Fish Restoration and Boating", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504 is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund".

(D) Section 9504 is amended by striking "aquatic resources" in the heading thereof and inserting "sport fish restoration and boating".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration and boating".

(F) Paragraph (2) of section 1511(e) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)) is amended by striking "Aquatic Resources Trust Fund of the Highway Trust Fund" and inserting "Sport Fish Restoration and Boating Trust Fund".

(c) Phaseout of Boat Safety Account.--Subsection (c) of section 9504 is amended to read as follows:

"(c) Expenditures From Boat Safety Account.--Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users). For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter."