

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

# H. R. 4715

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2010

Mr. BISHOP of New York (for himself and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, 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.**

4 This Act may be cited as the “Clean Estuaries Act  
5 of 2010”.

6 **SEC. 2. NATIONAL ESTUARY PROGRAM AMENDMENTS.**

7 (a) PURPOSES OF CONFERENCE.—

8 (1) DEVELOPMENT OF COMPREHENSIVE CON-  
9 SERVATION AND MANAGEMENT PLANS.—Section

1       320(b)(4) of the Federal Water Pollution Control  
2       Act (33 U.S.C. 1330(b)(4)) is amended to read as  
3       follows:

4               “(4) develop and submit to the Administrator a  
5       comprehensive conservation and management plan  
6       that—

7               “(A) identifies the estuary and its associ-  
8       ated upstream waters to be addressed by the  
9       plan, with consideration given to hydrological  
10      boundaries;

11              “(B) recommends priority corrective ac-  
12      tions and compliance schedules addressing point  
13      and nonpoint sources of pollution to restore and  
14      maintain the chemical, physical, and biological  
15      integrity of the estuary, including restoration  
16      and maintenance of water quality, a resilient  
17      and diverse indigenous population of shellfish,  
18      fish, and wildlife, and recreational activities in  
19      the estuary, and assure that the designated  
20      uses of the estuary are protected;

21              “(C) considers current and future sustain-  
22      able commercial activities in the estuary;

23              “(D) addresses the impacts of climate  
24      change on the estuary, including—

1 “(i) the identification and assessment  
2 of vulnerabilities in the estuary; and

3 “(ii) the development and implementa-  
4 tion of adaptation strategies;

5 “(E) increases public education and aware-  
6 ness of the ecological health and water quality  
7 conditions of the estuary;

8 “(F) identifies and assesses impairments,  
9 including upstream impairments, coming from  
10 outside of the area addressed by the plan, and  
11 the sources of those impairments; and

12 “(G) includes performance measures and  
13 goals to track implementation of the plan.”.

14 (2) MONITORING AND MAKING RESULTS AVAIL-  
15 ABLE.—Section 320(b)(6) of such Act (33 U.S.C.  
16 1330(b)(6)) is amended to read as follows:

17 “(6) monitor (and make results available to the  
18 public regarding)—

19 “(A) water quality conditions in the estu-  
20 ary and its associated upstream waters, as iden-  
21 tified under paragraph (4)(A);

22 “(B) habitat conditions that relate to the  
23 ecological health and water quality conditions of  
24 the estuary; and

1           “(C) the effectiveness of actions taken pur-  
2           suant to the comprehensive conservation and  
3           management plan developed for the estuary  
4           under this subsection;”.

5           (3) INFORMATION AND EDUCATIONAL ACTIVI-  
6           TIES.—Section 320(b) of such Act (33 U.S.C.  
7           1330(b)) is amended—

8                   (A) by redesignating paragraph (7) as  
9                   paragraph (8); and

10                   (B) by inserting after paragraph (6) the  
11                   following:

12                   “(7) provide information and educational activi-  
13                   ties on the ecological health and water quality condi-  
14                   tions of the estuary; and”.

15           (4) CONFORMING AMENDMENT.—The sentence  
16           following section 320(b)(8) of such Act (as so reded-  
17           ignated) is amended by striking “paragraph (7)”  
18           and inserting “paragraph (8)”.

19           (b) MEMBERS OF CONFERENCE.—Section 320(c)(5)  
20           of such Act (33 U.S.C. 1330(c)(5)) is amended by insert-  
21           ing after “institutions,” the following: “not-for-profit or-  
22           ganizations,”.

23           (c) ADMINISTRATION OF PLANS.—Section 320(f) of  
24           such Act (33 U.S.C. 1330(f)) is amended to read as fol-  
25           lows:

1 “(f) ADMINISTRATION OF PLANS.—

2 “(1) APPROVAL.—Not later than 120 days  
3 after the date on which a management conference  
4 submits to the Administrator a comprehensive con-  
5 servation and management plan under this section,  
6 and after providing for public review and comment,  
7 the Administrator shall approve the plan if the Ad-  
8 ministrator determines that the plan meets the re-  
9 quirements of this section and the affected Governor  
10 or Governors concur.

11 “(2) IMPLEMENTATION.—Upon approval of a  
12 comprehensive conservation and management plan  
13 under this section, the plan shall be implemented.  
14 Funds authorized to be appropriated under titles II  
15 and VI and section 319 may be used in accordance  
16 with the applicable requirements of this Act to assist  
17 States with the implementation of the plan.

18 “(3) EVALUATION.—

19 “(A) IN GENERAL.—Not later than 4 years  
20 after the date of enactment of this paragraph,  
21 and every 4 years thereafter, the Administrator  
22 shall complete an evaluation of the implementa-  
23 tion of each comprehensive conservation and  
24 management plan developed under this section

1 to determine the degree to which the goals of  
2 the plan have been met.

3 “(B) REVIEW AND COMMENT BY MANAGE-  
4 MENT CONFERENCE.—In completing an evalua-  
5 tion under subparagraph (A), the Administrator  
6 shall submit the results of the evaluation to the  
7 appropriate management conference for review  
8 and comment.

9 “(C) REPORT.—

10 “(i) IN GENERAL.—In completing an  
11 evaluation under subparagraph (A), and  
12 after providing an opportunity for a man-  
13 agement conference to submit comments  
14 under subparagraph (B), the Adminis-  
15 trator shall issue a report on the results of  
16 the evaluation, including the findings and  
17 recommendations of the Administrator and  
18 any comments received from the manage-  
19 ment conference.

20 “(ii) AVAILABILITY TO PUBLIC.—The  
21 Administrator shall make a report issued  
22 under this subparagraph available to the  
23 public, including through publication in the  
24 Federal Register and on the Internet.

1           “(D) SPECIAL RULE FOR NEW PLANS.—  
2           Notwithstanding subparagraph (A), if a man-  
3           agement conference submits a new comprehen-  
4           sive conservation and management plan to the  
5           Administrator after the date of enactment of  
6           this paragraph, the Administrator shall com-  
7           plete the evaluation of the plan required by sub-  
8           paragraph (A) not later than 4 years after the  
9           date of such submission and every 4 years  
10          thereafter.

11          “(4) UPDATES.—

12           “(A) REQUIREMENT.—Not later than 18  
13          months after the date on which the Adminis-  
14          trator makes an evaluation of a comprehensive  
15          conservation and management plan available to  
16          the public under paragraph (3)(C), a manage-  
17          ment conference convened under this section  
18          shall submit to the Administrator an update of  
19          the plan. The updated plan shall reflect, to the  
20          maximum extent practicable, the results of the  
21          program evaluation.

22           “(B) APPROVAL OF UPDATES.—Not later  
23          than 120 days after the date on which a man-  
24          agement conference submits to the Adminis-  
25          trator an updated comprehensive conservation

1 and management plan under subparagraph (A),  
2 and after providing for public review and com-  
3 ment, the Administrator shall approve the up-  
4 dated plan if the Administrator determines that  
5 the updated plan meets the requirements of this  
6 section.

7 “(5) PROBATIONARY STATUS.—The Adminis-  
8 trator may consider a management conference con-  
9 vened under this section to be in probationary status  
10 if the management conference has not received ap-  
11 proval for an updated comprehensive conservation  
12 and management plan under paragraph (4)(B) on or  
13 before the last day of the 3-year period beginning on  
14 the date on which the Administrator makes an eval-  
15 uation of the plan available to the public under para-  
16 graph (3)(C).”.

17 (d) FEDERAL AGENCIES.—Section 320 of such Act  
18 (33 U.S.C. 1330) is amended—

19 (1) by redesignating subsections (g), (h), (i),  
20 (j), and (k) as subsections (h), (i), (j), (k), and (m),  
21 respectively; and

22 (2) by inserting after subsection (f) the fol-  
23 lowing:

24 “(g) FEDERAL AGENCIES.—

1           “(1) ACTIVITIES CONDUCTED WITHIN ESTU-  
2           ARIES WITH APPROVED PLANS.—After approval of a  
3           comprehensive conservation and management plan  
4           by the Administrator, any Federal action or activity  
5           affecting the estuary shall be conducted, to the max-  
6           imum extent practicable, in a manner consistent  
7           with the plan.

8           “(2) COORDINATION AND COOPERATION.—The  
9           Secretary of the Army (acting through the Chief of  
10          Engineers), the Administrator of the National Oce-  
11          anic and Atmospheric Administration, the Director  
12          of the United States Fish and Wildlife Service, the  
13          Chief of the Natural Resources Conservation Serv-  
14          ice, and the heads of other appropriate Federal  
15          agencies, as determined by the Administrator, shall,  
16          to the maximum extent practicable, cooperate and  
17          coordinate activities related to the implementation of  
18          a comprehensive conservation and management plan  
19          approved by the Administrator. The Environmental  
20          Protection Agency shall serve as the lead coordi-  
21          nating agency under this paragraph.

22          “(3) CONSIDERATION OF PLANS IN AGENCY  
23          BUDGET REQUESTS.—In making an annual budget  
24          request for a Federal agency referred to in para-  
25          graph (2), the head of such agency shall consider

1 the responsibilities of the agency under this section,  
2 including under comprehensive conservation and  
3 management plans approved by the Administrator.

4 “(4) MONITORING.—The heads of the Federal  
5 agencies referred to in paragraph (2) shall collabo-  
6 rate on the development of tools and methodologies  
7 for monitoring the ecological health and water qual-  
8 ity conditions of estuaries covered by a management  
9 conference convened under this section.”.

10 (e) GRANTS.—

11 (1) IN GENERAL.—Section 320(h) of such Act  
12 (as redesignated by subsection (d) of this section) is  
13 amended by adding at the end the following:

14 “(4) EFFECTS OF PROBATIONARY STATUS.—

15 “(A) REDUCTIONS IN GRANT AMOUNTS.—

16 The Administrator shall reduce, by an amount  
17 to be determined by the Administrator, grants  
18 for the implementation of a comprehensive con-  
19 servation and management plan developed by a  
20 management conference convened under this  
21 section if the Administrator determines that the  
22 management conference is in probationary sta-  
23 tus under subsection (f)(5).

24 “(B) TERMINATION OF MANAGEMENT CON-  
25 FERENCES.—The Administrator shall terminate

1 a management conference convened under this  
2 section, and cease funding for the implementa-  
3 tion of the comprehensive conservation and  
4 management plan developed by the manage-  
5 ment conference, if the Administrator deter-  
6 mines that the management conference has  
7 been in probationary status for 2 consecutive  
8 years.”.

9 (2) CONFORMING AMENDMENT.—Section 320(i)  
10 of such Act (as redesignated by subsection (d) of  
11 this section) is amended by striking “subsection (g)”  
12 and inserting “subsection (h)”.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—Section  
14 320(j) of such Act (as redesignated by subsection (d) of  
15 this section) is amended to read as follows:

16 “(j) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) IN GENERAL.—There is authorized to be  
18 appropriated to the Administrator \$50,000,000 for  
19 each of fiscal years 2011 through 2016 for—

20 “(A) expenses related to the administration  
21 of management conferences under this section,  
22 except that such expenses shall not exceed 10  
23 percent of the amount appropriated under this  
24 subsection;

1           “(B) making grants under subsection (h);  
2           and

3           “(C) monitoring the implementation of a  
4           conservation and management plan by the man-  
5           agement conference, or by the Administrator in  
6           any case in which the conference has been ter-  
7           minated.

8           “(2) ALLOCATIONS.—Of the sums authorized to  
9           be appropriated under this subsection, the Adminis-  
10          trator shall provide—

11           “(A) at least \$1,250,000 per fiscal year,  
12           subject to the availability of appropriations, for  
13           the development, implementation, and moni-  
14           toring of each conservation and management  
15           plan eligible for grant assistance under sub-  
16           section (h); and

17           “(B) up to \$5,000,000 per fiscal year to  
18           carry out subsection (k).”.

19          (g) TECHNICAL AMENDMENT.—Section 320(k)(1)(A)  
20          of such Act (as redesignated by subsection (d) of this sec-  
21          tion) is amended by striking “paramenters” and inserting  
22          “parameters”.

23          (h) NATIONAL ESTUARY PROGRAM EVALUATION.—  
24          Section 320 of such Act (33 U.S.C. 1330) is amended by

1 inserting after subsection (k) (as redesignated by sub-  
2 section (d) of this section) the following:

3 “(l) NATIONAL ESTUARY PROGRAM EVALUATION.—

4 “(1) IN GENERAL.—Not later than 4 years  
5 after the date of enactment of this paragraph, and  
6 every 4 years thereafter, the Administrator shall  
7 complete an evaluation of the national estuary pro-  
8 gram established under this section.

9 “(2) SPECIFIC ASSESSMENTS.—In conducting  
10 an evaluation under this subsection, the Adminis-  
11 trator shall assess the effectiveness of the national  
12 estuary program in improving water quality, natural  
13 resources, and sustainable uses of the estuaries cov-  
14 ered by management conferences convened under  
15 this section.

16 “(3) REPORT.—In completing an evaluation  
17 under this subsection, the Administrator shall issue  
18 a report on the results of the evaluation, including  
19 the findings and recommendations of the Adminis-  
20 trator.

21 “(4) AVAILABILITY TO PUBLIC.—The Adminis-  
22 trator shall make a report issued under this sub-  
23 section available to the public, including through

1 publication in the Federal Register and on the Inter-  
2 net.”.

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