

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 06/18/2010

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 09/14/2009

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200909-0648-001
AGENCY ICR TRACKING NUMBER:
TITLE: National Estuaries Restoration Inventory
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0479
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 06/30/2013 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	234	787	0
New	31	103	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-203	-684	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
National Estuaries Restoration Inventory - entry of new projects into database	NA	National Estuaries Restoration Inventory - Inventory Fields	
Update existing projects in database	NA	National Estuaries Restoration Inventory - Inventory Fields	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
NATIONAL ESTUARIES RESTORATION INVENTORY
OMB CONTROL NO.: 0648-0479**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This renewal request for an existing information collection is needed to assist in the administration of the National Estuaries Restoration Inventory (NERI). The Estuary Restoration Act (ERA) of 2000 (Act) was signed into law in November 2000 and makes restoring our nation's estuaries a national priority. The Act promotes the restoration of one million acres of estuarine habitat by 2010 by leveraging limited federal resources with state, local, and private funding. As part of the Act, National Oceanic and Atmospheric Administration (NOAA) is required to develop and maintain the NERI, a database of estuary restoration projects. The purpose of the database is to provide information to improve restoration methods, provide information for reports transmitted to Congress (Section 108 (b)), and track the acres of habitat restored toward the million-acre goal. Project information collected and maintained is made available to the public through various queries and reports. The database contains project information for projects funded through the ERA as well as non-ERA project data that meet quality control requirements and data standards established under the Act. This information collection is a requirement only for those parties receiving ERA funds. The entry of project information is optional for projects that are not funded through the ERA but meet project requirements for the NERI.

The NERI was originally developed using another project tracking database housed in the NOAA's National Marine Fisheries Service's (NMFS) Restoration Center. The existing Restoration Center Database (RCDB) was developed to track habitat restoration projects implemented and/or funded by the Restoration Center. Many projects within the RCDB meet the project requirements for the National Estuaries Restoration Inventory. Therefore, relevant data fields from the Restoration Center database are copied into NERI on an annual basis to avoid duplication of effort and unnecessary burden to respondents. This process will become fully automated early in Fiscal Year 2010.

A separate Paperwork Reduction Act (PRA) request for the Restoration Center's Community-based Restoration Program (CRP) is approved under Office of Management and Budget (OMB) Control Number 0648-0472 (current renewal expires 8-31-2012). This request requires recipients of CRP funding to provide information regarding the status and success of funded projects in the form of periodic performance reports and final reports. Information collected by this request will continue to be tracked using the RCDB. Details on the CRP request are available in Question 4.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The purpose of the NERI is to collect information on estuary habitat restoration projects to track project success and to improve restoration methods. The information collected by the database has been used by Restoration Center staff and the ERA Work Group for reports transmitted to Congress, briefings to the ERA Council, as well as responses to other inquiries for data. Reports to Congress take place every two years, beginning in the fall of 2003. Reports to Congress consist of an overview of the status of the database including acres of habitat restored, monitoring information, and database maintenance efforts. The initial Report to Congress provided only a briefing of the status of the inventory, as it was still in development. Since then, NERI data, e.g. sum of acres restored, has been used in presentations at several ERA Council meetings. Requests for information have also been made by upper level NOAA management, other federal agencies, nonprofit organizations, and members of the public.

To facilitate these requests for information, the information contained in NERI is accessible to the public via on-line query forms and reports on the NERI Web site (<https://neri.noaa.gov>).

Parties receiving ERA funds are required to enter information into NERI on-line through the NERI Web site (<https://neri.noaa.gov>). A summary of the questions asked for the database is below.

Data entry is optional for all other parties with projects eligible to be submitted to NERI. Efforts are also underway to dynamically import eligible project data from existing federal databases, including NOAA's RCDB, the United States Fish and Wildlife Service's (USFWS) Habitat Information Tracking System (HabITS), and the United States (U.S.) Army Corps of Engineers' Ecosystem Restoration Business Portal system that is currently under development.

NOAA is actively working to promote the use of the inventory via outreach to the habitat restoration community. These efforts consists of: (1) presentations at various conferences, meetings, etc., (2) approaching restoration practitioners via professional list serves, phone calls, etc., (3) announcing and promoting use of published spatial data through various data catalogs and mapping services (Geospatial One-Stop, state and local mapping applications, etc.).

The information collection by NERI consists of:

(a) General Information – Basic project information such as project title, whether the project is funded by the ERA and if not, whether it meets the specific requirements to be counted as an ERA project, a topic sentence describing the project, the current status of the project including the implementation start and completion dates and the size of the project. In addition, this area identifies specific questions for ERA-funded projects such as the primary partner, lead federal agency, date of the funding agreement, and whether the project qualifies as an innovative technology project, which is defined by the Estuary Restoration Act.

(b) Abstract – a detailed description of the project with background about the site, historic impacts to the site, project information, and additional information about partners, acres restored, timeline, etc.

(c) Contact Information – basic details necessary to identify and contact project managers such as name, title, address, organization, city, state, zip code, phone and fax numbers, e-mail, and Uniform Resource Locator (URL) for Web sites.

(d) Geographic Location – details on the physical location of the project site including city, county, state/territory/province (for Canadian projects), region, zip code, United States Geological Survey (USGS) Hydrologic Unit Code (HUC), longitude, latitude, USGS topographic quadrangle, congressional district, and whether a Geographic Information System (GIS) layer is available for the project boundary.

(e) Project Benefits – details on expected benefits of the restoration project including descriptions of benefits, whether the benefit has been achieved, and additional comments.

(f) Habitat Types – a listing of habitat types restored as well as number of acres restored (by acres created, re-established, or rehabilitated) and benefited (acres enhanced or protected) for each habitat type, as well as stream miles (the linear extent of rivers and streams that is made accessible for diadromous* and migratory fish passage), and methods used for obtaining acreage and stream mile values. The method for obtaining acreage and stream miles is an important field because it helps to determine the reliability of a reported value.

(g) Restoration Techniques – list of techniques used in the project. Descriptions of each technique and its success are also provided to highlight the benefits and pitfalls of using various restoration methods.

(h) Monitoring and Success Criteria – list of monitoring parameters used in the project. Detailed monitoring information will also be provided including monitoring frequency, methods, start and end dates, as well as success criteria used for determining project success.

(i) Restoration Plans – Title, date, lead organizations, URL, and type of restoration plan that the project contributes to.

(j) Project Budget – project support provided by Federal and non-Federal entities as well as the original proposed cost estimate for the project, and the final actual cost of the restoration. This information will allow restoration practitioners to compare the costs of project implementation and how actual costs exceed projections.

(k) Project Partners – details on support (e.g. planning, funding, technical assistance) provided by other organizations including partner name, type of partner, and URL.

(l) Project Photos – Images showing the progress of the project such as before, during and after pictures of the restoration. Each image will contain a caption, credit, and date. These pictures will be used for dynamic project Web pages that will be available on the NERI Web site.

The information collected by NERI is available to the public on-line through the NERI Web site. Therefore, the Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, i.e., OMB, Department of Commerce, and NOAA guidelines. Several measures have been taken to ensure compliance. The database is a publicly accessible site but is password protected and limited to users with eligible projects to enter into the database. Several business rules have also been created to ensure that information entered into the database cannot be tampered with by other users (e.g. unless permissions are otherwise granted, restoration practitioners can only edit projects that they originally entered into the database). New projects first undergo a screening process where they must meet a few basic requirements prior to being accepted into the database. Database administrators review all new projects submitted through the data entry interface prior to accepting them into the database. Upon acceptance, restoration practitioners can edit and update their project information.

The information collected by NERI undergoes an additional quality assurance/quality control (QA/QC) process prior to being disseminated to the public for queries and reports. For manually-entered projects, each individual project is reviewed by database administrators prior to being made available to the public. For projects imported through existing tracking systems such as NOAA's RCDB or USFWS's HabITS databases, the quality of project information is ensured by the source data administrator (through NOAA or USFWS)). Data from these sources will be imported annually, at minimum, after undergoing QA/QC procedures specific to each data source's respective agency. This process is repeated whenever a project is updated. The data import process is currently a manual process consisting of the source data administrator generating an export file according to predefined specifications which is then emailed to the NERI administrator for importing into NERI. A Web service feature is under development that will allow the source data administrator to run the import directly at their desired frequency.

NERI is not a comprehensive set of all restoration projects occurring in the nation. Data is currently limited to projects funded through a subset of existing Federal programs that have been incorporated into the application, as well as those to be submitted voluntarily by project proponents. Therefore, much of the data is not completely generated by NOAA, but originates from the project manager or another Federal database. A description of the data collection, information sources, QA/QC, and dissemination processes as well as an overview of data sources and limitations will be made available upon request and is also provided on the NERI Web site.

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. As described above, prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

*Species that use both marine and freshwater habitats during their life cycle.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The collection of information for the National Estuaries Restoration Inventory (NERI) is completely automated. Restoration practitioners can electronically submit project information via an online data entry form located on the NERI Web site (<https://neri.noaa.gov>). They enter project information into the NERI from Federal, State, local and tribal governments, not-for-profit institutions, and other entities across the country. The practitioners may have different levels of technical expertise. Therefore, NERI is designed to be easily accessible and has a user-friendly, intuitive interface for both data queries and data entry via the Internet. It allows users to update project entries without specific technical database training. The database contains a comprehensive on-line user's guide, a data dictionary, specific instructions, and examples for each field. Users have the option of using a Portable Document Format (PDF) form to assist them in collecting project information for the database. The purpose of this form is to assist restoration practitioners in information collection and is not intended to be a substitute for entering information into the database. This form is available for saving and printing on the NERI Web site. The information collected is made available for queries and reports on the NERI Web site without the need for a username and password.

The PRA statement, with the OMB Control Number, Expiration Date, and additional information about the collection, is available for respondents on both the PDF form as well as the NERI Web site.

To obtain project coordinate information (longitude and latitude), restoration practitioners may choose to use hand-held Global Positioning Systems (GPS) or numerous on-line mapping applications, but these options are not required for projects. Users are requested to state how acreage and stream mile measurements were obtained (e.g. GPS, land surveys, aerial photography) in the data entry form.

4. Describe efforts to identify duplication.

NMFS' Restoration Center maintains an existing database of restoration projects that is used to track projects funded and implemented by the Restoration Center. Restoration Center staff using materials from progress reports and direct conversations with restoration practitioners populates this database. A separate Paperwork Reduction Act (PRA) request for the Restoration Center's Community-based Restoration Program (CRP) is approved under Office of Management and Budget (OMB) Control Number 0648-0472 (current renewal expires 08/31/2012). This request requires recipients of CRP funding to provide information regarding the status and success of funded projects in the form of periodic performance reports and final reports. The information is used to populate the Restoration Center's existing database (RCDB).

Many projects within the RCDB meet the project requirements for the National Estuaries Restoration Inventory. Therefore, relevant data fields from the Restoration Center database are copied into NERI on an annual basis to avoid duplication of effort and unnecessary burden to respondents. The NERI information request is a similar request for information but since it is a different program, it does not encompass the same projects or the same data fields as the CRP request. Therefore, a separate request is needed for NERI.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Only projects funded through the Estuary Restoration Act are required to submit project information into NERI. A pre-formatted PDF of the data fields is provided to assist in the collection of information prior to being entered into the database. Specific instructions and definitions for data fields are also provided on the data entry form and the NERI Web site. Technical support is also available via e-mail. The information to be collected is very basic and should not be a burden for small entities receiving ERA funding to produce.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the information is not collected it will be more difficult to provide accountability on the expenditure of Federal funds for estuary habitat restoration activities under the ERA. It will also be more difficult to validate performance measures, and timely responses to any Freedom of Information Act requests would be inhibited.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

NA.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published June 1, 2009 (74 FR 26202) solicited public comment on this renewal request. No comments were received.

Consultations with interested and affected persons are an integral part of this information collection. We have been in coordination with national and regional restoration entities such as Restore America's Estuaries, the Gulf of Maine Council on the Marine Environment, and the Gulf of Mexico Foundation, to ensure the application meets their tracking needs. Although these entities are not required to submit their project information since they have not received ERA funding, they are all interested in using data from the application to show restoration efforts at the national and regional levels. In addition, members of the ERA Working Group which consist of other federal agencies such as the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Natural Resource Conservation Service, and the Environmental Protection Agency, have provided input on how to improve the information collection and efforts have been made to incorporate the majority of these suggestions into the application. Most of these suggestions involved formatting changes to remove less critical data elements that reduce data entry burden on respondents.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to any respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collection does not request any proprietary or confidential information. No confidentiality is provided.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No information of a sensitive nature is collected.

12. Provide an estimate in hours of the burden of the collection of information.

The three-year burden for this collection is estimated to be 308 hours (annualized to 103 hours) as detailed below. However, it should be noted that data collected for the NERI database is intended to provide information to restoration practitioners throughout the country, including those entering the data. Therefore, the burden of data collection is expected to be offset (and in some cases exceeded) by the benefits accrued to restoration practitioners from having access to a national database for project tracking and data queries.

For the Fiscal Year 2009, less than \$3 million in funding was available through the ERA for estuary habitat restoration projects. NOAA expects no more than 10 restoration projects to be awarded ERA funding in FY2010. Assuming continued project funding under the ERA, NOAA expects between 1-10 new awards to be made annually. Based on recent activity, NOAA estimates that 5-10 additional projects will be entered to the database annually on a voluntary basis. In addition, funded respondents will be required to return to NERI in the following year to update their entries. While updates are not required for voluntary submissions, of the 10 voluntary records submitted, 7 are expected to be updated after initial entry. Using these assumptions for both mandatory and voluntary projects and assuming that one project is entered or updated by a single respondent, NOAA estimates that in year one of the next three years, up to 20 new projects will be entered into the database. In year two, an additional 20 projects will be entered into the database and an existing 17 projects will be updated. In year three, another 20 projects will be added to the database and an existing 17 projects will be updated. Annualizing over three years (20, 20 + 17, 20 + 17), there would be 32 respondents and responses per year.

For new projects, the total response time per project is estimated at four hours: approximately three hours spent collecting project information and writing the project abstract and one hour for entering information into the database. For projects that are already in the database and are being updated, the total response time per project is estimated at two hours: 1 hour and 30 minutes for collecting new project information and 30 minutes to update the information in the database. Assuming approximately 20 new projects being entered into the database each year and 17 existing projects updated the second and third years, the total annualized burden would be 308

hours (20 x 4 hours = 80 for each year, 80 + 17 x 2 (34) hours for the second and third years), annualized to 103 hours per year.

These totals include the time for reviewing instructions, searching existing data sources, and gathering and maintaining project information needed to answer database questions based on information that awardees should have readily available, and the one-time need to use a GPS or internet URL to determine latitude and longitude coordinates of project sites.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

No capital or start-up costs are expected to result from this collection by the respondents. Operations and maintenance costs are expected to be limited to Internet and computer access for submitting project information to the NERI database. It is expected that existing computer equipment and Internet connections will be used by respondents at little to no additional cost. Therefore, there is no annual cost burden to respondents.

14. Provide estimates of annualized cost to the Federal government.

It is anticipated that one contractor will devote 25% of his/her time annually to project information QA/QC and database maintenance. One full-time employee (FTE) will devote approximately 50% of his/her time annually for oversight, reporting, QA/QC, data imports, as well as coordination of outreach activities (see Question 2 for details) to build more interest in the application. One Oracle database contractor will devote 25% of his/her time to implement changes and maintain the application. With an annual average salary of \$75,000 for the contractor at 25% time (\$18,750), an annual salary of \$80,000 for an FTE at 50% time (\$40,000), and an annual salary for an Oracle database contractor of \$75,000 at 25% time (\$18,750), the annualized cost to the Federal government to conduct this information collection is estimated to be \$77,500. No significant equipment, overhead, printing or other costs should be involved with the processing of this information collection.

15. Explain the reasons for any program changes or adjustments.

The current estimate of burden (103 hours annually) for the information collection renewal is 684 hours less than the previous burden estimate of 787 hours. This estimated decrease is a result of a previous overestimate of the burden, due to the following reasons: (1) as of March 2009, only ten projects have been selected for funding through the Estuary Restoration Act (ERA), two of which have been completed. (2) Very few voluntary submissions have been provided, in part, because NOAA has focused efforts on importing data for existing projects funded by Federal agencies from those agencies' internal tracking systems. Most of the few projects that had been manually submitted for inclusion in NERI already had project entries in the database. (3) Currently, all of the data in the inventory (except the ERA-funded project records) is imported from existing tracking systems. The time required to input this data does not fit under our burden hours since Federal staff are doing the primary data collection and data entry.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

NA.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g. establishments, State and local governmental units, households, or persons) in the universe and the corresponding sample are to be provided in tabular form. The tabulation must also include expected response rates for the collection as a whole. If the collection has been conducted before, provide the actual response rate achieved.

Although this collection will not employ statistical methods, responses are being provided in this section in the event that issues are raised during the review process. The potential respondent universe of this collection consists of mandatory responses by entities receiving funding through the Estuary Restoration Act (ERA), as well as optional responses for all other parties with projects eligible to be submitted to NERI. Although the number of mandatory responses can be estimated on an annual basis, optional responses are extremely difficult to quantify. The NERI does not aim to be a complete inventory of all estuary habitat restoration projects occurring throughout the country. Instead, it aims to track project information and make it available to restoration practitioners in order to improve restoration methods, as well as to track acreage restored toward the million-acre goal of the Estuary Restoration Act.

Respondents receiving ERA-funding may include not-for-profit organizations, state, local, and tribal governments, and other Federal agencies. As of March 2006, nine projects have been approved by the ERA Council, three of which have received funding. As part of the Estuary Restoration Act, each of these projects are to be tracked through the National Estuaries Restoration Inventory (NERI) once project implementation begins. The amount of funding allocated to projects each Fiscal Year will depend upon the funding available through the ERA, which will vary each year. Assuming continued level project funding under the ERA, NOAA expects no more than 10 new awards to be made annually.

The other universe of respondents consists of optional responses by restoration practitioners who are implementing projects eligible to be submitted to NERI. This set of respondents is difficult to quantify as habitat restoration projects occur at a wide scale, with efforts occurring at Federal,

regional, state, and local levels. In addition, these efforts often overlap each other with projects being implemented through multiple combinations of entities. The amount of work that gets completed may also be driven by the amount of funding available, which also varies at the Federal, regional, state, and local levels. Therefore, it is extremely difficult to quantify the amount of restoration projects that would be voluntarily submitted to the NERI.

Table 1: Summary of the Universe of Respondents and Response Rate for Mandatory and Optional Responses to the National Estuaries Restoration Inventory (Annual)

Category of Responses	Universe of Respondents	Expected Response Rates	Actual Response Rates
Optional	Unable to quantify beyond number of projects currently in the database (approx. 2,700)	Unable to quantify the expected new project entries, but expect an project record update rate of 70%	5 requests for submission received but denied due to issues with data overlap.
Mandatory	1-10 projects	100%	10 projects have been selected for ERA funding. Data for 5 projects that have initiated implementation have been submitted to NERI.

2. Describe the procedures for the collection, including: the statistical methodology for stratification and sample selection; the estimation procedure; the degree of accuracy needed for the purpose described in the justification; any unusual problems requiring specialized sampling procedures; and any use of periodic (less frequent than annual) data collection cycles to reduce burden.

Procedures for collecting information:

For mandatory projects, only ten projects have been selected for funding through the Estuary Restoration Act (ERA), two of which have been completed. Assuming funding levels will remain consistent, it is estimated that up to ten projects will be funded on an annual basis, and required, as a condition of funding to submit ongoing project information after the initial data entry by the U.S. Army Corps of Engineers.

Very few voluntary submissions have been provided, in part, because NOAA is currently focused on data for existing projects funded by Federal agencies. Currently, all of the data in the inventory (except the ERA-funded project records) is imported from existing tracking systems from NOAA and the USFWS. The time required to input this data does not fit under our burden hours since Federal staff are doing the primary data collection and data entry. This process of populating NERI with NOAA’s information will be automated in Fiscal Year 2009-2010. In addition, data from the U.S. Army Corps of Engineers’ Ecosystem Restoration Business Portal system that is currently under development will also be dynamically incorporated into NERI.

Unusual problems requiring specialized sampling procedures:

NERI is not a comprehensive set of all restoration projects occurring in the nation. Although a few non-federal groups have inquired about submitting data, many projects were found to exist in NERI. In addition, to address issues with double counting of projects that may already be in the inventory, NOAA is focusing efforts on the collection of project information from existing Federal resources, described above.

Degree of accuracy:

The majority of information collected is summary information so the degree of accuracy is not critical to achieve the goals of the information collection. In addition, the information obtained from NERI is used for informational purposes to identify successful techniques and provide information to practitioners who are looking for other activities that have occurred in their region. The primary information being tracked is the acres of estuarine habitat restored toward the million-acre goal of the Estuary Restoration Act. Although this is a measure of quantity, a statistical analysis of this information is not relevant because the amount of habitat restored is influenced by many parameters, which are not consistent for all projects. These parameters may include project cost, site conditions, techniques used, and materials/resources available. Other information tracked by NERI is summary information that is used to describe project activities, results, and lessons learned.

The quality of project information from the existing NOAA or USFWS databases is ensured by the source data administrator, who applies quality assurance procedures, such as compliance to naming conventions and completion of minimum fields applicable to the status of the project, to project information submitted to NERI. In addition, NERI administrators regularly provide additional review of data as needed. Data from these sources will be imported at a minimum of an annual basis after undergoing quality assurance/quality control procedures specific to each agency. This process will be repeated whenever a project is updated. Any projects that are voluntarily submitted will be inspected by NERI admin prior to dissemination.

3. Describe the methods used to maximize response rates and to deal with nonresponse. The accuracy and reliability of the information collected must be shown to be adequate for the intended uses. For collections based on sampling, a special justification must be provided if they will not yield "reliable" data that can be generalized to the universe studied.

To increase response rates, NOAA is actively working to promote the use of the inventory via outreach to the habitat restoration community. This will consist of: (1) presentations at various conferences, meetings, etc., (2) approaching restoration practitioners via professional Listservs, phone calls, etc., (3) announcing and promoting use of published spatial data through various data catalogs and mapping services (Geospatial One-Stop, state and local mapping applications, etc.).

In addition, the database is being populated using data from existing restoration project databases from NOAA and the USFWS. Having current project information in the NERI improves the relevancy of information for restoration practitioners, and possibly encourages them to voluntarily respond to the information collection.

4. Describe any tests of procedures or methods to be undertaken. Tests are encouraged as effective means to refine collections, but if ten or more test respondents are involved OMB must give prior approval.

No tests of procedures or methods are to be undertaken at this time. NOAA will instead invite feedback on the utility of the NERI to track information from respondents and make adjustments as needed to refine the collection of information.

5. Provide the name and telephone number of individuals consulted on the statistical aspects of the design, and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

Marti McGuire
NOAA Restoration Center
Marti.McGuire@noaa.gov
(727) 551-5785

Mike Peccini
NOAA Restoration Center
Mike.Peccini@noaa.gov
(307) 713-0174

Please answer the following questions for your restoration project. For assistance on any of the fields, please see the Inventory Help available at neri.noaa.gov/help.
(*required field)

GENERAL INFORMATION

What is the name of this project? *

Note: Name should be a short, descriptive title that includes the specific location of the project and type of restoration being implemented.

What type of project is this? *

- Funded under the Estuary Restoration Act (ERA)
- Compensatory (required by state or federal law)
- All other restoration projects.

1. Provide a topic sentence summarizing this project. *

2. Does this project include monitoring to gauge the success of restoration efforts? *

- Yes
- No

3. Does this project's monitoring plan meet ERA Council Monitoring Standards? *

- Yes
- No

4. If monitoring data are available on the web, please provide a URL (web address).

5. What is the status of this project? * (Select One):

- Planning Stage
- Implementation Stage
- Implementation Complete
- Project Terminated

6. Provide the dates for each stage of this project as it occurs. *

Note: For projects in the planning stage, provide estimated implementation stage start date.

Actual implementation start date: _____ (MM/YYYY)
Implementation completion date: _____ (MM/YYYY)

*****Questions for ERA-funded projects only: *****

7. What is the size of the area which was/will be directly manipulated?

_____ (Acres)

8. What is the overall size of the area being monitored?

_____ (Acres)

9. How were the measurements in questions 6 & 7 obtained (e.g. aerial photography, GIS, land surveys, etc)?

10. Provide the name of project's non-federal sponsor.

11. Provide the name of the lead federal agency. Select One:

- Army Corps of Engineers (ACE)
- National Oceanic and Atmospheric Administration (NOAA)
- U.S. Department of Agriculture (USDA)
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (FWS)
- Department of Transportation (DOT)

12. Provide the date of the ERA funding agreement.

_____ (MM/YYYY)

13. Has this project qualified as an innovative technology project as defined by the Council's Strategy?

- Yes
- No

If yes, please briefly describe the innovative technology.

14. Provide the ERA project number. _____

PROJECT ABSTRACT *

Multiple horizontal lines for text entry.

CONTACT INFORMATION

Provide information for up to two primary project contacts.

NOTE: Contact information may be displayed on-line in project queries and reports. If you do not wish to share your information, please leave the field blank. If you are adding another person to the contact list, make sure they are aware that their information may be available on-line."

1. Information for Contact 1*

Form fields for Contact 1: First Name, Last Name, Position Title, Office, Address 1, Address 2, City, State/Territory/Province, Zip Code, Phone, Fax, E-mail, Agency/organization/project Web site address.

2. Information for Contact 2

Form fields for Contact 2: First Name, Last Name, Position Title, Office, Address 1, Address 2, City, State/Territory/Province, Zip Code, Phone, Fax, E-mail, Agency/organization/project Web site address.

GEOGRAPHIC LOCATION

1. Where is this project located?

State/Territory/Province: * _____
 County/Parish: * _____
 City: * _____
 Tribe: _____
 Region* (see map in Help page): _____
 Zip Code (+4 if known): _____
 USGS 8-digit HUC: _____

Latitude/Longitude (center of project site in decimal degrees to a minimum of four decimal points):

X coordinate* (longitude) _____

Y coordinate* (latitude) _____

USGS Topographic Quadrangle: _____

Congressional District: * _____

2. What method was used to obtain the latitude and longitude for the project site (e.g. GPS, Topographic map, website)? If known, please also provide the datum.

3a. Is there a GIS data layer (polygon) showing the boundaries of the area (to be) restored?

Yes No

3b. If yes and GIS contact is not listed as the primary project contact, please provide:

Contact first name _____ Contact last name _____

Contact phone number _____ Contact e-mail _____

PROJECT BENEFITS

Please provide information on this project's benefits.

1. Project Benefits* (see Table 4)	2. Description of benefit	3. If implemented, has this benefit been achieved?	4. Comments
		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not yet known	

HABITAT TYPES AND ACREAGE RESTORED

Please provide information on the habitat types which have been restored and/or will be restored by this project. Since a given project may restore multiple habitat types, please provide information for each habitat type restored.

Habitat types and acreage restored:

1. Habitat Type Restored* (see Table 1) ¹	2. Tidal influence of habitat type:	3. Specifically describe this habitat type (e.g. comments on tidal influence, photic/aphotic, location in estuary, etc.)	4. Estimated acreage to be restored: *	For acres already restored, indicate how many acres were:				
				5. Restored*			6. Benefited (not counted toward million acre goal)	
				Created	Re-established	Rehabilitated	Enhanced ²	Protected ²
	<input type="checkbox"/> subtidal <input type="checkbox"/> intertidal <input type="checkbox"/> supratidal/spray zone <input type="checkbox"/> not applicable							
	<input type="checkbox"/> subtidal <input type="checkbox"/> intertidal <input type="checkbox"/> supratidal/spray zone <input type="checkbox"/> not applicable							
	<input type="checkbox"/> subtidal <input type="checkbox"/> intertidal <input type="checkbox"/> supratidal/spray zone <input type="checkbox"/> not applicable							
	<input type="checkbox"/> subtidal <input type="checkbox"/> intertidal <input type="checkbox"/> supratidal/spray zone <input type="checkbox"/> not applicable							

NOTES:

¹ For projects providing fish passage, please provide acreage information for habitat actually restored (e.g. via stream channel, restructuring, placement of woody debris, best management practices, etc.), AND for entire stream area opened to fish migration (this information can be provided at the end of this section).

² Acres reported in the "Enhanced" and "Protected" categories should not duplicate acres reported in the "Restored" category. If the same project acreage has been enhanced or protected as well as restored, report those acres only in the "Restored" category.

7. What method (e.g. aerial photography, GIS, land surveys) was used to determine the number of acres reported above as created, re-established, rehabilitated, enhanced and/or protected?

***** In-Stream projects only *****

8. If this project provided fish passage, how many stream miles were opened to anadromous fish?

_____ (Miles)

9. For the stream miles reported in #8 above, please provide an estimate of the acres (based on surface area) made accessible to anadromous fish.

_____ (Acres)

RESTORATION TECHNIQUES

Please list the restoration techniques used in this project.

1. Restoration technique(s) * (see Table 2)	2. Description of Technique (e.g. materials used, plant spacing)	3. Success of this technique	4. Comments on success
		<input type="checkbox"/> Very successful <input type="checkbox"/> Somewhat successful <input type="checkbox"/> Not successful <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Very successful <input type="checkbox"/> Somewhat successful <input type="checkbox"/> Not successful <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Very successful <input type="checkbox"/> Somewhat successful <input type="checkbox"/> Not successful <input type="checkbox"/> Not yet known	
		<input type="checkbox"/> Very successful <input type="checkbox"/> Somewhat successful <input type="checkbox"/> Not successful <input type="checkbox"/> Not yet known	

MONITORING AND SUCCESS CRITERIA

Please list the parameters and success criteria that were used in monitoring this restoration project.

1. Monitoring Parameter * (see Table 3)	2. Description (e.g. methods, frequency, etc.)	3. Monitoring start date (MM/YYYY)	4. Monitoring end date (MM/YYYY)	5. Quantitative Success Criteria (e.g. water depth > x for x hours/day)	6. Have the success criteria been met?	7. Comments on success criteria
					<input type="checkbox"/> Not yet known <input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None	
					<input type="checkbox"/> Not yet known <input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None	
					<input type="checkbox"/> Not yet known <input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None	
					<input type="checkbox"/> Not yet known <input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None	

REGIONAL RESTORATION PLANS

If this project is being carried out in support of an existing regional restoration plan, please provide the following plan information:

1. Plan Name	2. Lead Organizations	3. Type of Plan (select one)	4. Date (MM/YYYY)	5. Plan URL
		_ Business/industry _ Federal _ Local government _ Multistate/regional _ Nonprofit _ State/territory/ province _ Other		
		_ Business/industry _ Federal _ Local government _ Multistate/regional _ Nonprofit _ State/territory/ province _ Other		

BUDGET INFORMATION

1. Provide the original proposed project cost estimate.

2. Of the total cost estimate, how much will go toward project monitoring?

3. List amount(s) for all applicable funding sources:

Federal		Non-Federal	
\$	Cash	\$	Cash
\$	In-kind	\$	In-kind
\$	Lands, easements, etc.	\$	Lands, easements, etc.

4. If desired, provide additional information on the project budget below (e.g., operations and maintenance costs, specifics on in-kind contributions, etc.):

*****Question for ERA-funded projects only: *****

5. If project implementation is complete, provide the total actual cost (planning and implementation only) for this project.

PARTNER INFORMATION

Add the following information for project partners:

1. Project Partner *	2. Type of Partner * (select one)	3. Partner web site	4. Additional information for partner
	<input type="checkbox"/> Federal <input type="checkbox"/> State/Territory/Province <input type="checkbox"/> Local Government <input type="checkbox"/> Tribal <input type="checkbox"/> Non-profit <input type="checkbox"/> Academic <input type="checkbox"/> Business/Industry <input type="checkbox"/> Private Citizen		
	<input type="checkbox"/> Federal <input type="checkbox"/> State/Territory/Province <input type="checkbox"/> Local Government <input type="checkbox"/> Tribal <input type="checkbox"/> Non-profit <input type="checkbox"/> Academic <input type="checkbox"/> Business/Industry <input type="checkbox"/> Private Citizen		
	<input type="checkbox"/> Federal <input type="checkbox"/> State/Territory/Province <input type="checkbox"/> Local Government <input type="checkbox"/> Tribal <input type="checkbox"/> Non-profit <input type="checkbox"/> Academic <input type="checkbox"/> Business/Industry <input type="checkbox"/> Private Citizen		
	<input type="checkbox"/> Federal <input type="checkbox"/> State/Territory/Province <input type="checkbox"/> Local Government <input type="checkbox"/> Tribal <input type="checkbox"/> Non-profit <input type="checkbox"/> Academic <input type="checkbox"/> Business/Industry <input type="checkbox"/> Private Citizen		

PROJECT PHOTOS

You may upload up to 3 pictures of your restoration project to the National Estuaries Restoration Inventory. These photos will be used in on-line project profiles that will appear on the NERI web site once your project has been approved. For each photo, please provide the following information:

1. Photo File Name	2. Photo Caption	3. Credit	4. Date of Photo (MM/YYYY)

NOTICE

Responses to this collection are required of grant recipients to support the Estuary Restoration Act. Collection of estuary habitat restoration project information will be undertaken in order to populate a restoration project inventory mandated by the Estuary Restoration Act of 2000. The inventory is intended to provide information to improve restoration methods, provide the basis for required reports to Congress, and track estuary habitat acreage restored. Estuary habitat restoration project information will be submitted by habitat restoration project managers through an interactive web site, and will be accessible to the public via Internet for data queries and project reports. Responses to this information collection are required to retain funding provided by the Estuary Restoration Act and optional for projects that are not funded through the ERA but meet project requirements for the National Estuaries Restoration Inventory. Confidentiality will not be maintained – the information will be available to the public. Public reporting burden for this collection of information is estimated to average four hours for new responses and two hours to update existing responses in the inventory, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to the NOAA Fisheries Office of Habitat Conservation, Restoration Division, F/HC3, 1315 East West Highway, Silver Spring, MD 20910.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

The information collected will be reviewed for compliance with the NOAA Section 515 Guidelines established in response to the Treasury and General Government Appropriations Act, and certified before dissemination.

**National Estuaries Restoration Inventory
Table 1: Habitat Types**

Habitat Category	Habitat Type
<i>WETLAND</i>	Forested Wetland
<i>WETLAND</i>	Freshwater Marsh
<i>WETLAND</i>	Mangrove
<i>WETLAND</i>	Salt Marsh
<i>WETLAND</i>	Shrub Swamp (non-mangrove)
<i>UPLAND</i>	Beach
<i>UPLAND</i>	Dune
<i>UPLAND</i>	Maritime Forest
<i>UPLAND</i>	Rocky Shoreline
<i>UPLAND</i>	Upland
<i>SUBMERGED</i>	Coral Reef
<i>SUBMERGED</i>	Hard Bottom
<i>SUBMERGED</i>	Kelp
<i>SUBMERGED</i>	Oyster Reef/Shell bottom
<i>SUBMERGED</i>	Pond
<i>SUBMERGED</i>	Soft Bottom/Mud
<i>SUBMERGED</i>	Soft Bottom/Sand
<i>SUBMERGED</i>	Submerged Aquatic Vegetation
<i>SUBMERGED</i>	Water Column
<i>RIVERINE</i>	In-Stream
<i>RIVERINE</i>	Riparian Zone (non-wetland)

National Estuaries Restoration Inventory
Table 2: Restoration Techniques

Construction	Physical/Chemical Manipulation
native plant nursery construction reef construction: artificial materials reef construction: natural materials stream pool construction terracing	beach nourishment contaminant removal/remediation daylighting debris removal erosion control fill removal large woody debris/structure placement nutrient management placement of dredge material prescribed burn substrate modification
Fauna	Protection
bird habitat enhancement coral reattachment coral stabilization coral transplant fish hatchery construction fish passage fish exclusion devices stock enhancement disease control: fauna invasives removal: fauna oyster gardening species reintroduction (non-plant)	fencing/netting land acquisition signage water rights acquisition
Hydrological Manipulation	Vegetation
berm/dike modification (including replacement) berm/dike removal bulkhead removal culvert modification (including replacement) culvert removal dam modification (including replacement) dam removal stream channel rehabilitation/creation stream flow modification weir construction weir removal tide gate installation tide gate removal tide gate modification (including replacement) storm water/runoff controls	planting disease control: vegetation invasives removal: vegetation

**National Estuaries Restoration Inventory
Table 3: Monitoring Parameters**

<p align="center">Physical Characteristics</p> <p>Channel characteristics Hydrology Light penetration/secchi Temperature Topography/Geomorphology Turbidity Pool/riffle ratio</p>	<p align="center">Birds</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>	<p align="center">Mammals</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>
<p align="center">Water Column Characteristics</p> <p>Chlorophyll concentration in water Dissolved Oxygen Fecal coliforms Nitrogen Nutrient cycling Phosphorus Silicon pH Salinity Toxics</p>	<p align="center">Fish</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>	<p align="center">Mixed Assemblage</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>
<p align="center">Soil and Substrate Characteristics</p> <p>Bulk density Moisture levels and drainage Nitrogen (pore water) Nutrient cycling Phosphorus (pore water) Silicon Organic content pH (pore water) Salinity (pore water) Sediment texture Sedimentation rate and quality</p>	<p align="center">Invasive Species (Fauna)</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>	<p align="center">Reptiles</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>
<p align="center">Vegetation</p> <p>Abundance Composition Basal area Biomass Canopy areal extent and structure Density Diversity Edge to area ratio Herbivory/disease Litter fall Growth rate Percent cover Productivity rate Ratio of vegetation to open water Recruitment Survival Woody debris</p>	<p align="center">Invasive Species (Vegetation)</p> <p>Abundance Biomass Distribution Growth Population age composition Recruitment Size</p>	<p align="center">Other</p> <p>Debris Qualitative assessment</p>
<p align="center">Amphibians</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>	<p align="center">Invertebrates</p> <p>Abundance Biomass Density Disease Distribution Diversity Growth Population age composition Predation Recruitment Size Survival</p>	

National Estuaries Restoration Inventory
Table 4: Project Benefits

Benefits

improve/provide habitat for migratory birds
improve/provide habitat for fish/shellfish
improve/provide habitat for Threatened & Endangered species
improve/provide habitat for other wildlife (general)
wildlife corridors/benefit to nearby habitat areas
improved water quality
increased water quantity
improve/restore natural hydrology
erosion control
flood control
increase/improve recreational opportunities
community revitalization/citizen participation
compensation for injuries to natural resources

The Estuary Restoration Act is Title I of Public Law 106-457, The Estuaries and Clean Waters Act of 2000. It has been amended by Section 5017 of the Water Resources Development Act of 2007, Public Law 110-114. Only the Estuary Restoration Act, as amended, is presented on this page.

An Act

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. TITLE I--ESTUARY RESTORATION

- Sec. 101. Short title.
- Sec. 102. Purposes.
- Sec. 103. Definitions.
- Sec. 104. Estuary habitat restoration program.
- Sec. 105. Establishment of Estuary Habitat Restoration Council.
- Sec. 106. Estuary habitat restoration strategy.
- Sec. 107. Monitoring of estuary habitat restoration projects.
- Sec. 108. Reporting.
- Sec. 109. Funding.
- Sec. 110. General provisions.

TITLE I--ESTUARY RESTORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Estuary Restoration Act of 2000".

SEC. 102. PURPOSES.

The purposes of this title are —

- (1) to promote the restoration of estuary habitat by implementing a coordinated Federal approach to estuary habitat restoration activities, including the use of common monitoring standards and a common system for tracking restoration acreage;
- (2) to develop and implement a national estuary habitat restoration strategy for creating and maintaining effective estuary habitat restoration partnerships among public agencies at all levels of government and to establish new partnerships between the public and private sectors;
- (3) to provide Federal assistance for estuary habitat restoration projects through cooperative agreements and to promote efficient financing of such projects; and
- (4) to develop and enhance monitoring and research capabilities through the use of the environmental technology innovation program associated with the National Estuarine Research Reserve System established by section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) to ensure that estuary habitat restoration efforts are based on sound scientific understanding and innovative technologies.

SEC. 103. DEFINITIONS.

In this title, the following definitions apply:

- (1) COUNCIL.— The term "Council" means the Estuary Habitat Restoration Council established by section 105.
- (2) ESTUARY.— The term "estuary" means a part of a river or stream or other body of water that has an unimpaired connection with the open sea and where the sea water is measurably diluted with fresh water derived from land drainage. The term also includes near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries, including the area located in the Great Lakes biogeographic region and designated as a National Estuarine Research Reserve under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) as of the date of enactment of this Act.
- (3) ESTUARY HABITAT.— The term "estuary habitat" means the physical, biological, and chemical elements associated with an estuary, including the complex of physical and hydrologic features and living organisms within the estuary and associated ecosystems.
- (4) ESTUARY HABITAT RESTORATION ACTIVITY.—
 - (A) IN GENERAL.— The term "estuary habitat restoration activity" means an activity that results in improving degraded estuaries or estuary habitat or creating estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining system integrated into the surrounding landscape.
 - (B) INCLUDED ACTIVITIES.— The term "estuary habitat restoration activity" includes—
 - (i) the reestablishment of chemical, physical, hydrologic, and biological features and components associated with an estuary;
 - (ii) except as provided in subparagraph (C), the cleanup of pollution for the benefit of estuary habitat;
 - (iii) the control of nonnative and invasive species in the estuary;
 - (iv) the reintroduction of species native to the estuary, including through such means as planting or promoting natural succession;
 - (v) the construction of reefs to promote fish and shellfish production and to provide estuary habitat for living resources; and (vi) other activities that improve estuary habitat.
 - (C) EXCLUDED ACTIVITIES.— The term "estuary habitat restoration activity" does not include an activity that—
 - (i) constitutes mitigation required under any Federal or State law for the adverse effects of an activity regulated or otherwise governed by Federal or State law; or
 - (ii) constitutes restoration for natural resource damages required under any Federal or State law.
- (5) ESTUARY HABITAT RESTORATION PROJECT.— The term "estuary habitat restoration project" means a project to carry out an estuary habitat restoration activity.
- (6) ESTUARY HABITAT RESTORATION PLAN.—
 - (A) IN GENERAL.— The term "estuary habitat restoration plan" means any Federal, State, or regional plan for restoration of degraded

estuary habitat that was developed with the substantial participation of appropriate public and private stakeholders.

(B) INCLUDED PLANS AND PROGRAMS.— The term “estuary habitat restoration plan” includes estuary habitat restoration components of —

(i) a comprehensive conservation and management plan approved under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(ii) a lakewide management plan or remedial action plan developed under section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268);

(iii) a management plan approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

(iv) the interstate management plan developed pursuant to the Chesapeake Bay program under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267).

(7) INDIAN TRIBE.— The term “Indian tribe” has the meaning given such term by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) NON-FEDERAL INTEREST.— The term “non-Federal interest” means a State, a political subdivision of a State, an Indian tribe, a regional or interstate agency, or, as provided in section 104(f)(2), a nongovernmental organization.

(9) SECRETARY.— The term “Secretary” means the Secretary of the Army.

(10) STATE.— The term “State” means the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, and Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and Guam.

SEC. 104. ESTUARY HABITAT RESTORATION PROGRAM.

(a) ESTABLISHMENT.— There is established an estuary habitat restoration program under which the Secretary may carry out estuary habitat restoration projects and provide technical assistance through the award of contracts and cooperative agreements in accordance with the requirements of this title.

(b) ORIGIN OF PROJECTS.— A proposed estuary habitat restoration project shall originate from a non-Federal interest consistent with State or local laws.

(c) SELECTION OF PROJECTS.—

(1) IN GENERAL.— The Secretary shall select estuary habitat restoration projects from a list of project proposals submitted by the Estuary Habitat Restoration Council under section 105(b).

(2) REQUIRED ELEMENTS.— Each estuary habitat restoration project selected by the Secretary must —

(A) address restoration needs identified in an estuary habitat restoration plan;

(B) be consistent with the estuary habitat restoration strategy developed under section 106;

(C) include a monitoring plan that is consistent with standards for monitoring developed under section 107 to ensure that short-term and long-term restoration goals are achieved; and

(D) include satisfactory assurance from the non-Federal interests proposing the project that the non-Federal interests will have adequate personnel, funding, and authority to carry out items of local cooperation and properly maintain the project.

(3) FACTORS FOR SELECTION OF PROJECTS.— In selecting an estuary habitat restoration project, the Secretary shall consider the following factors:

(A) Whether the project is part of an approved Federal or State estuary management or habitat restoration plan.

(B) The technical feasibility of the project.

(C) The scientific merit of the project.

(D) Whether the project will encourage increased coordination and cooperation among Federal, State, and local government agencies.

(E) Whether the project fosters public-private partnerships and uses Federal resources to encourage increased private sector involvement, including consideration of the amount of private funds or in-kind contributions for an estuary habitat restoration activity.

(F) Whether the project is cost-effective.

(G) Whether the State in which the non-Federal interest is proposing the project has a dedicated source of funding to acquire or restore estuary habitat, natural areas, and open spaces for the benefit of estuary habitat restoration or protection.

(H) Other factors that the Secretary determines to be reasonable and necessary for consideration.

(4) PRIORITY.— In selecting estuary habitat restoration projects to be carried out under this title, the Secretary shall give priority consideration to a project if, in addition to meriting selection based on the factors under paragraph (3) —

(A) the project occurs within a watershed in which there is a program being carried out that addresses sources of pollution and other activities that otherwise would re-impair the restored habitat; or

(B) the project includes pilot testing of or a demonstration of an innovative technology or approach having the potential for improved cost-effectiveness in estuary habitat restoration.

(d) COST SHARING—

(1) FEDERAL SHARE.—

(A) IN GENERAL.— Except as provided in paragraph (2) and subsection (e)(2), the Federal share of the cost of an estuary habitat restoration project (other than the cost of operation and maintenance of the project) carried out under this title shall not exceed 65 percent of such cost.

(B) MONITORING.—

(i) COSTS.— The costs of monitoring an estuary habitat restoration project funded under this title may be included in the total cost of the estuary habitat restoration project.

(ii) GOALS.— The goals of the monitoring shall be—

(I) to measure the effectiveness of the restoration project; and

(II) to allow adaptive management to ensure project success.

(2) INNOVATIVE TECHNOLOGY OR APPROACH COSTS.— The Federal share of the incremental additional cost of including in a project pilot testing of or a demonstration of an innovative technology described in subsection (c)(4)(B) shall be 85 percent.

(3) NON-FEDERAL SHARE.— The non-Federal share of the cost of an estuary habitat restoration project carried out under this title shall include lands, easements, rights-of-way, and relocations and may include services (including monitoring), or any other form of in-kind contribution determined by the Secretary to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the activity.

(4) OPERATION AND MAINTENANCE.— The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(e) INTERIM ACTIONS.—

(1) IN GENERAL.— Pending completion of the estuary habitat restoration strategy to be developed under section 106, the Secretary may take interim actions to carry out an estuary habitat restoration activity.

(2) FEDERAL SHARE.— The Federal share of the cost of an estuary habitat restoration activity before the completion of the estuary habitat restoration strategy shall not exceed 25 percent of such cost.

(f) COOPERATION OF NON-FEDERAL INTERESTS.—

(1) IN GENERAL.— The Secretary may not carry out an estuary habitat restoration project until a non-Federal interest has entered into a written agreement with the Secretary in which the non-Federal interest agrees to —

(A) provide all lands, easements, rights-of-way, and relocations and any other elements the Secretary determines appropriate under subsection (d)(3); and

(B) provide for long-term maintenance and monitoring of the project.

(2) NONGOVERNMENTAL ORGANIZATIONS.— Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project to be undertaken under this title, the Secretary, in consultation and coordination with appropriate State and local governmental agencies and Indian tribes, may allow a nongovernmental organization to serve as the non-Federal interest for the project.

(g) DELEGATION OF PROJECT IMPLEMENTATION.—

(1) IN GENERAL.— In carrying out this title, the Secretary may delegate project implementation to another Federal department or agency on a reimbursable basis if the Secretary, upon the recommendation of the Council, determines such delegation is appropriate.

(2) SMALL PROJECTS.—

(A) SMALL PROJECT DEFINED.— In this paragraph, the term “small project” means a project carried out under this title with an estimated Federal cost of less than \$1,000,000.

(B) DELEGATION OF PROJECT IMPLEMENTATION.— In carrying out this section, the Secretary, on recommendation of the Council, may delegate implementation of a small project to—

(i) the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service);

(ii) the Under Secretary for Oceans and Atmosphere of the Department of Commerce;

(iii) the Administrator of the Environmental Protection Agency; or

(iv) The Secretary of Agriculture.

(C) FUNDING.— A small project delegated to the head of a Federal department or agency under this paragraph may be carried out using funds appropriated to the department or agency under section 109(a)(1) or other funds available to the department or agency.

(D) AGREEMENTS.— The head of a Federal department or agency to which a small project is delegated under this paragraph shall enter into an agreement with the non-Federal interest for the project generally in conformance with the criteria in subsections (d) and (e).

Cooperative agreements may be used for any delegated project to allow the non-Federal interest to carry out the project on behalf of the Federal agency.

SEC. 105. ESTABLISHMENT OF ESTUARY HABITAT RESTORATION COUNCIL.

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

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

(1) soliciting, reviewing, and evaluating project proposals and developing recommendations concerning such proposals based on the factors specified in section 104(c)(3);

(2) submitting to the Secretary a list of recommended projects, including a recommended priority order and any recommendation as to whether a project should be carried out by the Secretary or by another Federal department or agency under section 104(g);

(3) developing and transmitting to Congress a national strategy for restoration of estuary habitat;

(4) periodically reviewing the effectiveness of the national strategy in meeting the purposes of this title and, as necessary, updating the national strategy;

(5) providing advice on the development of the database, monitoring standards, and report required under sections 107 and 108;

(6) cooperating in the implementation of the strategy developed under section 106;

(7) recommending standards for monitoring for restoration projects and contribution of project information to the database developed under section 107; and

(8) otherwise using the respective agency authorities of the Council members to carry out this title.

(c) MEMBERSHIP.— The Council shall be composed of the following members:

(1) The Secretary (or the Secretary's designee).

(2) The Under Secretary for Oceans and Atmosphere of the Department of Commerce (or the Under Secretary's designee).

(3) The Administrator of the Environmental Protection Agency (or the Administrator's designee).

(4) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service (or such Secretary's designee).

(5) The Secretary of Agriculture (or such Secretary's designee).

(6) The head of any other Federal agency designated by the President to serve as an ex officio member of the Council.

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

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

(f) CONVENING OF COUNCIL.—

(1) FIRST MEETING.— The Secretary shall convene the first meeting of the Council not later than 60 days after the date of enactment of this Act for the purpose of electing a chairperson.

(2) ADDITIONAL MEETINGS.— The chairperson shall convene additional meetings of the Council as often as appropriate to ensure that this title is fully carried out, but not less often than annually.

(g) COUNCIL PROCEDURES.— The Council shall establish procedures for voting, the conduct of meetings, and other matters, as necessary.

(h) PUBLIC PARTICIPATION.— Meetings of the Council shall be open to the public. The Council shall provide notice to the public of such meetings.

(i) ADVICE.— The Council shall consult with persons with recognized scientific expertise in estuary or estuary habitat restoration, representatives of State agencies, local or regional government agencies, and nongovernmental organizations with expertise in estuary or estuary habitat restoration, and representatives of Indian tribes, agricultural interests, fishing interests, and other estuary users—

(1) to assist the Council in the development of the estuary habitat restoration strategy to be developed under section 106; and

(2) to provide advice and recommendations to the Council on proposed estuary habitat restoration projects, including advice on the scientific merit, technical merit, and feasibility of a project.

SEC. 106. ESTUARY HABITAT RESTORATION STRATEGY.

(a) IN GENERAL.— Not later than 1 year after the date of enactment of this Act, the Council, shall develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects and to foster the coordination of Federal and non-Federal activities related to restoration of estuary habitat.

(b) GOAL.— The goal of the strategy shall be the restoration of 1,000,000 acres of estuary habitat by the year 2010.

(c) INTEGRATION OF ESTUARY HABITAT RESTORATION PLANS, PROGRAMS, AND PARTNERSHIPS.— In developing the estuary habitat restoration strategy, the Council shall—

(1) conduct a review of estuary management or habitat restoration plans and Federal programs established under other laws that authorize funding for estuary habitat restoration activities; and

(2) ensure that the estuary habitat restoration strategy is developed in a manner that is consistent with the estuary management or habitat restoration plans.

(d) ELEMENTS OF STRATEGY.— The estuary habitat restoration strategy shall include proposals, methods, and guidance on —

(1) maximizing the incentives for the creation of new public-private partnerships to carry out estuary habitat restoration projects and the use of Federal resources to encourage increased private sector involvement in estuary habitat restoration activities;

(2) ensuring that the estuary habitat restoration strategy will be implemented in a manner that is consistent with the estuary management or habitat restoration plans;

(3) promoting estuary habitat restoration projects to—

(A) provide healthy ecosystems in order to support —

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

and

(ii) fish and shellfish, including commercial and recreational fisheries;

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

(C) provide outdoor recreation; and

(D) address other areas of concern that the Council determines to be appropriate for consideration;

(4) addressing the estimated historic losses, estimated current rate of loss, and extent of the threat of future loss or degradation of each type of estuary habitat;

(5) measuring the rate of change for each type of estuary habitat;

(6) selecting a balance of smaller and larger estuary habitat restoration projects; and

(7) ensuring equitable geographic distribution of projects funded under this title.

(e) PUBLIC REVIEW AND COMMENT.— Before the Council adopts a final or revised estuary habitat restoration strategy, the Secretary shall publish in the Federal Register a draft of the estuary habitat restoration strategy and provide an opportunity for public review and comment.

(f) PERIODIC REVISION.— Using data and information developed through project monitoring and management, and other relevant information, the Council may periodically review and update, as necessary, the estuary habitat restoration strategy.

SEC. 107. MONITORING OF ESTUARY HABITAT RESTORATION PROJECTS.

(a) UNDER SECRETARY.— In this section, the term “Under Secretary” means the Under Secretary for Oceans and Atmosphere of the Department of Commerce.

(b) DATABASE OF RESTORATION PROJECT INFORMATION.— The Under Secretary, in consultation with the Council, shall develop and maintain an appropriate database of information concerning estuary habitat restoration projects carried out under this title, including information on project techniques, project completion, monitoring data, and other relevant information.

(c) MONITORING DATA STANDARDS.— The Under Secretary, in consultation with the Council, shall develop standard data formats for monitoring projects, along with requirements for types of data collected and frequency of monitoring.

(d) COORDINATION OF DATA.— The Under Secretary shall have general data compilation, coordination, and analysis responsibilities to carry out this title and in support of the strategy developed under this section, including compilation of information that pertains to estuary habitat restoration projects from other Federal, State, and local sources and that meets the quality control requirements and data standards established under this section.

(e) USE OF EXISTING PROGRAMS.— The Under Secretary shall use existing programs within the National Oceanic and Atmospheric Administration to create and maintain the database required under this section.

(f) PUBLIC AVAILABILITY.— The Under Secretary shall make the information collected and maintained under this section available to the public.

SEC. 108. REPORTING.

(a) IN GENERAL.— Not later than September 30, 2008, and every 2 years thereafter, the Secretary, after considering the advice and recommendations of the Council, shall transmit to Congress a report on the results of activities carried out under this title.

(b) CONTENTS OF REPORT.— A report under subsection (a) shall include —

(1) data on the number of acres of estuary habitat restored under this title, including descriptions of, and partners involved with, projects selected, in progress, and completed under this title that comprise those acres;

(2) information from the database established under section 107(b) related to ongoing monitoring of projects to ensure that short-term and

long-term restoration goals are achieved;

- (3) an estimate of the long-term success of varying restoration techniques used in carrying out estuary habitat restoration projects;
- (4) a review of how the information described in paragraphs (1) through (3) has been incorporated in the selection and implementation of estuary habitat restoration projects;
- (5) a review of efforts made to maintain an appropriate database of restoration projects carried out under this title; and
- (6) a review of the measures taken to provide the information described in paragraphs (1) through (3) to persons with responsibility for assisting in the restoration of estuary habitat.

SEC. 109. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) **ESTUARY HABITAT RESTORATION PROJECTS.**— There is authorized to be appropriated for carrying out and providing technical assistance for estuary habitat restoration projects —

- (A) to the Secretary, \$25,000,000 for each of fiscal years 2008 through 2012;
- (B) to the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service) \$2,500,000 for each of fiscal years 2008 through 2012;
- (C) to the Under Secretary for Oceans and Atmosphere of the Department of Commerce, \$2,500,000 for each of fiscal years 2008 through 2012;
- (D) to the Administrator of the Environmental Protection Agency, \$2,500,000 for each of fiscal years 2008 through 2012; and
- (E) to the Secretary of Agriculture, \$2,500,000 for each of fiscal years 2008 through 2012. Such sums shall remain available until expended.

(2) **MONITORING.**— There is authorized to be appropriated to the Under Secretary for Oceans and Atmosphere of the Department of Commerce for the acquisition, maintenance, and management of monitoring data on restoration projects carried out under this title and other information compiled under section 107, \$1,500,000 for each of fiscal years 2001 through 2012. Such sums shall remain available until expended.

(b) **SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF THE COUNCIL.**— Not to exceed 3 percent of the amounts appropriated for a fiscal year under subsection (a)(1) or \$1,500,000, whichever is greater, may be used by the Secretary for administration and operation of the Council.

SEC. 110. GENERAL PROVISIONS.

(a) **AGENCY CONSULTATION AND COORDINATION.** —In carrying out this title, the Secretary shall, as necessary, consult with, cooperate with, and coordinate its activities with the activities of other Federal departments and agencies.

(b) **COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.**— In carrying out this title, the Secretary may —

- (1) enter into cooperative agreements or contracts with Federal, State, and local government agencies, nongovernmental organizations, and other entities; and
- (2) execute such memoranda of understanding as are necessary to reflect the agreements.

(c) **FEDERAL AGENCY FACILITIES AND PERSONNEL.**— Federal agencies may cooperate in carrying out scientific and other programs necessary to carry out this title, and may provide facilities and personnel, for the purpose of assisting the Council in carrying out its duties under this title.

THE FREEDOM OF INFORMATION ACT

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552

§ 552. Public Information; Agency Rules, Opinions, Orders, Records, And Proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

- (A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
- (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
- (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
- (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
- (E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

- (A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;
- (C) administrative staff manuals and instructions to staff that affect a member of the public;
- (D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
- (E) a general index of the records referred to under subparagraph (D); unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—
 - (i) it has been indexed and either made available or published as provided by this paragraph; or
 - (ii) the party has actual and timely notice of the terms thereof.

(3)

(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which

- (i) reasonably describes such records and
- (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.

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h agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a (4))) shall not make any record available under this paragraph to—

(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

(ii) a representative of a government entity described in clause (i).

(4)

(A)

(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that—

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

In this clause, the term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(viii) An agency shall not assess search fees (or in the case of a requester described under clause (i)(11), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

[(D) Repealed. Pub. L. 98-620, title IV, § 402(2), Nov. 8, 1984, 98 Stat. 3357.]

(E)

(i) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

(I) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

(F)

(i) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(ii) The Attorney General shall—

(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period.

(B)

(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests—

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)

(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)

(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or

both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)

(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records—

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure—

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term “compelling need” means—

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person’s knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(7) Each agency shall—

(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

(i) the date on which the agency originally received the request; and

(ii) an estimated date on which the agency will complete action on the request.

(b) This section does not apply to matters that are—

(1)

(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

- (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information

- (A) could reasonably be expected to interfere with enforcement proceedings,
- (B) would deprive a person of a right to a fair trial or an impartial adjudication,
- (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
- (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,
- (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or
- (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.

(c)

(1) Whenever a request is made which involves access to records described in subsection (b) (7)(A) and—

- (A) the investigation or proceeding involves a possible violation of criminal law; and
- (B) there is reason to believe that
 - (i) the subject of the investigation or proceeding is not aware of its pendency, and
 - (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b) (1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)

(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include—

- (A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;
- (B)
 - (i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and
 - (ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), the number of occasions on which each statute was relied upon, a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;
- (C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median and average number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests, based on the date on which the requests were received by the agency;

(F) the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

(G) based on the number of business days that have elapsed since each request was originally received by the agency—

(i) the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

(ii) the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

(iii) the number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days; and

(iv) the number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

(H) the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

(I) the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

(N) the total amount of fees collected by the agency for processing requests; and

(O) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.

(3) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means. In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.

(4) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(6) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term—

(1) “agency” as defined in section 551 (1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) “record” and any other term used in this section in reference to information includes—

(A) any information that would be an agency record subject to the requirements of this section when maintained

by an agency in any format, including an electronic format; and

(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including—

- (1)** an index of all major information systems of the agency;
- (2)** a description of major information and record locator systems maintained by the agency; and
- (3)** a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

(h)

(1) There is established the Office of Government Information Services within the National Archives and Records Administration.

(2) The Office of Government Information Services shall—

- (A)** review policies and procedures of administrative agencies under this section;
- (B)** review compliance with this section by administrative agencies; and
- (C)** recommend policy changes to Congress and the President to improve the administration of this section.

(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.

(j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

- (1)** have agency-wide responsibility for efficient and appropriate compliance with this section;
- (2)** monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing this section;
- (3)** recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section;
- (4)** review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing this section;
- (5)** facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and
- (6)** designate one or more FOIA Public Liaisons.

(l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Proposed Information Collection; Comment Request; National Estuaries Restoration Inventory**

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 31, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Perry Gayaldo, (301) 713-0174 or Perry.Gayaldo@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Collection of estuary habitat restoration project information (e.g., location, habitat type, goals, status, monitoring information) is in process in order to continue to populate a restoration project database mandated by the Estuary Restoration Act (ERA) of 2000. The National Estuaries Restoration Inventory (NERI) contains information for estuary habitat restoration projects funded through the ERA as well as non-ERA project data that meet quality control requirements and data standards established under the Act. The database provides information to improve restoration methods, provides the basis for required reports to Congress, and tracks estuary habitat acreage restored. It is accessible to the public via the Internet for data queries and project reports. Recipients of ERA funds are required to submit specific information on habitat restoration projects into the NERI database through an interactive Web site available over the Internet (<https://neri.noaa.gov/>). The projects that are not funded through the ERA can be

voluntarily entered into the database by project managers. Other Federal agencies and private grant programs may also require recipients to enter project information in the NERI database.

II. Method of Collection

Project managers will electronically submit estuary restoration project information via NOAA's National Estuaries Restoration Inventory (NERI) Web site. The Web site contains a user-friendly data entry interface for project managers to enter and submit project information to the NERI database. To facilitate the collection of information through the data entry interface, NOAA's National Marine Fisheries Service (NMFS) provides worksheets containing database fields that can be downloaded and printed from the Web site. These worksheets can be used by project managers to guide information collection, and can then serve as a reference as project managers enter project information through the Web site. The reporting forms are also available in paper format to be sent to project managers as necessary.

III. Data

OMB Control Number: 0648-0479.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; State, local, and tribal governments; and businesses or other for-profit organizations.

Estimated Number of Respondents: 115.

Estimated Time per Response: Four hours for new projects submitted, with an estimated 70 new projects to be submitted annually. This includes approximately three hours for collecting project information and writing the project abstract and one hour for entering information into the database. For existing projects, two hours are expected for updates, with an estimated 50 projects to be updated annually. Information originally collected and submitted for a project does not need to be collected again to update the project.

Estimated Total Annual Burden Hours: 380 hours.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 27, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-12641 Filed 5-29-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**International Trade Administration****Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review**

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, *telephone:* (202) 482-4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213 (2008) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and