

GRAVLA\_032 REVISED

Amendment to HR 5303

SEC. XXX. ENVIRONMENTAL BANKS.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Chairperson of the Gulf Coast Ecosystem Restoration Council, with the concurrence of two-thirds of the Council, shall issue such regulations as are necessary for the establishment of procedures and processes for the use, maintenance, and oversight of environmental banks for purposes of mitigating adverse environmental impacts sustained by construction or other activities permitted pursuant to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or any other environmental remediation program under law.

(b) REQUIREMENTS.—The regulations issued pursuant to subsection (a) shall—

(1) set forth procedures for certification of environmental banks, including criteria for adoption of an environmental banking instrument;

(2) provide a mechanism for the transfer of environmental credits;

(3) provide for priority certification to environmental banks that enhance the resilience of coastal resources to inundation and coastal erosion, including the restoration of resources within the scope of a project authorized for construction;

(4) ensure certification is given only to banks with secured adequate financial assurance and appropriate legally-enforceable protection for restored lands or resources;

(5) stipulate conditions under which cross-crediting of environmental services may occur and provide standards for the conversion of such crediting;

(6) establish performance criteria for environmental banks;

(7) establish criteria for the operation and monitoring of environmental banks; and

(8) establish a framework whereby the purchase of credit from an environmental bank may be used to offset or satisfy past, current, or future adverse environmental impacts or liability under law to wetlands, water, wildlife or other natural resource.

(c) CONSIDERATION.—In developing the regulations required under subsection (a), the Chairperson shall take into consideration—

(1) the procedures and requirements of the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks issued on November 28, 1995 (60 Fed. Reg 58605); and

(2) habitat equivalency analysis.

(d) MODIFICATIONS.—The Chairperson may modify or update the regulations issued pursuant to this section, subject to appropriate consultation and public participation, provided that two-thirds of the Gulf Coast Ecosystem Restoration Council approves the modification or update.

(e) DEFINITION OF ENVIRONMENTAL BANK.—In this section, the term “environmental bank” means a project, project increment, or projects for purposes of restoring, creating, enhancing, or preserving natural resources in a designated site to provide for credits to offset adverse environmental impacts.

(f) SAVINGS CLAUSE.—Nothing in this amendment –

(1) affects the requirements of section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283); or

(2) affects the obligations or requirements of any Federal environmental law.