

117TH CONGRESS
1ST SESSION

H. R. 3906

To establish a Blue Carbon program to conserve and restore marine and coastal blue carbon ecosystems, and other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2021

Mr. HUFFMAN (for himself, Mr. CLEAVER, Mr. GRIJALVA, Ms. BONAMICI, Ms. MATSUI, Mr. COHEN, Mr. MCGOVERN, Ms. NORTON, and Mr. CASE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Blue Carbon program to conserve and restore marine and coastal blue carbon ecosystems, and other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Blue Carbon Protec-
5 tion Act”.

1 **SEC. 2. BLUE CARBON PROGRAM.**

2 (a) ESTABLISHMENT.—The Administrator shall es-
3 tablish and maintain a Blue Carbon Program within the
4 National Oceanic and Atmospheric Administration for the
5 purposes of furthering conservation objectives for fish and
6 wildlife habitat conservation and restoration and coastal
7 resilience including the development of ways to incorporate
8 ecosystem services from carbon storage into existing do-
9 mestic and international policies, programs, and activities.

10 (b) ADDITIONAL AUTHORITY.—In conducting the
11 Program, the Administrator may enter into and perform
12 such contracts, leases, grants, or cooperative agreements
13 as may be necessary to carry out the purposes of this sub-
14 title on such terms as Administrator considers appro-
15 priate.

16 (c) ACTIVITIES.—The Administrator shall conduct
17 the following activities:

18 (1) Collaborate with Federal agencies, State
19 agencies, Tribes, and non-governmental organiza-
20 tions on research, restoration, and protection efforts
21 relating to blue carbon ecosystems.

22 (2) Develop a database of blue carbon stocks
23 and fluxes in the United States.

24 (3) Assist in exploration of the potential for a
25 market for carbon credits and other financial instru-
26 ments for protection and restoration initiatives, in-

1 including research, development of protocols, and eval-
2 uation of protocols and the efficacy of blue carbon
3 markets as a tool for protecting ecosystems.

4 (4) Raise awareness of blue carbon ecosystems
5 as a tool to further conservation objectives through
6 education and extension activities.

7 (5) Use existing models or develop new models
8 to assess blue carbon storage potential that include
9 quantification, verifiability, additionality as com-
10 pared to a historical baseline, and permanence of
11 those benefits.

12 (6) Quantify current total and net ecosystem
13 carbon storage and sequestration in coastal and ma-
14 rine areas.

15 (7) Project future total and net ecosystem car-
16 bon storage and sequestration under different sce-
17 narios influenced by human population growth, sea
18 level rise, and other system-wide changes.

19 (8) Protect and restore habitats, waters, and
20 organisms that are long-term carbon sinks or will be
21 subject to habitat change as a result of climate
22 change and development.

23 (9) Quantify co-benefits of blue carbon eco-
24 systems, including flood risk reduction, habitat pro-
25 tection and restoration for endangered and threat-

1 ened species, habitat protection and restoration for
2 commercial and recreational fisheries, water quality
3 improvements, habitat maintenance and restoration,
4 cycling of nutrients other than carbon, commercial
5 and recreational fishing and boating benefits.

6 (10) Assess regional and national ecosystem
7 and socioeconomic impacts of carbon sequestration
8 and storage.

9 (11) Research variability, long-term storage,
10 and innovative techniques for effective, long-term,
11 natural ocean or coastal ecosystem-based carbon se-
12 questration.

13 (12) Identify areas of particularly high rates of
14 carbon sequestration and storage.

15 (13) Assess legal issues of landownership and
16 leases in blue carbon markets, and develop guide-
17 lines to help landowners navigate the requirements
18 of such markets.

19 **SEC. 3. BLUE CARBON PARTNERSHIP GRANT PROGRAM.**

20 (a) ESTABLISHMENT.—The Administrator shall es-
21 tablish a competitive grant program entitled the “Blue
22 Carbon Partnership Grant Program” to, beginning not
23 later than 2 years after the date of enactment of this Act,
24 provide funds to eligible entities for projects that protect
25 and restore blue carbon stocks, oceanic blue carbon, and

1 blue carbon ecosystems and increase the long-term carbon
2 storage and sequestration.

3 (b) ELIGIBLE RECIPIENTS.—A person or entity is eli-
4 gible to receive a grant under the grant program if such
5 person is—

6 (1) a voluntary private landowner or group of
7 landowners;

8 (2) a State agency responsible for managing
9 natural resources or wildlife;

10 (3) an Indian Tribe;

11 (4) a unit of local government;

12 (5) a nonprofit organization or land trust;

13 (6) an institution of higher education and re-
14 search; or

15 (7) any group of entities described in para-
16 graphs (1) through (6).

17 (c) REQUIREMENTS.—In administering the grant
18 program under this section, the Secretary shall develop
19 criteria for the selection of recipients, guidelines for use
20 of grant funds and any contracts relating to the use of
21 such funds, reporting requirements for recipients, and
22 metrics for evaluating the effectiveness of the use of grant
23 funds.

24 (d) SELECTION CRITERIA.—In evaluating applica-
25 tions for the program from eligible entities, the Adminis-

1 trator shall give priority to proposed eligible protection
2 and restoration activities that—

3 (1) would result in long-term protection and se-
4 questration of carbon stored in coastal and marine
5 environments; and

6 (2)(A) would protect key habitats for fish, wild-
7 life, and the maintenance of biodiversity;

8 (B) would provide coastal protection from devel-
9 opment, storms, flooding, and land-based pollution;

10 (C) would protect coastal resources of national,
11 historical, and cultural significance;

12 (D) would benefit communities of color, low-in-
13 come communities, Tribal or Indigenous commu-
14 nities, or rural communities; or

15 (E) would capitalize on existing established
16 public/private partnerships.

17 (e) REPORT TO CONGRESS.—

18 (1) REPORT REQUIRED.—The Administrator
19 shall submit annually to Congress a report con-
20 taining a State-by-State analysis of—

21 (A) the total number of acres of land or
22 water protected or restored through fee title ac-
23 quisition, easement, restoration or other activi-
24 ties under the program;

1 (B) the status of restoration projects
2 under this program; and

3 (C) the amount of blue carbon captured or
4 protected over a 100-year time period as a re-
5 sult of this program.

6 (2) PUBLICATION OF REPORT.—The Adminis-
7 trator shall make available to the public each report
8 required by paragraph (1).

9 (f) ACREAGE REQUIREMENTS.—To the maximum ex-
10 tent practicable, the Secretary of Commerce shall award
11 grants under the grant program to conduct blue carbon
12 ecosystem protection and restoration on 1,500,000 acres
13 over 10 years.

14 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Administrator
16 \$300,000,000 for each of the fiscal years 2022 to 2026
17 to carry out this section.

18 **SEC. 4. BLUE CARBON AREAS OF SIGNIFICANCE.**

19 (a) DESIGNATION.—The Administrator, consistent
20 with this section, shall designate as a blue carbon area
21 of significance any area that is—

22 (1) in the coastal zone (as such term is defined
23 in section 304 of the Coastal Zone Management Act
24 of 1972 (16 U.S.C. 1453)), in territorial waters of
25 the United States, or in the exclusive economic zone;

1 (2) the location of water, a substrate, or an eco-
2 system that—

3 (A) provides for long-term storage and se-
4 questration of significant amounts of ecosystem
5 carbon; and

6 (B)(i) limits erosion and facilitates future
7 landward migration;

8 (ii) provides a buffer against storm surge,
9 especially for communities of color, low-income
10 communities, and Tribal and Indigenous com-
11 munities; or

12 (iii) provides a spawning, breeding, feed-
13 ing, or nesting habitat for wildlife; and

14 (3) not exclusive of coastal or other resources
15 that are significant in for mitigating or adapting to
16 climate change.

17 (b) GUIDELINES.—The Administrator shall, not later
18 than 1 year after the date of enactment of this Act, estab-
19 lish by regulation guidelines based on the best available
20 science to describe and identify blue carbon areas of sig-
21 nificance and measures to ensure the protection of blue
22 carbon areas of significance.

23 (c) REVIEW AND UPDATE.—The Administrator shall
24 review and update guidelines established under subsection

1 (b) not less frequently than once every 5 years or when
2 new information warrants such an update.

3 (d) SCHEDULE.—The Administrator shall establish a
4 schedule for the identification of blue carbon areas of sig-
5 nificance under subsection (b) and for reviews and updates
6 under subsection (c), and shall make initial designations
7 of a blue carbon area of significance in each coastal State
8 not later than 1 year after the date of enactment of this
9 Act.

10 (e) RECOMMENDATIONS AND INFORMATION.—The
11 Administrator shall, with respect to each coastal carbon
12 area of significance, provide recommendations and infor-
13 mation regarding the adverse impacts and threats to the
14 carbon storage, ecosystem services, and habitat capacity
15 of the area, and the actions that should be considered to
16 avoid adverse impacts and ensure the conservation and en-
17 hancement of that area.

18 (f) PROGRAMS ADMINISTERED BY THE SECRETARY
19 OF COMMERCE.—The Administrator shall use programs
20 administered by the Secretary of Commerce to carry out
21 this section and ensure the conservation and enhancement
22 of each blue carbon area of significance.

23 (g) REQUIREMENTS FOR FEDERAL ACTIONS.—With
24 respect to any proposed agency action that has the poten-
25 tial to cause an adverse impact on the carbon storage, car-

1 bon sequestration, ecosystem services, or habitat capacity
2 of any blue carbon area of significance, each Federal agen-
3 cy shall comply with the following requirements:

4 (1) NOTIFICATION.—Such Federal agency shall
5 notify the Administrator of such proposed agency ac-
6 tion.

7 (2) DETERMINATION OF ADVERSE IMPACT.—
8 The Administrator, in consultation with the pro-
9 posing agency and subject to public comment, shall
10 determine whether the proposed agency action will
11 cause an adverse impact on the carbon storage, car-
12 bon sequestration, ecosystem, or habitat of a blue
13 carbon area of significance.

14 (3) ALTERNATIVE.—With respect to any pro-
15 posed action the Administrator determines will have
16 an adverse impact under paragraph (2), the pro-
17 posing agency, in consultation with the Adminis-
18 trator, shall determine whether there is an alter-
19 native action that would prevent such adverse im-
20 pact and fulfill the purpose of the proposed action.
21 The proposing agency shall not take an action that
22 would cause an adverse impact if an alternative that
23 would not cause such adverse impact is available and
24 would fulfill the purpose of such action.

1 (4) CARBON STORAGE OFFSETS.—With respect
2 to a proposed action for which the agency deter-
3 mines no alternative is available under paragraph
4 (3), the proposing agency shall—

5 (A) in consultation with the Administrator,
6 take measures to mitigate such adverse impact;

7 (B) take such action as the Administrator
8 determines necessary to create a coastal or ma-
9 rine blue carbon ecosystem storage offset that,
10 taken in conjunction with the proposed action,
11 results in a long term net increase in carbon
12 storage, lasting an equivalent time period as the
13 carbon storage lost by the adverse impact;

14 (C) demonstrate quantitatively, using the
15 best available science, that the carbon storage
16 offset will result in a net increase in ecological
17 carbon storage and is located in close proximity
18 to the original site to keep the affected commu-
19 nities whole;

20 (D) maintain such carbon storage offset
21 for a period of time to be determined by the
22 Administrator but not less than 100 years; and

23 (E) publish the agency’s proposed course
24 of mitigation in the Federal Register for public
25 notice and comment.

1 (h) REQUIREMENT FOR AUTHORIZATION OR APPRO-
2 PRIATION.—Any requests for a new authorization or ap-
3 propriation from a Federal agency transmitted to the Of-
4 fice of Management and Budget shall include, if such au-
5 thorization or appropriation may affect a coastal carbon
6 area of significance, a certification that such agency will
7 use such authorization or appropriation in compliance
8 with this section.

9 (i) REQUIRED RESTRICTIONS.—A Federal agency
10 may not enter into a lease, easement, right-of-way, or sale
11 of any land designated as a blue carbon area of signifi-
12 cance unless such agency attaches appropriate restrictions
13 to the use of the property to protect the blue carbon area
14 of significance.

15 (j) EXCEPTION.—Preparation, revision, implementa-
16 tion, or enforcement of a fishery management plan under
17 the Magnuson-Stevens Fishery Conservation and Manage-
18 ment Act (16 U.S.C. 1801 et seq.) that applies to area
19 that is subject to a prohibition on all bottom-tending fish-
20 ing gear shall not be treated as an action that is subject
21 to subsection (g).

22 (k) RULES OF CONSTRUCTION.—Nothing in this Act
23 shall be construed to affect the application of the require-
24 ments of section 404 of the Clean Water Act (33 U.S.C.

1 1344), the National Environmental Policy Act, or any reg-
2 ulations issued under any such section or such Act.

3 **SEC. 5. FEDERAL COASTAL AND MARINE BLUE CARBON**
4 **RESTORATION AND PROTECTIONS; FUNDING.**

5 (a) IN GENERAL.—The Secretary of the Interior shall
6 conduct coastal and marine restoration and protection ac-
7 tivities on land and water managed by the Director of the
8 United States Fish and Wildlife Service or the Director
9 of the National Park Service; and the Administrator shall
10 conduct coastal and marine restoration and protection ac-
11 tivities on land and water managed by the Administrator
12 to achieve at least 1 of the following:

13 (1) The sequestration of additional carbon diox-
14 ide through—

15 (A) the active restoration of degraded blue
16 carbon ecosystems; and

17 (B) the protection of threatened blue car-
18 bon ecosystems.

19 (2) The halting of ongoing carbon dioxide emis-
20 sions, and the resumption of the natural rate of car-
21 bon capture, through the restoration of drained
22 coastal wetlands.

23 (3) The halting of ongoing methane emissions,
24 and the resumption of the natural rate of carbon
25 storage, through the restoration of formerly tidal

1 wetland that has lost tidal connectivity and become
2 fresh wetland (commonly known as “impounded wet-
3 land”).

4 (b) FUNDING.—For each fiscal year 2022 through
5 2026, there is authorized to be appropriated—

6 (1) for blue carbon ecosystem protection and
7 restoration on land managed by the Director of the
8 United States Fish and Wildlife Service
9 \$200,000,000;

10 (2) for blue carbon ecosystem protection and
11 restoration on land managed by the Director of the
12 National Park Service \$200,000,000; and

13 (3) for blue carbon ecosystem protection and
14 restoration on land and water managed by the Ad-
15 ministrator \$200,000,000.

16 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

17 There is authorized to be appropriated to the Admin-
18 istrator \$16,000,000 for each of the fiscal years 2022 to
19 2026 to carry out this Act.

20 **SEC. 7. DEFINITIONS.**

21 In this Act—

22 (1) the term “Administrator” means the Sec-
23 retary of Commerce acting through the Adminis-
24 trator of the National Oceanic and Atmospheric Ad-
25 ministration;

1 (2) the term “blue carbon area of significance”
2 means any area designated by the Administrator
3 under section 4 as a blue carbon area of signifi-
4 cance;

5 (3) the term “blue carbon ecosystem” means
6 vegetated coastal habitats including mangroves, tidal
7 marshes, seagrasses, kelp forests, and other tidal or
8 salt-water wetlands that have the capacity to seques-
9 ter carbon from the atmosphere for a period of not
10 less than 100 years;

11 (4) the term “blue carbon stocks” means coast-
12 al and marine vegetation and underlying sediment
13 that has the capacity to sequester and store atmos-
14 pheric carbon;

15 (5) the term “carbon sequestration” means the
16 process of capturing and storing atmospheric carbon
17 dioxide;

18 (6) the term “carbon storage” means seques-
19 tered carbon that remains out of the atmosphere,
20 stored either in biogenic material or sediments; and

21 (7) the term “marine blue carbon” means the
22 sequestration of carbon in pelagic and deep sea eco-
23 systems, including in sediments and through the eco-
24 system impacts of marine wildlife.

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