

116TH CONGRESS
1ST SESSION

S. _____

To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CRAPO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Fish Habitat
5 Conservation Act of 2019”.

6 **SEC. 2. NATIONAL FISH HABITAT CONSERVATION**
7 **THROUGH PARTNERSHIPS.**

8 (a) PURPOSE.—The purpose of this section is to en-
9 courage partnerships among public agencies and other in-
10 terested parties to promote fish conservation—

1 (1) to achieve measurable habitat conservation
2 results through strategic actions of Fish Habitat
3 Partnerships that lead to better fish habitat condi-
4 tions and increased fishing opportunities by—

5 (A) improving ecological conditions;

6 (B) restoring natural processes; or

7 (C) preventing the decline of intact and
8 healthy systems;

9 (2) to establish a consensus set of national con-
10 servation strategies as a framework to guide future
11 actions and investment by Fish Habitat Partner-
12 ships;

13 (3) to broaden the community of support for
14 fish habitat conservation by—

15 (A) increasing fishing opportunities;

16 (B) fostering the participation of local
17 communities, especially young people in local
18 communities, in conservation activities; and

19 (C) raising public awareness of the role
20 healthy fish habitat play in the quality of life
21 and economic well-being of local communities;

22 (4) to fill gaps in the National Fish Habitat As-
23 sessment and the associated database of the Na-
24 tional Fish Habitat Assessment—

1 (A) to empower strategic conservation ac-
2 tions supported by broadly available scientific
3 information; and

4 (B) to integrate socioeconomic data in the
5 analysis to improve the lives of humans in a
6 manner consistent with fish habitat conserva-
7 tion goals; and

8 (5) to communicate to the public and conserva-
9 tion partners—

10 (A) the conservation outcomes produced
11 collectively by Fish Habitat Partnerships; and

12 (B) new opportunities and voluntary ap-
13 proaches for conserving fish habitat.

14 (b) DEFINITIONS.—In this section:

15 (1) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES.—The term “appropriate congressional com-
17 mittees” means—

18 (A) the Committee on Commerce, Science,
19 and Transportation and the Committee on En-
20 vironment and Public Works of the Senate; and

21 (B) the Committee on Natural Resources
22 of the House of Representatives.

23 (2) BOARD.—The term “Board” means the Na-
24 tional Fish Habitat Board established by subsection
25 (c)(1)(A).

1 (3) DIRECTOR.—The term “Director” means
2 the Director of the United States Fish and Wildlife
3 Service.

4 (4) EPA ASSISTANT ADMINISTRATOR.—The
5 term “EPA Assistant Administrator” means the As-
6 sistant Administrator for Water of the Environ-
7 mental Protection Agency.

8 (5) INDIAN TRIBE.—The term “Indian tribe”
9 has the meaning given the term in section 4 of the
10 Indian Self-Determination and Education Assistance
11 Act (25 U.S.C. 5304).

12 (6) NOAA ASSISTANT ADMINISTRATOR.—The
13 term “NOAA Assistant Administrator” means the
14 Assistant Administrator for Fisheries of the Na-
15 tional Oceanic and Atmospheric Administration.

16 (7) PARTNERSHIP.—The term “Partnership”
17 means a self-governed entity designated by Congress
18 as a Fish Habitat Partnership under subsection
19 (d)(6) after a recommendation by the Board under
20 subsection (d)(1).

21 (8) REAL PROPERTY INTEREST.—The term
22 “real property interest” means an ownership interest
23 in—

24 (A) land; or

25 (B) water (including water rights).

1 (9) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (10) STATE.—The term “State” means each of
4 the several States.

5 (11) STATE AGENCY.—The term “State agen-
6 cy” means—

7 (A) the fish and wildlife agency of a State;
8 and

9 (B) any department or division of a de-
10 partment or agency of a State that manages in
11 the public trust the inland or marine fishery re-
12 sources or sustains the habitat for those fishery
13 resources of the State pursuant to State law or
14 the constitution of the State.

15 (c) NATIONAL FISH HABITAT BOARD.—

16 (1) ESTABLISHMENT.—

17 (A) FISH HABITAT BOARD.—There is es-
18 tablished a board, to be known as the “National
19 Fish Habitat Board”, whose duties are—

20 (i) to promote, oversee, and coordinate
21 the implementation of this section;

22 (ii) to establish national goals and pri-
23 orities for fish habitat conservation;

24 (iii) to recommend to Congress enti-
25 ties for designation as Partnerships; and

1 (iv) to review and make recommenda-
2 tions regarding fish habitat conservation
3 projects.

4 (B) MEMBERSHIP.—The Board shall be
5 composed of 25 members, of whom—

6 (i) 1 shall be a representative of the
7 Department of the Interior;

8 (ii) 1 shall be a representative of the
9 United States Geological Survey;

10 (iii) 1 shall be a representative of the
11 Department of Commerce;

12 (iv) 1 shall be a representative of the
13 Department of Agriculture;

14 (v) 1 shall be a representative of the
15 Association of Fish and Wildlife Agencies;

16 (vi) 4 shall be representatives of State
17 agencies, 1 of whom shall be nominated by
18 a regional association of fish and wildlife
19 agencies from each of the Northeast,
20 Southeast, Midwest, and Western regions
21 of the United States;

22 (vii) 1 shall be a representative of ei-
23 ther—

24 (I) Indian tribes in the State of
25 Alaska; or

1 (II) Indian tribes in States other
2 than the State of Alaska;

3 (viii) 1 shall be a representative of ei-
4 ther—

5 (I) the Regional Fishery Manage-
6 ment Councils established under sec-
7 tion 302 of the Magnuson-Stevens
8 Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1852); or

10 (II) a representative of the Ma-
11 rine Fisheries Commissions, which is
12 composed of—

13 (aa) the Atlantic States Ma-
14 rine Fisheries Commission;

15 (bb) the Gulf States Marine
16 Fisheries Commission; and

17 (cc) the Pacific States Ma-
18 rine Fisheries Commission;

19 (ix) 1 shall be a representative of the
20 Sportfishing and Boating Partnership
21 Council;

22 (x) 7 shall be representatives selected
23 from each of—

24 (I) the recreational sportfishing
25 industry;

1 (II) the commercial fishing in-
2 dustry;

3 (III) marine recreational anglers;

4 (IV) freshwater recreational an-
5 glers;

6 (V) habitat conservation organi-
7 zations; and

8 (VI) science-based fishery organi-
9 zations;

10 (xi) 1 shall be a representative of a
11 national private landowner organization;

12 (xii) 1 shall be a representative of an
13 agricultural production organization;

14 (xiii) 1 shall be a representative of
15 local government interests involved in fish
16 habitat restoration;

17 (xiv) 2 shall be representatives from
18 different sectors of corporate industries,
19 which may include—

20 (I) natural resource commodity
21 interests, such as petroleum or min-
22 eral extraction;

23 (II) natural resource user indus-
24 tries; and

1 (III) industries with an interest
2 in fish and fish habitat conservation;
3 and

4 (xv) 1 shall be a leadership private
5 sector or landowner representative of an
6 active partnership.

7 (C) COMPENSATION.—A member of the
8 Board shall serve without compensation.

9 (D) TRAVEL EXPENSES.—A member of the
10 Board may be allowed travel expenses, includ-
11 ing per diem in lieu of subsistence, at rates au-
12 thorized for an employee of an agency under
13 subchapter I of chapter 57 of title 5, United
14 States Code, while away from the home or reg-
15 ular place of business of the member in the per-
16 formance of the duties of the Board.

17 (2) APPOINTMENT AND TERMS.—

18 (A) IN GENERAL.—Except as otherwise
19 provided in this subsection, a member of the
20 Board described in any of clauses (vi) through
21 (xiv) of paragraph (1)(B) shall serve for a term
22 of 3 years.

23 (B) INITIAL BOARD MEMBERSHIP.—

24 (i) IN GENERAL.—The initial Board
25 will consist of representatives as described

1 in clauses (i) through (vi) of paragraph
2 (1)(B).

3 (ii) REMAINING MEMBERS.—Not later
4 than 60 days after the date of enactment
5 of this Act, the representatives of the ini-
6 tial Board pursuant to clause (i) shall ap-
7 point the remaining members of the Board
8 described in clauses (viii) through (xiv) of
9 paragraph (1)(B).

10 (iii) TRIBAL REPRESENTATIVES.—Not
11 later than 60 days after the enactment of
12 this Act, the Secretary shall provide to the
13 Board a recommendation of not fewer than
14 3 Tribal representatives, from which the
15 Board shall appoint 1 representative pur-
16 suant to clause (vii) of paragraph (1)(B).

17 (C) TRANSITIONAL TERMS.—Of the mem-
18 bers described in paragraph (1)(B)(x) initially
19 appointed to the Board—

20 (i) 2 shall be appointed for a term of
21 1 year;

22 (ii) 2 shall be appointed for a term of
23 2 years; and

24 (iii) 3 shall be appointed for a term of
25 3 years.

11

1 (D) VACANCIES.—

2 (i) IN GENERAL.—A vacancy of a
3 member of the Board described in any of
4 clauses (viii) through (xiv) of paragraph
5 (1)(B) shall be filled by an appointment
6 made by the remaining members of the
7 Board.

8 (ii) TRIBAL REPRESENTATIVES.—Fol-
9 lowing a vacancy of a member of the
10 Board described in clause (vii) of para-
11 graph (1)(B), the Secretary shall rec-
12 ommend to the Board a list of not fewer
13 than 3 Tribal representatives, from which
14 the remaining members of the Board shall
15 appoint a representative to fill the vacancy.

16 (E) CONTINUATION OF SERVICE.—An indi-
17 vidual whose term of service as a member of the
18 Board expires may continue to serve on the
19 Board until a successor is appointed.

20 (F) REMOVAL.—If a member of the Board
21 described in any of clauses (viii) through (xiv)
22 of paragraph (1)(B) misses 3 consecutive regu-
23 larly scheduled Board meetings, the members of
24 the Board may—

25 (i) vote to remove that member; and

1 (ii) appoint another individual in ac-
2 cordance with subparagraph (D).

3 (3) CHAIRPERSON.—

4 (A) IN GENERAL.—The representative of
5 the Association of Fish and Wildlife Agencies
6 appointed pursuant to paragraph (1)(B)(v)
7 shall serve as Chairperson of the Board.

8 (B) TERM.—The Chairperson of the Board
9 shall serve for a term of 3 years.

10 (4) MEETINGS.—

11 (A) IN GENERAL.—The Board shall
12 meet—

13 (i) at the call of the Chairperson; but

14 (ii) not less frequently than twice each
15 calendar year.

16 (B) PUBLIC ACCESS.—All meetings of the
17 Board shall be open to the public.

18 (5) PROCEDURES.—

19 (A) IN GENERAL.—The Board shall estab-
20 lish procedures to carry out the business of the
21 Board, including—

22 (i) a requirement that a quorum of
23 the members of the Board be present to
24 transact business;

1 (ii) a requirement that no rec-
2 ommendations may be adopted by the
3 Board, except by the vote of $\frac{2}{3}$ of all mem-
4 bers;

5 (iii) procedures for establishing na-
6 tional goals and priorities for fish habitat
7 conservation for the purposes of this sec-
8 tion;

9 (iv) procedures for designating Part-
10 nerships under subsection (d); and

11 (v) procedures for reviewing, evalu-
12 ating, and making recommendations re-
13 garding fish habitat conservation projects.

14 (B) QUORUM.—A majority of the members
15 of the Board shall constitute a quorum.

16 (d) FISH HABITAT PARTNERSHIPS.—

17 (1) AUTHORITY TO RECOMMEND.—The Board
18 may recommend to Congress the designation of Fish
19 Habitat Partnerships in accordance with this sub-
20 section.

21 (2) PURPOSES.—The purposes of a Partnership
22 shall be—

23 (A) to work with other regional habitat
24 conservation programs to promote cooperation

1 and coordination to enhance fish and fish habi-
2 tats;

3 (B) to engage local and regional commu-
4 nities to build support for fish habitat conserva-
5 tion;

6 (C) to involve diverse groups of public and
7 private partners;

8 (D) to develop collaboratively a strategic
9 vision and achievable implementation plan that
10 is scientifically sound;

11 (E) to leverage funding from sources that
12 support local and regional partnerships;

13 (F) to use adaptive management prin-
14 ciples, including evaluation of project success
15 and functionality;

16 (G) to develop appropriate local or regional
17 habitat evaluation and assessment measures
18 and criteria that are compatible with national
19 habitat condition measures; and

20 (H) to implement local and regional pri-
21 ority projects that improve conditions for fish
22 and fish habitat.

23 (3) CRITERIA FOR DESIGNATION.—An entity
24 seeking to be designated by Congress as a Partner-
25 ship shall—

1 (A) submit to the Board an application at
2 such time, in such manner, and containing such
3 information as the Board may reasonably re-
4 quire; and

5 (B) demonstrate to the Board that the en-
6 tity has—

7 (i) a focus on promoting the health of
8 important fish and fish habitats;

9 (ii) an ability to coordinate the imple-
10 mentation of priority projects that support
11 the goals and national priorities set by the
12 Board that are within the Partnership
13 boundary;

14 (iii) a self-governance structure that
15 supports the implementation of strategic
16 priorities for fish habitat;

17 (iv) the ability to develop local and re-
18 gional relationships with a broad range of
19 entities to further strategic priorities for
20 fish and fish habitat;

21 (v) a strategic plan that details re-
22 quired investments for fish habitat con-
23 servation that addresses the strategic fish
24 habitat priorities of the Partnership and

1 supports and meets the strategic priorities
2 of the Board;

3 (vi) the ability to develop and imple-
4 ment fish habitat conservation projects
5 that address strategic priorities of the
6 Partnership and the Board; and

7 (vii) the ability to develop fish habitat
8 conservation priorities based on sound
9 science and data, the ability to measure
10 the effectiveness of fish habitat projects of
11 the Partnership, and a clear plan as to
12 how Partnership science and data compo-
13 nents will be integrated with the overall
14 Board science and data effort.

15 (4) REQUIREMENTS FOR RECOMMENDATION TO
16 CONGRESS.—The Board may recommend to Con-
17 gress for designation an application for a Partner-
18 ship submitted under paragraph (3)(A) if the Board
19 determines that the applicant—

20 (A) meets the criteria described in para-
21 graph (3)(B);

22 (B) identifies representatives to provide
23 support and technical assistance to the Partner-
24 ship from a diverse group of public and private
25 partners, which may include State or local gov-

1 ernments, nonprofit entities, Indian tribes, and
2 private individuals, that are focused on con-
3 servation of fish habitats to achieve results
4 across jurisdictional boundaries on public and
5 private land;

6 (C) is organized to promote the health of
7 important fish species and important fish habi-
8 tats, including reservoirs, natural lakes, coastal
9 and marine environments, and estuaries;

10 (D) identifies strategic fish and fish habi-
11 tat priorities for the Partnership area in the
12 form of geographical focus areas or key
13 stressors or impairments to facilitate strategic
14 planning and decisionmaking;

15 (E) is able to address issues and priorities
16 on a nationally significant scale;

17 (F) includes a governance structure that—

18 (i) reflects the range of all partners;

19 and

20 (ii) promotes joint strategic planning
21 and decisionmaking by the applicant;

22 (G) demonstrates completion of, or signifi-
23 cant progress toward the development of, a
24 strategic plan to address the decline in fish pop-
25 ulations, rather than simply treating symptoms,

1 in accordance with the goals and national prior-
2 ities established by the Board; and

3 (H) promotes collaboration in developing a
4 strategic vision and implementation program
5 that is scientifically sound and achievable.

6 (5) REPORT TO CONGRESS.—

7 (A) IN GENERAL.—Not later than Feb-
8 ruary 1 of the first fiscal year beginning after
9 the date of enactment of this Act and each Feb-
10 ruary 1 thereafter, the Board shall develop and
11 submit to the appropriate congressional com-
12 mittees an annual report, to be entitled “Report
13 to Congress on Future Fish Habitat Partner-
14 ships and Modifications”, that—

15 (i) identifies any entity that—

16 (I) meets the requirements de-
17 scribed in paragraph (4); and

18 (II) the Board recommends for
19 designation as a Partnership;

20 (ii) describes any proposed modifica-
21 tions to a Partnership previously des-
22 ignated by Congress under paragraph (6);

23 (iii) with respect to each entity rec-
24 ommended for designation as a Partner-

1 ship, describes, to the maximum extent
2 practicable—

3 (I) the purpose of the rec-
4 ommended Partnership; and

5 (II) how the recommended Part-
6 nership fulfills the requirements de-
7 scribed in paragraph (4).

8 (B) PUBLIC AVAILABILITY; NOTIFICA-
9 TION.—The Board shall—

10 (i) make the report publicly available,
11 including on the Internet; and

12 (ii) provide to the appropriate con-
13 gressional committees and the State agen-
14 cy of any State included in a recommended
15 Partnership area written notification of the
16 public availability of the report.

17 (6) DESIGNATION OR MODIFICATION OF PART-
18 NERSHIP.—Congress shall have the sole authority to
19 designate or modify a Partnership.

20 (7) EXISTING PARTNERSHIPS.—

21 (A) DESIGNATION REVIEW.—Not later
22 than 5 years after the date of enactment of this
23 Act, any fish habitat partnership receiving Fed-
24 eral funds as of the date of enactment of this
25 Act shall be subject to a designation review by

1 Congress in which Congress shall have the op-
2 portunity to designate the partnership under
3 paragraph (6).

4 (B) INELIGIBILITY FOR FEDERAL
5 FUNDS.—A partnership referred to in subpara-
6 graph (A) that Congress does not designate as
7 described in that subparagraph shall be ineli-
8 gible to receive Federal funds under this sec-
9 tion.

10 (e) FISH HABITAT CONSERVATION PROJECTS.—

11 (1) SUBMISSION TO BOARD.—Not later than
12 March 31 of each calendar year, each Partnership
13 shall submit to the Board a list of priority fish habi-
14 tat conservation projects recommended by the Part-
15 nership for annual funding under this section.

16 (2) RECOMMENDATIONS BY BOARD.—Not later
17 than July 1 of each calendar year, the Board shall
18 submit to the Secretary a priority list of fish habitat
19 conservation projects that includes the description,
20 including estimated costs, of each project that the
21 Board recommends that the Secretary approve and
22 fund under this section for the following fiscal year.

23 (3) CRITERIA FOR PROJECT SELECTION.—The
24 Board shall select each fish habitat conservation
25 project to be recommended to the Secretary under

1 paragraph (2) after taking into consideration, at a
2 minimum, the following information:

3 (A) A recommendation of the Partnership
4 that is, or will be, participating actively in im-
5 plementing the fish habitat conservation
6 project.

7 (B) The capabilities and experience of
8 project proponents to implement successfully
9 the proposed project.

10 (C) The extent to which the fish habitat
11 conservation project—

12 (i) fulfills a local or regional priority
13 that is directly linked to the strategic plan
14 of the Partnership and is consistent with
15 the purpose of this section;

16 (ii) addresses the national priorities
17 established by the Board;

18 (iii) is supported by the findings of
19 the Habitat Assessment of the Partnership
20 or the Board, and aligns or is compatible
21 with other conservation plans;

22 (iv) identifies appropriate monitoring
23 and evaluation measures and criteria that
24 are compatible with national measures;

1 (v) provides a well-defined budget
2 linked to deliverables and outcomes;

3 (vi) leverages other funds to imple-
4 ment the project;

5 (vii) addresses the causes and proc-
6 esses behind the decline of fish or fish
7 habitats; and

8 (viii) includes an outreach or edu-
9 cation component that includes the local or
10 regional community.

11 (D) The availability of sufficient non-Fed-
12 eral funds to match Federal contributions for
13 the fish habitat conservation project, as re-
14 quired by paragraph (5).

15 (E) The extent to which the local or re-
16 gional fish habitat conservation project—

17 (i) will increase fish populations in a
18 manner that leads to recreational fishing
19 opportunities for the public;

20 (ii) will be carried out through a coop-
21 erative agreement among Federal, State,
22 and local governments, Indian tribes, and
23 private entities;

1 (iii) increases public access to land or
2 water for fish and wildlife-dependent rec-
3 reational opportunities;

4 (iv) advances the conservation of fish
5 and wildlife species that have been identi-
6 fied by the States as species of greatest
7 conservation need;

8 (v) where appropriate, advances the
9 conservation of fish and fish habitats
10 under the Magnuson-Stevens Fishery Con-
11 servation and Management Act (16 U.S.C.
12 1801 et seq.) and other relevant Federal
13 law and State wildlife action plans; and

14 (vi) promotes strong and healthy fish
15 habitats so that desired biological commu-
16 nities are able to persist and adapt.

17 (F) The substantiality of the character and
18 design of the fish habitat conservation project.

19 (4) LIMITATIONS.—

20 (A) REQUIREMENTS FOR EVALUATION.—

21 No fish habitat conservation project may be
22 recommended by the Board under paragraph
23 (2) or provided financial assistance under this
24 section unless the fish habitat conservation

1 project includes an evaluation plan designed
2 using applicable Board guidance—

3 (i) to appropriately assess the biologi-
4 cal, ecological, or other results of the habi-
5 tat protection, restoration, or enhancement
6 activities carried out using the assistance;

7 (ii) to reflect appropriate changes to
8 the fish habitat conservation project if the
9 assessment substantiates that the fish
10 habitat conservation project objectives are
11 not being met;

12 (iii) to identify improvements to exist-
13 ing fish populations, recreational fishing
14 opportunities and the overall economic ben-
15 efits for the local community of the fish
16 habitat conservation project; and

17 (iv) to require the submission to the
18 Board of a report describing the findings
19 of the assessment.

20 (B) ACQUISITION AUTHORITIES.—

21 (i) IN GENERAL.—A State, local gov-
22 ernment, or other non-Federal entity is eli-
23 gible to receive funds for the acquisition of
24 real property from willing sellers under

1 this section if the acquisition ensures 1
2 of—

3 (I) public access for compatible
4 fish and wildlife-dependent recreation;
5 or

6 (II) a scientifically based, direct
7 enhancement to the health of fish and
8 fish populations, as determined by the
9 Board.

10 (ii) STATE AGENCY APPROVAL.—

11 (I) IN GENERAL.—All real prop-
12 erty interest acquisition projects fund-
13 ed under this section are required to
14 be approved by the State agency in
15 the State in which the project is oc-
16 ccurring.

17 (II) PROHIBITION.—The Board
18 may not recommend, and the Sec-
19 retary may not provide any funding
20 for, any real property interest acquisi-
21 tion that has not been approved by
22 the State agency.

23 (iii) ASSESSMENT OF OTHER AU-
24 THORITIES.—The Fish Habitat Partner-
25 ship shall conduct a project assessment,

1 submitted with the funding request and
2 approved by the Board, to demonstrate all
3 other Federal, State, and local authorities
4 for the acquisition of real property have
5 been exhausted.

6 (iv) RESTRICTIONS.—A real property
7 interest may not be acquired pursuant to a
8 fish habitat conservation project by a
9 State, local government, or other non-Fed-
10 eral entity, unless—

11 (I) the owner of the real property
12 authorizes the State, local govern-
13 ment, or other non-Federal entity to
14 acquire the real property; and

15 (II) the Secretary and the Board
16 determine that the State, local govern-
17 ment, or other non-Federal entity
18 would benefit from undertaking the
19 management of the real property
20 being acquired because that is in ac-
21 cordance with the goals of a partner-
22 ship.

23 (5) NON-FEDERAL CONTRIBUTIONS.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), no fish habitat conservation

1 project may be recommended by the Board
2 under paragraph (2) or provided financial as-
3 sistance under this section unless at least 50
4 percent of the cost of the fish habitat conserva-
5 tion project will be funded with non-Federal
6 funds.

7 (B) NON-FEDERAL SHARE.—The non-Fed-
8 eral share of the cost of a fish habitat conserva-
9 tion project—

10 (i) may not be derived from another
11 Federal grant program; but

12 (ii) may include in-kind contributions
13 and cash.

14 (C) SPECIAL RULE FOR INDIAN TRIBES.—
15 Notwithstanding subparagraph (A) or any other
16 provision of law, any funds made available to
17 an Indian tribe pursuant to this section may be
18 considered to be non-Federal funds for the pur-
19 pose of subparagraph (A).

20 (6) APPROVAL.—

21 (A) IN GENERAL.—Not later than 90 days
22 after the date of receipt of the recommended
23 priority list of fish habitat conservation projects
24 under paragraph (2), subject to the limitations
25 of paragraph (4), and based, to the maximum

1 extent practicable, on the criteria described in
2 paragraph (3), the Secretary, after consulting
3 with the Secretary of Commerce on marine or
4 estuarine projects, shall approve or reject any
5 fish habitat conservation project recommended
6 by the Board.

7 (B) FUNDING.—If the Secretary approves
8 a fish habitat conservation project under sub-
9 paragraph (A), the Secretary shall use amounts
10 made available to carry out this section to pro-
11 vide funds to carry out the fish habitat con-
12 servation project.

13 (C) NOTIFICATION.—If the Secretary re-
14 jects any fish habitat conservation project rec-
15 ommended by the Board under paragraph (2),
16 not later than 90 days after the date of receipt
17 of the recommendation, the Secretary shall pro-
18 vide to the Board, the appropriate Partnership,
19 and the appropriate congressional committees a
20 written statement of the reasons that the Sec-
21 retary rejected the fish habitat conservation
22 project.

23 (f) TECHNICAL AND SCIENTIFIC ASSISTANCE.—

24 (1) IN GENERAL.—The Director, the NOAA
25 Assistant Administrator, the EPA Assistant Admin-

1 istrator, and the Director of the United States Geo-
2 logical Survey, in coordination with the Forest Serv-
3 ice and other appropriate Federal departments and
4 agencies, may provide scientific and technical assist-
5 ance to the Partnerships, participants in fish habitat
6 conservation projects, and the Board.

7 (2) INCLUSIONS.—Scientific and technical as-
8 sistance provided pursuant to paragraph (1) may in-
9 clude—

10 (A) providing technical and scientific as-
11 sistance to States, Indian tribes, regions, local
12 communities, and nongovernmental organiza-
13 tions in the development and implementation of
14 Partnerships;

15 (B) providing technical and scientific as-
16 sistance to Partnerships for habitat assessment,
17 strategic planning, and prioritization;

18 (C) supporting the development and imple-
19 mentation of fish habitat conservation projects
20 that are identified as high priorities by Partner-
21 ships and the Board;

22 (D) supporting and providing recommenda-
23 tions regarding the development of science-
24 based monitoring and assessment approaches
25 for implementation through Partnerships;

1 (E) supporting and providing recommenda-
2 tions for a national fish habitat assessment;

3 (F) ensuring the availability of experts to
4 assist in conducting scientifically based evalua-
5 tion and reporting of the results of fish habitat
6 conservation projects; and

7 (G) providing resources to secure state
8 agency scientific and technical assistance to
9 support Partnerships, participants in fish habi-
10 tat conservation projects, and the Board.

11 (g) COORDINATION WITH STATES AND INDIAN
12 TRIBES.—The Secretary shall provide a notice to, and co-
13 operate with, the appropriate State agency or Tribal agen-
14 cy, as applicable, of each State and Indian tribe within
15 the boundaries of which an activity is planned to be car-
16 ried out pursuant to this section, including notification,
17 by not later than 30 days before the date on which the
18 activity is implemented.

19 (h) INTERAGENCY OPERATIONAL PLAN.—Not later
20 than 1 year after the date of enactment of this Act, and
21 every 5 years thereafter, the Director, in cooperation with
22 the NOAA Assistant Administrator, the EPA Assistant
23 Administrator, the Director of the United States Geologi-
24 cal Survey, and the heads of other appropriate Federal
25 departments and agencies (including at a minimum, those

1 agencies represented on the Board) shall develop an inter-
2 agency operational plan that describes—

3 (1) the functional, operational, technical, sci-
4 entific, and general staff, administrative, and mate-
5 rial needs for the implementation of this section; and

6 (2) any interagency agreements between or
7 among Federal departments and agencies to address
8 those needs.

9 (i) ACCOUNTABILITY AND REPORTING.—

10 (1) REPORTING.—

11 (A) IN GENERAL.—Not later than 5 years
12 after the date of enactment of this Act, and
13 every 5 years thereafter, the Board shall submit
14 to the appropriate congressional committees a
15 report describing the progress of this section.

16 (B) CONTENTS.—Each report submitted
17 under subparagraph (A) shall include—

18 (i) an estimate of the number of
19 acres, stream miles, or acre-feet, or other
20 suitable measures of fish habitat, that was
21 maintained or improved by partnerships of
22 Federal, State, or local governments, In-
23 dian tribes, or other entities in the United
24 States during the 5-year period ending on
25 the date of submission of the report;

1 (ii) a description of the public access
2 to fish habitats established or improved
3 during that 5-year period;

4 (iii) a description of the improved op-
5 portunities for public recreational fishing;
6 and

7 (iv) an assessment of the status of
8 fish habitat conservation projects carried
9 out with funds provided under this section
10 during that period, disaggregated by year,
11 including—

12 (I) a description of the fish habi-
13 tat conservation projects rec-
14 ommended by the Board under sub-
15 section (e)(2);

16 (II) a description of each fish
17 habitat conservation project approved
18 by the Secretary under subsection
19 (e)(6), in order of priority for funding;

20 (III) a justification for—

21 (aa) the approval of each
22 fish habitat conservation project;
23 and

1 (bb) the order of priority for
2 funding of each fish habitat con-
3 servation project;

4 (IV) a justification for any rejec-
5 tion of a fish habitat conservation
6 project recommended by the Board
7 under subsection (e)(2) that was
8 based on a factor other than the cri-
9 teria described in subsection (e)(3);
10 and

11 (V) an accounting of expendi-
12 tures by Federal, State, or local gov-
13 ernments, Indian tribes, or other enti-
14 ties to carry out fish habitat conserva-
15 tion projects.

16 (2) STATUS AND TRENDS REPORT.—Not later
17 than December 31, 2020, and every 5 years there-
18 after, the Board shall submit to the appropriate con-
19 gressional committees a report that includes—

20 (A) a status of all Partnerships designated
21 under this section;

22 (B) a description of the status of fish habi-
23 tats in the United States as identified by estab-
24 lished Partnerships; and

1 (C) enhancements or reductions in public
2 access as a result of—

3 (i) the activities of the Partnerships;

4 or

5 (ii) any other activities carried out
6 pursuant to this section.

7 (j) EFFECT OF SECTION.—

8 (1) WATER RIGHTS.—Nothing in this section—

9 (A) establishes any express or implied re-
10 served water right in the United States for any
11 purpose;

12 (B) affects any water right in existence on
13 the date of enactment of this Act;

14 (C) preempts or affects any State water
15 law or interstate compact governing water; or

16 (D) affects any Federal or State law in ex-
17 istence on the date of enactment of the Act re-
18 garding water quality or water quantity.

19 (2) AUTHORITY TO ACQUIRE WATER RIGHTS OR
20 RIGHTS TO PROPERTY.—Under this section, only a
21 State, local government, or other non-Federal entity
22 may acquire, under State law, water rights or rights
23 to property.

24 (3) STATE AUTHORITY.—Nothing in this sec-
25 tion—

1 (A) affects the authority, jurisdiction, or
2 responsibility of a State to manage, control, or
3 regulate fish and wildlife under the laws and
4 regulations of the State; or

5 (B) authorizes the Secretary to control or
6 regulate within a State the fishing or hunting
7 of fish and wildlife.

8 (4) EFFECT ON INDIAN TRIBES.—Nothing in
9 this section abrogates, abridges, affects, modifies,
10 supersedes, or alters any right of an Indian tribe
11 recognized by treaty or any other means, includ-
12 ing—

13 (A) an agreement between the Indian tribe
14 and the United States;

15 (B) Federal law (including regulations);

16 (C) an Executive order; or

17 (D) a judicial decree.

18 (5) ADJUDICATION OF WATER RIGHTS.—Noth-
19 ing in this section diminishes or affects the ability
20 of the Secretary to join an adjudication of rights to
21 the use of water pursuant to subsection (a), (b), or
22 (c) of section 208 of the Department of Justice Ap-
23 propriation Act, 1953 (43 U.S.C. 666).

24 (6) DEPARTMENT OF COMMERCE AUTHOR-
25 ITY.—Nothing in this section affects the authority,

1 jurisdiction, or responsibility of the Department of
2 Commerce to manage, control, or regulate fish or
3 fish habitats under the Magnuson-Stevens Fishery
4 Conservation and Management Act (16 U.S.C. 1801
5 et seq.).

6 (7) EFFECT ON OTHER AUTHORITIES.—

7 (A) PRIVATE PROPERTY PROTECTION.—

8 Nothing in this section permits the use of funds
9 made available to carry out this section to ac-
10 quire real property or a real property interest
11 without the written consent of each owner of
12 the real property or real property interest.

13 (B) MITIGATION.—Nothing in this section
14 permits the use of funds made available to
15 carry out this section for fish and wildlife miti-
16 gation purposes under—

17 (i) the Federal Water Pollution Con-
18 trol Act (33 U.S.C. 1251 et seq.);

19 (ii) the Fish and Wildlife Coordina-
20 tion Act (16 U.S.C. 661 et seq.);

21 (iii) the Water Resources Develop-
22 ment Act of 1986 (Public Law 99–662;
23 100 Stat. 4082); or

24 (iv) any other Federal law or court
25 settlement.

1 (C) CLEAN WATER ACT.—Nothing in this
2 section affects any provision of the Federal
3 Water Pollution Control Act (33 U.S.C. 1251 et
4 seq.), including any definition in that Act.

5 (k) NONAPPLICABILITY OF FEDERAL ADVISORY
6 COMMITTEE ACT.—The Federal Advisory Committee Act
7 (5 U.S.C. App.) shall not apply to—

- 8 (1) the Board; or
- 9 (2) any Partnership.

10 (l) FUNDING.—

11 (1) AUTHORIZATION OF APPROPRIATIONS.—

12 (A) FISH HABITAT CONSERVATION
13 PROJECTS.—There is authorized to be appro-
14 priated to the Secretary \$7,200,000 for each of
15 fiscal years 2020 through 2024 to provide
16 funds for fish habitat conservation projects ap-
17 proved under subsection (e)(6), of which 5 per-
18 cent shall be made available for each fiscal year
19 for projects carried out by Indian tribes.

20 (B) ADMINISTRATIVE AND PLANNING EX-
21 PENSES.—There is authorized to be appro-
22 priated to the Secretary for each of fiscal years
23 2020 through 2024 an amount equal to 5 per-
24 cent of the amount appropriated for the appli-

1 cable fiscal year pursuant to subparagraph
2 (A)—

3 (i) for administrative and planning ex-
4 penses; and

5 (ii) to carry out subsection (i).

6 (C) TECHNICAL AND SCIENTIFIC ASSIST-
7 ANCE.—There is authorized to be appropriated
8 for each of fiscal years 2020 through 2024 to
9 carry out, and provide technical and scientific
10 assistance under, subsection (f)—

11 (i) \$400,000 to the Secretary for use
12 by the United States Fish and Wildlife
13 Service;

14 (ii) \$400,000 to the NOAA Assistant
15 Administrator for use by the National Oce-
16 anic and Atmospheric Administration;

17 (iii) \$400,000 to the EPA Assistant
18 Administrator for use by the Environ-
19 mental Protection Agency;

20 (iv) \$400,000 to the Secretary for use
21 by the United States Geological Survey;
22 and

23 (v) \$400,000 to the Secretary of Agri-
24 culture for use by the Forest Service.

1 (2) AGREEMENTS AND GRANTS.—The Secretary
2 may—

3 (A) on the recommendation of the Board,
4 and notwithstanding sections 6304 and 6305 of
5 title 31, United States Code, and the Federal
6 Financial Assistance Management Improvement
7 Act of 1999 (31 U.S.C. 6101 note; Public Law
8 106–107), enter into a grant agreement, coop-
9 erative agreement, or contract with a Partner-
10 ship or other entity for a fish habitat conserva-
11 tion project or restoration or enhancement
12 project;

13 (B) apply for, accept, and use a grant
14 from any individual or entity to carry out the
15 purposes of this section; and

16 (C) make funds available to any Federal
17 department or agency for use by that depart-
18 ment or agency to provide grants for any fish
19 habitat protection project, restoration project,
20 or enhancement project that the Secretary de-
21 termines to be consistent with this section.

22 (3) DONATIONS.—

23 (A) IN GENERAL.—The Secretary may—

24 (i) enter into an agreement with any
25 organization described in section 501(c)(3)

1 of the Internal Revenue Code of 1986 that
2 is exempt from taxation under section
3 501(a) of that Code to solicit private dona-
4 tions to carry out the purposes of this sec-
5 tion; and

6 (ii) accept donations of funds, prop-
7 erty, and services to carry out the purposes
8 of this section.

9 (B) TREATMENT.—A donation accepted
10 under this section—

11 (i) shall be considered to be a gift or
12 bequest to, or otherwise for the use of, the
13 United States; and

14 (ii) may be—

15 (I) used directly by the Sec-
16 retary; or

17 (II) provided to another Federal
18 department or agency through an
19 interagency agreement.

20 (m) PROHIBITION AGAINST IMPLEMENTATION OF
21 REGULATORY AUTHORITY BY FEDERAL AGENCIES.—Any
22 Partnership designated under this section—

23 (1) shall be for the sole purpose of promoting
24 fish conservation; and

1 (2) shall not be used to implement any regu-
2 latory authority of any Federal agency.