

116TH CONGRESS  
1ST SESSION

# S. 754

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

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IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. CRAPO (for himself and Mr. CARDIN) introduced the following bill; which  
was read twice and referred to the Committee on Environment and Public  
Works

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## 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”.

1 **SEC. 2. NATIONAL FISH HABITAT CONSERVATION**  
2 **THROUGH PARTNERSHIPS.**

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

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

10 (A) improving ecological conditions;

11 (B) restoring natural processes; or

12 (C) preventing the decline of intact and  
13 healthy systems;

14 (2) to establish a consensus set of national con-  
15 servation strategies as a framework to guide future  
16 actions and investment by Fish Habitat Partner-  
17 ships;

18 (3) to broaden the community of support for  
19 fish habitat conservation by—

20 (A) increasing fishing opportunities;

21 (B) fostering the participation of local  
22 communities, especially young people in local  
23 communities, in conservation activities; and

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

(4) to fill gaps in the National Fish Habitat Assessment and the associated database of the National Fish Habitat Assessment—

(A) to empower strategic conservation actions supported by broadly available scientific information; and

(B) to integrate socioeconomic data in the analysis to improve the lives of humans in a manner consistent with fish habitat conservation goals; and

(5) to communicate to the public and conservation partners—

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

(B) new opportunities and voluntary approaches for conserving fish habitat.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate; and

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

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

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

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

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

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

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

1           (8) REAL PROPERTY INTEREST.—The term  
 2           “real property interest” means an ownership interest  
 3           in—

4                     (A) land; or

5                     (B) water (including water rights).

6           (9) SECRETARY.—The term “Secretary” means  
 7           the Secretary of the Interior.

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

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

12                    (A) the fish and wildlife agency of a State;  
 13                    and

14                    (B) any department or division of a de-  
 15                    partment or agency of a State that manages in  
 16                    the public trust the inland or marine fishery re-  
 17                    sources or sustains the habitat for those fishery  
 18                    resources of the State pursuant to State law or  
 19                    the constitution of the State.

20          (c) NATIONAL FISH HABITAT BOARD.—

21                    (1) ESTABLISHMENT.—

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

1 (i) to promote, oversee, and coordinate  
2 the implementation of this section;

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

5 (iii) to recommend to Congress enti-  
6 ties for designation as Partnerships; and

7 (iv) to review and make recommenda-  
8 tions regarding fish habitat conservation  
9 projects.

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

12 (i) 1 shall be a representative of the  
13 Department of the Interior;

14 (ii) 1 shall be a representative of the  
15 United States Geological Survey;

16 (iii) 1 shall be a representative of the  
17 Department of Commerce;

18 (iv) 1 shall be a representative of the  
19 Department of Agriculture;

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

22 (vi) 4 shall be representatives of State  
23 agencies, 1 of whom shall be nominated by  
24 a regional association of fish and wildlife  
25 agencies from each of the Northeast,

1 Southeast, Midwest, and Western regions  
2 of the United States;

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

5 (I) Indian tribes in the State of  
6 Alaska; or

7 (II) Indian tribes in States other  
8 than the State of Alaska;

9 (viii) 1 shall be a representative of ei-  
10 ther—

11 (I) the Regional Fishery Manage-  
12 ment Councils established under sec-  
13 tion 302 of the Magnuson-Stevens  
14 Fishery Conservation and Manage-  
15 ment Act (16 U.S.C. 1852); or

16 (II) a representative of the Ma-  
17 rine Fisheries Commissions, which is  
18 composed of—

19 (aa) the Atlantic States Ma-  
20 rine Fisheries Commission;

21 (bb) the Gulf States Marine  
22 Fisheries Commission; and

23 (cc) the Pacific States Ma-  
24 rine Fisheries Commission;

1 (ix) 1 shall be a representative of the  
2 Sportfishing and Boating Partnership  
3 Council;

4 (x) 7 shall be representatives selected  
5 from each of—

6 (I) the recreational sportfishing  
7 industry;

8 (II) the commercial fishing in-  
9 dustry;

10 (III) marine recreational anglers;

11 (IV) freshwater recreational an-  
12 glers;

13 (V) habitat conservation organi-  
14 zations; and

15 (VI) science-based fishery organi-  
16 zations;

17 (xi) 1 shall be a representative of a  
18 national private landowner organization;

19 (xii) 1 shall be a representative of an  
20 agricultural production organization;

21 (xiii) 1 shall be a representative of  
22 local government interests involved in fish  
23 habitat restoration;



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

(I) natural resource commodity interests, such as petroleum or mineral extraction;

(II) natural resource user industries; and

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

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

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

(D) TRAVEL EXPENSES.—A member of the Board may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(2) APPOINTMENT AND TERMS.—

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

6 (B) INITIAL BOARD MEMBERSHIP.—

7 (i) IN GENERAL.—The initial Board  
8 will consist of representatives as described  
9 in clauses (i) through (vi) of paragraph  
10 (1)(B).

11 (ii) REMAINING MEMBERS.—Not later  
12 than 60 days after the date of enactment  
13 of this Act, the representatives of the ini-  
14 tial Board pursuant to clause (i) shall ap-  
15 point the remaining members of the Board  
16 described in clauses (viii) through (xiv) of  
17 paragraph (1)(B).

18 (iii) TRIBAL REPRESENTATIVES.—Not  
19 later than 60 days after the enactment of  
20 this Act, the Secretary shall provide to the  
21 Board a recommendation of not fewer than  
22 3 Tribal representatives, from which the  
23 Board shall appoint 1 representative pur-  
24 suant to clause (vii) of paragraph (1)(B).

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

4 (i) 2 shall be appointed for a term of  
 5 1 year;

6 (ii) 2 shall be appointed for a term of  
 7 2 years; and

8 (iii) 3 shall be appointed for a term of  
 9 3 years.

10 (D) VACANCIES.—

11 (i) IN GENERAL.—A vacancy of a  
 12 member of the Board described in any of  
 13 clauses (viii) through (xiv) of paragraph  
 14 (1)(B) shall be filled by an appointment  
 15 made by the remaining members of the  
 16 Board.

17 (ii) TRIBAL REPRESENTATIVES.—Fol-  
 18 lowing a vacancy of a member of the  
 19 Board described in clause (vii) of para-  
 20 graph (1)(B), the Secretary shall rec-  
 21 ommend to the Board a list of not fewer  
 22 than 3 Tribal representatives, from which  
 23 the remaining members of the Board shall  
 24 appoint a representative to fill the vacancy.

1 (E) CONTINUATION OF SERVICE.—An indi-  
 2 vidual whose term of service as a member of the  
 3 Board expires may continue to serve on the  
 4 Board until a successor is appointed.

5 (F) REMOVAL.—If a member of the Board  
 6 described in any of clauses (viii) through (xiv)  
 7 of paragraph (1)(B) misses 3 consecutive regu-  
 8 larly scheduled Board meetings, the members of  
 9 the Board may—

10 (i) vote to remove that member; and

11 (ii) appoint another individual in ac-  
 12 cordance with subparagraph (D).

13 (3) CHAIRPERSON.—

14 (A) IN GENERAL.—The representative of  
 15 the Association of Fish and Wildlife Agencies  
 16 appointed pursuant to paragraph (1)(B)(v)  
 17 shall serve as Chairperson of the Board.

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

20 (4) MEETINGS.—

21 (A) IN GENERAL.—The Board shall  
 22 meet—

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

24 (ii) not less frequently than twice each  
 25 calendar year.

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

3 (5) PROCEDURES.—

4 (A) IN GENERAL.—The Board shall estab-  
5 lish procedures to carry out the business of the  
6 Board, including—

7 (i) a requirement that a quorum of  
8 the members of the Board be present to  
9 transact business;

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

14 (iii) procedures for establishing na-  
15 tional goals and priorities for fish habitat  
16 conservation for the purposes of this sec-  
17 tion;

18 (iv) procedures for designating Part-  
19 nerships under subsection (d); and

20 (v) procedures for reviewing, evalu-  
21 ating, and making recommendations re-  
22 garding fish habitat conservation projects.

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

25 (d) FISH HABITAT PARTNERSHIPS.—

1           (1) AUTHORITY TO RECOMMEND.—The Board  
2           may recommend to Congress the designation of Fish  
3           Habitat Partnerships in accordance with this sub-  
4           section.

5           (2) PURPOSES.—The purposes of a Partnership  
6           shall be—

7                   (A) to work with other regional habitat  
8                   conservation programs to promote cooperation  
9                   and coordination to enhance fish and fish habi-  
10                  tats;

11                  (B) to engage local and regional commu-  
12                  nities to build support for fish habitat conserva-  
13                  tion;

14                  (C) to involve diverse groups of public and  
15                  private partners;

16                  (D) to develop collaboratively a strategic  
17                  vision and achievable implementation plan that  
18                  is scientifically sound;

19                  (E) to leverage funding from sources that  
20                  support local and regional partnerships;

21                  (F) to use adaptive management prin-  
22                  ciples, including evaluation of project success  
23                  and functionality;

24                  (G) to develop appropriate local or regional  
25                  habitat evaluation and assessment measures

1           and criteria that are compatible with national  
2           habitat condition measures; and

3           (H) to implement local and regional pri-  
4           ority projects that improve conditions for fish  
5           and fish habitat.

6           (3) CRITERIA FOR DESIGNATION.—An entity  
7           seeking to be designated by Congress as a Partner-  
8           ship shall—

9           (A) submit to the Board an application at  
10          such time, in such manner, and containing such  
11          information as the Board may reasonably re-  
12          quire; and

13          (B) demonstrate to the Board that the en-  
14          tity has—

15               (i) a focus on promoting the health of  
16               important fish and fish habitats;

17               (ii) an ability to coordinate the imple-  
18               mentation of priority projects that support  
19               the goals and national priorities set by the  
20               Board that are within the Partnership  
21               boundary;

22               (iii) a self-governance structure that  
23               supports the implementation of strategic  
24               priorities for fish habitat;

1 (iv) the ability to develop local and re-  
2 gional relationships with a broad range of  
3 entities to further strategic priorities for  
4 fish and fish habitat;

5 (v) a strategic plan that details re-  
6 quired investments for fish habitat con-  
7 servation that addresses the strategic fish  
8 habitat priorities of the Partnership and  
9 supports and meets the strategic priorities  
10 of the Board;

11 (vi) the ability to develop and imple-  
12 ment fish habitat conservation projects  
13 that address strategic priorities of the  
14 Partnership and the Board; and

15 (vii) the ability to develop fish habitat  
16 conservation priorities based on sound  
17 science and data, the ability to measure  
18 the effectiveness of fish habitat projects of  
19 the Partnership, and a clear plan as to  
20 how Partnership science and data compo-  
21 nents will be integrated with the overall  
22 Board science and data effort.

23 (4) REQUIREMENTS FOR RECOMMENDATION TO  
24 CONGRESS.—The Board may recommend to Con-  
25 gress for designation an application for a Partner-



1 ship submitted under paragraph (3)(A) if the Board  
2 determines that the applicant—

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

5 (B) identifies representatives to provide  
6 support and technical assistance to the Partner-  
7 ship from a diverse group of public and private  
8 partners, which may include State or local gov-  
9 ernments, nonprofit entities, Indian tribes, and  
10 private individuals, that are focused on con-  
11 servation of fish habitats to achieve results  
12 across jurisdictional boundaries on public and  
13 private land;

14 (C) is organized to promote the health of  
15 important fish species and important fish habi-  
16 tats, including reservoirs, natural lakes, coastal  
17 and marine environments, and estuaries;

18 (D) identifies strategic fish and fish habi-  
19 tat priorities for the Partnership area in the  
20 form of geographical focus areas or key  
21 stressors or impairments to facilitate strategic  
22 planning and decision making;

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

25 (F) includes a governance structure that—

1 (i) reflects the range of all partners;

2 and

3 (ii) promotes joint strategic planning

4 and decision making by the applicant;

5 (G) demonstrates completion of, or signifi-

6 cant progress toward the development of, a

7 strategic plan to address the decline in fish pop-

8 ulations, rather than simply treating symptoms,

9 in accordance with the goals and national prior-

10 ities established by the Board; and

11 (H) promotes collaboration in developing a

12 strategic vision and implementation program

13 that is scientifically sound and achievable.

14 (5) REPORT TO CONGRESS.—

15 (A) IN GENERAL.—Not later than Feb-

16 ruary 1 of the first fiscal year beginning after

17 the date of enactment of this Act and each Feb-

18 ruary 1 thereafter, the Board shall develop and

19 submit to the appropriate congressional com-

20 mittees an annual report, to be entitled “Report

21 to Congress on Future Fish Habitat Partner-

22 ships and Modifications”, that—

23 (i) identifies any entity that—

24 (I) meets the requirements de-

25 scribed in paragraph (4); and

1 (II) the Board recommends for  
2 designation as a Partnership;

3 (ii) describes any proposed modifica-  
4 tions to a Partnership previously des-  
5 ignated by Congress under paragraph (6);

6 (iii) with respect to each entity rec-  
7 ommended for designation as a Partner-  
8 ship, describes, to the maximum extent  
9 practicable—

10 (I) the purpose of the rec-  
11 ommended Partnership; and

12 (II) how the recommended Part-  
13 nership fulfills the requirements de-  
14 scribed in paragraph (4).

15 (B) PUBLIC AVAILABILITY; NOTIFICA-  
16 TION.—The Board shall—

17 (i) make the report publicly available,  
18 including on the internet; and

19 (ii) provide to the appropriate con-  
20 gressional committees and the State agen-  
21 cy of any State included in a recommended  
22 Partnership area written notification of the  
23 public availability of the report.

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

4           (7) EXISTING PARTNERSHIPS.—

5                 (A) DESIGNATION REVIEW.—Not later  
 6           than 5 years after the date of enactment of this  
 7           Act, any fish habitat partnership receiving Fed-  
 8           eral funds as of the date of enactment of this  
 9           Act shall be subject to a designation review by  
 10          Congress in which Congress shall have the op-  
 11          portunity to designate the partnership under  
 12          paragraph (6).

13                (B) INELIGIBILITY FOR FEDERAL  
 14          FUNDS.—A partnership referred to in subpara-  
 15          graph (A) that Congress does not designate as  
 16          described in that subparagraph shall be ineli-  
 17          gible to receive Federal funds under this sec-  
 18          tion.

19          (e) FISH HABITAT CONSERVATION PROJECTS.—

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

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

8           (3) CRITERIA FOR PROJECT SELECTION.—The  
9           Board shall select each fish habitat conservation  
10          project to be recommended to the Secretary under  
11          paragraph (2) after taking into consideration, at a  
12          minimum, the following information:

13                (A) A recommendation of the Partnership  
14                that is, or will be, participating actively in im-  
15                plementing the fish habitat conservation  
16                project.

17                (B) The capabilities and experience of  
18                project proponents to implement successfully  
19                the proposed project.

20                (C) The extent to which the fish habitat  
21                conservation project—

22                       (i) fulfills a local or regional priority  
23                       that is directly linked to the strategic plan  
24                       of the Partnership and is consistent with  
25                       the purpose of this section;

1 (ii) addresses the national priorities  
2 established by the Board;

3 (iii) is supported by the findings of  
4 the Habitat Assessment of the Partnership  
5 or the Board, and aligns or is compatible  
6 with other conservation plans;

7 (iv) identifies appropriate monitoring  
8 and evaluation measures and criteria that  
9 are compatible with national measures;

10 (v) provides a well-defined budget  
11 linked to deliverables and outcomes;

12 (vi) leverages other funds to imple-  
13 ment the project;

14 (vii) addresses the causes and proc-  
15 esses behind the decline of fish or fish  
16 habitats; and

17 (viii) includes an outreach or edu-  
18 cation component that includes the local or  
19 regional community.

20 (D) The availability of sufficient non-Fed-  
21 eral funds to match Federal contributions for  
22 the fish habitat conservation project, as re-  
23 quired by paragraph (5).

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

1 (i) will increase fish populations in a  
2 manner that leads to recreational fishing  
3 opportunities for the public;

4 (ii) will be carried out through a coop-  
5 erative agreement among Federal, State,  
6 and local governments, Indian tribes, and  
7 private entities;

8 (iii) increases public access to land or  
9 water for fish and wildlife-dependent rec-  
10 reational opportunities;

11 (iv) advances the conservation of fish  
12 and wildlife species that have been identi-  
13 fied by the States as species of greatest  
14 conservation need;

15 (v) where appropriate, advances the  
16 conservation of fish and fish habitats  
17 under the Magnuson-Stevens Fishery Con-  
18 servation and Management Act (16 U.S.C.  
19 1801 et seq.) and other relevant Federal  
20 law and State wildlife action plans; and

21 (vi) promotes strong and healthy fish  
22 habitats so that desired biological commu-  
23 nities are able to persist and adapt.

24 (F) The substantiality of the character and  
25 design of the fish habitat conservation project.

1 (4) LIMITATIONS.—

2 (A) REQUIREMENTS FOR EVALUATION.—

3 No fish habitat conservation project may be  
4 recommended by the Board under paragraph  
5 (2) or provided financial assistance under this  
6 section unless the fish habitat conservation  
7 project includes an evaluation plan designed  
8 using applicable Board guidance—

9 (i) to appropriately assess the biologi-  
10 cal, ecological, or other results of the habi-  
11 tat protection, restoration, or enhancement  
12 activities carried out using the assistance;

13 (ii) to reflect appropriate changes to  
14 the fish habitat conservation project if the  
15 assessment substantiates that the fish  
16 habitat conservation project objectives are  
17 not being met;

18 (iii) to identify improvements to exist-  
19 ing fish populations, recreational fishing  
20 opportunities and the overall economic ben-  
21 efits for the local community of the fish  
22 habitat conservation project; and

23 (iv) to require the submission to the  
24 Board of a report describing the findings  
25 of the assessment.



## (B) ACQUISITION AUTHORITIES.—

(i) IN GENERAL.—A State, local government, or other non-Federal entity is eligible to receive funds for the acquisition of real property from willing sellers under this section if the acquisition ensures 1 of—

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

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

## (ii) STATE AGENCY APPROVAL.—

(I) IN GENERAL.—All real property interest acquisition projects funded under this section are required to be approved by the State agency in the State in which the project is occurring.

(II) PROHIBITION.—The Board may not recommend, and the Secretary may not provide any funding for, any real property interest acquisi-

tion that has not been approved by  
the State agency.

(iii) ASSESSMENT OF OTHER AUTHORITIES.—The Fish Habitat Partnership shall conduct a project assessment, submitted with the funding request and approved by the Board, to demonstrate all other Federal, State, and local authorities for the acquisition of real property have been exhausted.

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

(I) the owner of the real property authorizes the State, local government, or other non-Federal entity to acquire the real property; and

(II) the Secretary and the Board determine that the State, local government, or other non-Federal entity would benefit from undertaking the management of the real property being acquired because that is in ac-

1 cordance with the goals of a partner-  
2 ship.

3 (5) NON-FEDERAL CONTRIBUTIONS.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (B), no fish habitat conservation  
6 project may be recommended by the Board  
7 under paragraph (2) or provided financial as-  
8 sistance under this section unless at least 50  
9 percent of the cost of the fish habitat conserva-  
10 tion project will be funded with non-Federal  
11 funds.

12 (B) NON-FEDERAL SHARE.—The non-Fed-  
13 eral share of the cost of a fish habitat conserva-  
14 tion project—

15 (i) may not be derived from another  
16 Federal grant program; but

17 (ii) may include in-kind contributions  
18 and cash.

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

25 (6) APPROVAL.—

1 (A) IN GENERAL.—Not later than 90 days  
2 after the date of receipt of the recommended  
3 priority list of fish habitat conservation projects  
4 under paragraph (2), subject to the limitations  
5 of paragraph (4), and based, to the maximum  
6 extent practicable, on the criteria described in  
7 paragraph (3), the Secretary, after consulting  
8 with the Secretary of Commerce on marine or  
9 estuarine projects, shall approve or reject any  
10 fish habitat conservation project recommended  
11 by the Board.

12 (B) FUNDING.—If the Secretary approves  
13 a fish habitat conservation project under sub-  
14 paragraph (A), the Secretary shall use amounts  
15 made available to carry out this section to pro-  
16 vide funds to carry out the fish habitat con-  
17 servation project.

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

1           retary rejected the fish habitat conservation  
2           project.

3           (f) TECHNICAL AND SCIENTIFIC ASSISTANCE.—

4           (1) IN GENERAL.—The Director, the NOAA  
5           Assistant Administrator, the EPA Assistant Admin-  
6           istrator, and the Director of the United States Geo-  
7           logical Survey, in coordination with the Forest Serv-  
8           ice and other appropriate Federal departments and  
9           agencies, may provide scientific and technical assist-  
10          ance to the Partnerships, participants in fish habitat  
11          conservation projects, and the Board.

12          (2) INCLUSIONS.—Scientific and technical as-  
13          sistance provided pursuant to paragraph (1) may in-  
14          clude—

15                (A) providing technical and scientific as-  
16                sistance to States, Indian tribes, regions, local  
17                communities, and nongovernmental organiza-  
18                tions in the development and implementation of  
19                Partnerships;

20                (B) providing technical and scientific as-  
21                sistance to Partnerships for habitat assessment,  
22                strategic planning, and prioritization;

23                (C) supporting the development and imple-  
24                mentation of fish habitat conservation projects

1 that are identified as high priorities by Partner-  
 2 ships and the Board;

3 (D) supporting and providing recommenda-  
 4 tions regarding the development of science-  
 5 based monitoring and assessment approaches  
 6 for implementation through Partnerships;

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

9 (F) ensuring the availability of experts to  
 10 assist in conducting scientifically based evalua-  
 11 tion and reporting of the results of fish habitat  
 12 conservation projects; and

13 (G) providing resources to secure state  
 14 agency scientific and technical assistance to  
 15 support Partnerships, participants in fish habi-  
 16 tat conservation projects, and the Board.

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

1 (h) INTERAGENCY OPERATIONAL PLAN.—Not later  
 2 than 1 year after the date of enactment of this Act, and  
 3 every 5 years thereafter, the Director, in cooperation with  
 4 the NOAA Assistant Administrator, the EPA Assistant  
 5 Administrator, the Director of the United States Geologi-  
 6 cal Survey, and the heads of other appropriate Federal  
 7 departments and agencies (including at a minimum, those  
 8 agencies represented on the Board) shall develop an inter-  
 9 agency operational plan that describes—

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

13 (2) any interagency agreements between or  
 14 among Federal departments and agencies to address  
 15 those needs.

16 (i) ACCOUNTABILITY AND REPORTING.—

17 (1) REPORTING.—

18 (A) IN GENERAL.—Not later than 5 years  
 19 after the date of enactment of this Act, and  
 20 every 5 years thereafter, the Board shall submit  
 21 to the appropriate congressional committees a  
 22 report describing the progress of this section.

23 (B) CONTENTS.—Each report submitted  
 24 under subparagraph (A) shall include—

1           (i) an estimate of the number of  
2           acres, stream miles, or acre-feet, or other  
3           suitable measures of fish habitat, that was  
4           maintained or improved by partnerships of  
5           Federal, State, or local governments, In-  
6           dian tribes, or other entities in the United  
7           States during the 5-year period ending on  
8           the date of submission of the report;

9           (ii) a description of the public access  
10          to fish habitats established or improved  
11          during that 5-year period;

12          (iii) a description of the improved op-  
13          portunities for public recreational fishing;  
14          and

15          (iv) an assessment of the status of  
16          fish habitat conservation projects carried  
17          out with funds provided under this section  
18          during that period, disaggregated by year,  
19          including—

20               (I) a description of the fish habi-  
21               tat conservation projects recommend-  
22               ed by the Board under subsection  
23               (e)(2);

24               (II) a description of each fish  
25               habitat conservation project approved



1 by the Secretary under subsection  
2 (e)(6), in order of priority for funding;

3 (III) a justification for—

4 (aa) the approval of each  
5 fish habitat conservation project;  
6 and

7 (bb) the order of priority for  
8 funding of each fish habitat con-  
9 servation project;

10 (IV) a justification for any rejec-  
11 tion of a fish habitat conservation  
12 project recommended by the Board  
13 under subsection (e)(2) that was  
14 based on a factor other than the cri-  
15 teria described in subsection (e)(3);  
16 and

17 (V) an accounting of expendi-  
18 tures by Federal, State, or local gov-  
19 ernments, Indian tribes, or other enti-  
20 ties to carry out fish habitat conserva-  
21 tion projects.

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

1 (A) a status of all Partnerships designated  
2 under this section;

3 (B) a description of the status of fish habi-  
4 tats in the United States as identified by estab-  
5 lished Partnerships; and

6 (C) enhancements or reductions in public  
7 access as a result of—

8 (i) the activities of the Partnerships;

9 or

10 (ii) any other activities carried out  
11 pursuant to this section.

12 (j) EFFECT OF SECTION.—

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

14 (A) establishes any express or implied re-  
15 served water right in the United States for any  
16 purpose;

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

19 (C) preempts or affects any State water  
20 law or interstate compact governing water; or

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

24 (2) AUTHORITY TO ACQUIRE WATER RIGHTS OR  
25 RIGHTS TO PROPERTY.—Under this section, only a

1 State, local government, or other non-Federal entity  
 2 may acquire, under State law, water rights or rights  
 3 to property.

4 (3) STATE AUTHORITY.—Nothing in this sec-  
 5 tion—

6 (A) affects the authority, jurisdiction, or  
 7 responsibility of a State to manage, control, or  
 8 regulate fish and wildlife under the laws and  
 9 regulations of the State; or

10 (B) authorizes the Secretary to control or  
 11 regulate within a State the fishing or hunting  
 12 of fish and wildlife.

13 (4) EFFECT ON INDIAN TRIBES.—Nothing in  
 14 this section abrogates, abridges, affects, modifies,  
 15 supersedes, or alters any right of an Indian tribe  
 16 recognized by treaty or any other means, includ-  
 17 ing—

18 (A) an agreement between the Indian tribe  
 19 and the United States;

20 (B) Federal law (including regulations);

21 (C) an Executive order; or

22 (D) a judicial decree.

23 (5) ADJUDICATION OF WATER RIGHTS.—Noth-  
 24 ing in this section diminishes or affects the ability  
 25 of the Secretary to join an adjudication of rights to

the use of water pursuant to subsection (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

(6) DEPARTMENT OF COMMERCE AUTHORITY.—Nothing in this section affects the authority, jurisdiction, or responsibility of the Department of Commerce to manage, control, or regulate fish or fish habitats under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) EFFECT ON OTHER AUTHORITIES.—

(A) PRIVATE PROPERTY PROTECTION.—

Nothing in this section permits the use of funds made available to carry out this section to acquire real property or a real property interest without the written consent of each owner of the real property or real property interest.

(B) MITIGATION.—Nothing in this section permits the use of funds made available to carry out this section for fish and wildlife mitigation purposes under—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

1 (iii) the Water Resources Develop-  
 2 ment Act of 1986 (Public Law 99–662;  
 3 100 Stat. 4082); or

4 (iv) any other Federal law or court  
 5 settlement.

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

10 (k) NONAPPLICABILITY OF FEDERAL ADVISORY  
 11 COMMITTEE ACT.—The Federal Advisory Committee Act  
 12 (5 U.S.C. App.) shall not apply to—

13 (1) the Board; or

14 (2) any Partnership.

15 (l) FUNDING.—

16 (1) AUTHORIZATION OF APPROPRIATIONS.—

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

1 (B) ADMINISTRATIVE AND PLANNING EX-  
2 PENSES.—There is authorized to be appro-  
3 priated to the Secretary for each of fiscal years  
4 2020 through 2024 an amount equal to 5 per-  
5 cent of the amount appropriated for the appli-  
6 cable fiscal year pursuant to subparagraph  
7 (A)—

8 (i) for administrative and planning ex-  
9 penses; and

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

11 (C) TECHNICAL AND SCIENTIFIC ASSIST-  
12 ANCE.—There is authorized to be appropriated  
13 for each of fiscal years 2020 through 2024 to  
14 carry out, and provide technical and scientific  
15 assistance under, subsection (f)—

16 (i) \$400,000 to the Secretary for use  
17 by the United States Fish and Wildlife  
18 Service;

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

22 (iii) \$400,000 to the EPA Assistant  
23 Administrator for use by the Environ-  
24 mental Protection Agency;

1 (iv) \$400,000 to the Secretary for use  
2 by the United States Geological Survey;  
3 and

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

6 (2) AGREEMENTS AND GRANTS.—The Secretary  
7 may—

8 (A) on the recommendation of the Board,  
9 and notwithstanding sections 6304 and 6305 of  
10 title 31, United States Code, and the Federal  
11 Financial Assistance Management Improvement  
12 Act of 1999 (31 U.S.C. 6101 note; Public Law  
13 106–107), enter into a grant agreement, coop-  
14 erative agreement, or contract with a Partner-  
15 ship or other entity for a fish habitat conserva-  
16 tion project or restoration or enhancement  
17 project;

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

21 (C) make funds available to any Federal  
22 department or agency for use by that depart-  
23 ment or agency to provide grants for any fish  
24 habitat protection project, restoration project,

1 or enhancement project that the Secretary de-  
2 termines to be consistent with this section.

3 (3) DONATIONS.—

4 (A) IN GENERAL.—The Secretary may—

5 (i) enter into an agreement with any  
6 organization described in section 501(c)(3)  
7 of the Internal Revenue Code of 1986 that  
8 is exempt from taxation under section  
9 501(a) of that Code to solicit private dona-  
10 tions to carry out the purposes of this sec-  
11 tion; and

12 (ii) accept donations of funds, prop-  
13 erty, and services to carry out the purposes  
14 of this section.

15 (B) TREATMENT.—A donation accepted  
16 under this section—

17 (i) shall be considered to be a gift or  
18 bequest to, or otherwise for the use of, the  
19 United States; and

20 (ii) may be—

21 (I) used directly by the Sec-  
22 retary; or

23 (II) provided to another Federal  
24 department or agency through an  
25 interagency agreement.



1       (m) PROHIBITION AGAINST IMPLEMENTATION OF  
2 REGULATORY AUTHORITY BY FEDERAL AGENCIES.—Any  
3 Partnership designated under this section—  
4           (1) shall be for the sole purpose of promoting  
5 fish conservation; and  
6           (2) shall not be used to implement any regu-  
7 latory authority of any Federal agency.

○