To ensure the continuation of successful fisheries mitigation programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
JUNE 8, 2012

Mr. CRAWFORD introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, 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 ensure the continuation of successful fisheries mitigation programs, and for other purposes.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “National Mitigation Fisheries Coordination Act”.

SECTION 2. FINDINGS.
Congress finds the following:

(1) The operation of dams and other water diversion projects are for the benefit of the American
public. They provide inexpensive energy, flood control, water storage for municipal and agricultural purposes, and opportunities for recreational boating and enjoyment. The construction and operation of these Federal water resources development projects have had impacts on many water systems and their respective fish populations, resulting in the need to build and operate fish hatcheries to mitigate for aquatic resources affected by these projects.


(3) The Service currently operates fish hatcheries that are involved in mitigation fishery activities related to construction and operation of Federal water resources development projects.

(4) Inconsistency in authorities to construct and operate Federal water resources development
projects has led to a myriad of mechanisms for funding and conducting Federal mitigation fishery activities. In most cases, Federal water project development agencies fund mitigation fishery costs. In some cases, the Service expends its appropriations to offset or completely pay for mitigation fishery costs.

(5) The Service is the Federal agency through which a water development agency will negotiate to provide reimbursement funding or goods and services (or both) to compensate for the impact of Federal water development projects on aquatic resources.

(6) The water development agency should bear the financial responsibility for mitigation fishery costs incurred by the Service. Where applicable, the water development agency should include the costs of fisheries mitigation caused by a particular water development project as set forth in a fishery mitigation plan, when eliciting reimbursement from a power management agency for the ongoing cost of maintaining and operating that water development project.
SEC. 3. MITIGATION FISHERY ACTIVITIES.

(a) IMPOSITION OF CHARGES.—The Director of the Service shall impose a charge for conducting mitigation fishery activities.

(b) FISHERY MITIGATION PLANS.—

(1) DEVELOPMENT.—A charge imposed by the Service under subsection (a) shall be paid by a water development agency in accordance with a fishery mitigation plan developed and approved by the Director and the head of the agency.

(2) CONTENTS.—A fishery mitigation plan developed under this subsection shall—

(A) describe the long-term goals and annual targets under which the Service will conduct mitigation fishery activities in connection with projects carried out by a water development agency;

(B) establish charges to be imposed by the Service on the agency for conducting the mitigation fishery activities; and

(C) include the terms under which the agency will make payments on the charges to the Service.

(3) PARTICIPATION OF STATES AND INDIAN TRIBES.—A fishery mitigation plan under this sec-
tion shall be developed in cooperation and coordination with affected States and Indian tribes.

(4) Renegotiation.—The Director of the Service and the head of a water development agency shall renegotiate a fishery mitigation plan under this subsection every 3 years to adjust for changing mitigation fishery costs covered by the plan.

(c) Amount of Charges.—Charges imposed by the Service for conducting mitigation fishery activities shall be reasonably related to the mitigation fishery costs associated with the activities.

(d) Payment of Charges.—

(1) In general.—On or before the first day of each fiscal year beginning after September 30, 2012, a water development agency shall make a payment to the Service for that fiscal year as required under a fishery mitigation plan developed by the Service and the agency under subsection (b).

(2) Crediting of Payments; Availability of Amounts.— Funds paid to the Service under this subsection shall—

(A) be credited to the appropriation of the Service initially charged for providing the service for which the payment is being made;
(B) be available to the Service for expenditure in amounts specified in appropriations Acts; and

(C) remain available until expended.

(3) Projects Without Fishery Mitigation Plans.—In the absence of a fishery mitigation plan, the Service may conduct mitigation fishery activities and receive funding from a water development agency for the activities based on the terms and conditions that applied with respect to the activities in the prior fiscal year.

(c) Services Provided to Power Management Agencies.—If a water development agency collects reimbursements from a power management agency for the ongoing costs of maintaining and operating a Federal water resources development project, the water development agency may include, in those ongoing costs, the costs associated with the project’s fishery mitigation activities.

(f) Definitions.—In this section, the following definitions apply:

(1) Mitigation Fishery Activities.—The term “mitigation fishery activities” means rearing and stocking of native and nonnative fish to replace or maintain fishery resources or harvest levels (or both) lost as a result of a Federal water resources
development project, and includes project planning, population assessment and evaluation, genetic monitoring, broodstock development, and fish health sampling.

(2) Mitigation fishery costs.—The term “mitigation fishery costs” means the expenditures necessary to operate, maintain, and rehabilitate mitigation fishery facilities and to conduct mitigation fishery activities, and includes personnel, transportation, utilities, contractual services, fish feed, supplies, equipment, routine maintenance, deferred maintenance, fish eggs, technical support, fish health, management and administration, planning, and hatchery product evaluations.

(3) Mitigation fishery facility.—The term “mitigation fishery facility” means a facility described in subsection (g) that is owned and operated by the Service through the National Fish Hatchery System for the purpose, either wholly or substantially in part, of conducting mitigation fishery activities.

(4) Service.—The term “Service” means the United States Fish and Wildlife Service.

(5) Water development agency.—The term “water development agency” means the Army Corps
of Engineers, the Bureau of Reclamation, or the
Tennessee Valley Authority.
(g) LISTING OF MITIGATION FISHERY FACILITIES.—
The mitigation fishery facilities referred to in subsection
(f) are as follows:

(1) In Arkansas—
   (A) Greers Ferry National Fish Hatchery;
   and
   (B) Norfork National Fish Hatchery.

(2) In California—
   (A) California-Nevada Fish Health Center;
   and
   (B) Tehama-Colusa Fish Facility.

(3) In Colorado, Hotchkiss National Fish
    Hatchery.

(4) In Georgia—
   (A) Chattahoochee Forest National Fish
    Hatchery; and
   (B) Warm Springs Fish Health Center.

(5) In Kentucky, Wolf Creek National Fish
    Hatchery.

(6) In Missouri, Neosho National Fish Hatch-
    ery.

(7) In Montana—
   (A) Ennis National Fish Hatchery;
(B) Bozeman Fish Health Center; and

(C) Creston National Fish Hatchery.

(8) In Nevada, Lahontan National Fish Hatchery.

(9) In North Dakota—

(A) Garrison Dam National Fish Hatchery; and

(B) Valley City National Fish Hatchery.

(10) In Pennsylvania, Lamar Fish Health Center.

(11) In South Dakota, Gavins Point National Fish Hatchery.

(12) In Tennessee—

(A) Dale Hollow National Fish Hatchery;

and

(B) Erwin National Fish Hatchery.

(13) In Utah, Jones Hole National Fish Hatchery.

(14) In West Virginia, White Sulphur Springs National Fish Hatchery.

(15) In Wisconsin, LaCrosse Fish Health Center.

(16) In Wyoming—

(A) Jackson National Fish Hatchery; and
(B) Saratoga National Fish Hatchery.