

109TH CONGRESS  
1ST SESSION

# H. R. 537

To ensure the continuation of successful fisheries mitigation programs.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2005

Mr. DEAL of Georgia (for himself and Mr. NORWOOD) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on 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

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## A BILL

To ensure the continuation of successful fisheries mitigation programs.

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 Fisheries  
5       Mitigation Coordination Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) The operation of dams and other water di-  
9       version projects are for the benefit of the American

1 public. The construction and operation of these Fed-  
2 eral water resource development projects have had  
3 impacts on many water systems and their respective  
4 fish populations, resulting in the need to build and  
5 operate fish hatcheries to mitigate for aquatic re-  
6 sources affected by these projects.

7 (2) In accordance with the Fish and Wildlife  
8 Act of 1956 (16 U.S.C. 742(a)–754), the Fish and  
9 Wildlife Coordination Act (16 U.S.C. 661–667(e)),  
10 the Watershed Protection and Flood Prevention Act  
11 (16 U.S.C. 1001–1009), and the National Environ-  
12 mental Policy Act (42 U.S.C. 4321–4347), the Serv-  
13 ice has established policy (501 FW 2) to seek to  
14 mitigate for fish, wildlife, and their habitats, and  
15 uses thereof, from the effects of land and water de-  
16 velopments.

17 (3) The United States Fish and Wildlife Service  
18 currently operates nearly 40 fish hatcheries that are  
19 involved in mitigation fishery activities related to  
20 construction and operation of Federal water resource  
21 development projects.

22 (4) Mitigation fishery activities conducted by  
23 the Service at these facilities are highly valued by  
24 the State and Indian tribal partners, and the fishing  
25 community.

1           (5) Inconsistency in authorities, which now  
2           number over 200, to construct and operate Federal  
3           water resource development projects have led to  
4           myriad mechanisms for funding and conducting Fed-  
5           eral mitigation fishery activities. In most cases Fed-  
6           eral water project sponsors fund mitigation fishery  
7           costs. In some cases the Service expends its appro-  
8           priations to offset mitigation fishery costs.

9           (6) The Service is the Federal agency through  
10          which a sponsor agency will negotiate to provide  
11          goods and services to augment fisheries to com-  
12          pensate for the impact of Federal water development  
13          projects on aquatic resources.

14          (7) The sponsor agency should bear the finan-  
15          cial responsibility for mitigation fishery costs in-  
16          curred by the Service.

17 **SEC. 3. DEFINITIONS.**

18          For this Act, the following definitions apply:

19           (1) SPONSOR AGENCY.—The term “sponsor  
20           agency” means the United States Army Corps of  
21           Engineers, the Bureau of Reclamation, or the Ten-  
22           nessee Valley Authority.

23           (2) SERVICE.—The term “Service” means the  
24           United States Fish and Wildlife Service.

1           (3) MITIGATION FISHERIES.—The term “miti-  
2       gation fisheries” means fisheries augmented by  
3       hatchery fish to compensate for the impacts of Fed-  
4       eral water development projects on aquatic re-  
5       sources.

6           (4) MITIGATION FISHERY ACTIVITIES.—The  
7       term “mitigation fishery activities” means rearing  
8       and stocking of native and nonnative fish to replace  
9       or maintain harvest levels lost as a result of Federal  
10      water resource development projects and includes  
11      project planning and evaluation.

12          (5) MITIGATION FISHERY COSTS.—The term  
13      “mitigation fishery costs” means the expenditures  
14      necessary to operate, maintain, and rehabilitate fa-  
15      cilities to conduct mitigation fishery activities, and  
16      include: personnel, transportation, utilities, contrac-  
17      tual services, fish feed, supplies, equipment, routine  
18      maintenance, deferred maintenance, fish eggs, tech-  
19      nical support, fish health, management and adminis-  
20      tration, planning, and evaluation.

21          (6) MITIGATION FISHERY FACILITY.—The term  
22      “mitigation fishery facility” means facilities owned  
23      and operated by the United States Fish and Wildlife  
24      Service through the National Fish Hatchery System

1 for the purpose, either wholly or in part, of con-  
2 ducting mitigation fishery activities.

3 (7) FISHERY MITIGATION PLAN.—The term  
4 “fishery mitigation plan” refers to a resource man-  
5 agement plan developed between the United States  
6 Fish and Wildlife Service and one or more sponsor  
7 agencies, and in cooperation and coordination with  
8 affected States and Indian Tribes, that describes the  
9 long-term goals and annual targets for conducting  
10 mitigation fishery activities. A fishery mitigation  
11 plan shall be approved in advance by a sponsor  
12 agency and the Service.

13 **SEC. 4. MITIGATION FISHERY COSTS.**

14 Not later than October 1, 2007, and each October  
15 1st thereafter, a sponsor agency shall pay to the Service  
16 the total amount of funds necessary to meet the mitigation  
17 fishery costs to meet objectives described in the fishery  
18 mitigation plan for a respective water development project.  
19 The funds to be obligated for this purpose shall be identi-  
20 fied in advance by the Director of the United States Fish  
21 and Wildlife Service.

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