

115TH CONGRESS
2D SESSION

H. R. 6660

To encourage partnerships among public agencies and other interested persons
to promote fish conservation.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 7, 2018

Mr. WITTMAN introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To encourage partnerships among public agencies and other
interested persons to promote fish conservation.

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 Through Partnerships Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to encourage partnerships
8 among public agencies and other interested persons to pro-
9 mote 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 **SEC. 3. DEFINITIONS.**

15 In this Act:

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

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

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

24 (2) BOARD.—The term “Board” means the Na-
25 tional Fish Habitat Board established by section 4.

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 to the term “Indian tribe” in
10 section 4 of the Indian Self-Determination and Edu-
11 cation Assistance 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 section 5.

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) MARINE FISHERIES COMMISSIONS.—The
2 term “Marine Fisheries Commissions” means—

3 (A) the Atlantic States Marine Fisheries
4 Commission;

5 (B) the Gulf States Marine Fisheries Com-
6 mission; and

7 (C) the Pacific States Marine Commission.

8 (10) SECRETARY.—The term “Secretary”
9 means the Secretary of the Interior.

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

12 (12) STATE AGENCY.—The term “State agen-
13 cy” means—

14 (A) the fish and wildlife agency of a State;
15 and

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

22 **SEC. 4. NATIONAL FISH HABITAT BOARD.**

23 (a) ESTABLISHMENT.—

1 (1) FISH HABITAT BOARD.—There is estab-
2 lished a board, to be known as the “National Fish
3 Habitat Board”, whose duties are—

4 (A) to promote, oversee, and coordinate the
5 implementation of this Act;

6 (B) to establish national goals and prior-
7 ities for fish habitat conservation;

8 (C) to recommend to Congress entities for
9 designation as Partnerships; and

10 (D) to review and make recommendations
11 regarding fish habitat conservation projects.

12 (2) MEMBERSHIP.—The Board shall be com-
13 posed of 25 members, of whom—

14 (A) 1 shall be a representative of the De-
15 partment of the Interior;

16 (B) 1 shall be a representative of the
17 United States Geological Survey;

18 (C) 1 shall be a representative of the De-
19 partment of Commerce;

20 (D) 1 shall be a representative of the De-
21 partment of Agriculture;

22 (E) 1 shall be a representative of the Asso-
23 ciation of Fish and Wildlife Agencies;

24 (F) 4 shall be representatives of State
25 agencies, 1 of whom shall be nominated by a re-

1 gional association of fish and wildlife agencies
2 from each of the Northeast, Southeast, Mid-
3 west, and Western regions of the United States;

4 (G) 1 shall be a representative of either—

5 (i) Indian Tribes in the State of Alas-
6 ka; or

7 (ii) Indian Tribes in States other than
8 the State of Alaska;

9 (H) 1 shall be a representative of either—

10 (i) the Regional Fishery Management
11 Councils established under section 302 of
12 the Magnuson-Stevens Fishery Conserva-
13 tion and Management Act (16 U.S.C.
14 1852); or

15 (ii) a representative of the Marine
16 Fisheries Commissions;

17 (I) 1 shall be a representative of the
18 Sportfishing and Boating Partnership Council;

19 (J) 7 shall be representatives selected from
20 at least one from each of the following—

21 (i) the recreational sportfishing indus-
22 try;

23 (ii) the commercial fishing industry;

24 (iii) marine recreational anglers;

25 (iv) freshwater recreational anglers;

1 (v) habitat conservation organizations;

2 and

3 (vi) science-based fishery organiza-

4 tions;

5 (K) 1 shall be a representative of a na-
6 tional private landowner organization;

7 (L) 1 shall be a representative of an agri-
8 cultural production organization;

9 (M) 1 shall be a representative of local
10 government interests involved in fish habitat
11 restoration;

12 (N) 2 shall be representatives from dif-
13 ferent sectors of corporate industries, which
14 may include—

15 (i) natural resource commodity inter-
16 ests, such as petroleum or mineral extrac-
17 tion;

18 (ii) natural resource user industries;

19 and

20 (iii) industries with an interest in fish
21 and fish habitat conservation; and

22 (O) 1 shall be a leadership private sector
23 or landowner representative of an active part-
24 nership.

1 (3) COMPENSATION.—A member of the Board
2 shall serve without compensation.

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

11 (b) APPOINTMENT AND TERMS.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this section, a member of the Board de-
14 scribed in any of subparagraphs (F) through (O) of
15 subsection (a)(2) shall serve for a term of 3 years.

16 (2) INITIAL BOARD MEMBERSHIP.—

17 (A) IN GENERAL.—The initial Board shall
18 consist of representatives as described in sub-
19 paragraphs (A) through (F) of subsection
20 (a)(2).

21 (B) REMAINING MEMBERS.—Not later
22 than 60 days after the date of enactment of
23 this Act, the representatives of the initial Board
24 under subparagraph (A) shall appoint the re-
25 maining members of the Board described in

1 subparagraphs (H) through (O) of subsection
2 (a)(2).

3 (C) TRIBAL REPRESENTATIVES.—Not later
4 than 60 days after the enactment of this Act,
5 the Secretary shall provide to the Board a rec-
6 ommendation of not fewer than 3 Tribal rep-
7 resentatives, from which the Board shall ap-
8 point 1 representative pursuant to subpara-
9 graph (G) of subsection (a)(2).

10 (3) STAGGERED TERMS.—Of the members de-
11 scribed in subsection (a)(2)(J) initially appointed to
12 the Board—

13 (A) 2 shall be appointed for a term of 1
14 year;

15 (B) 2 shall be appointed for a term of 2
16 years; and

17 (C) 3 shall be appointed for a term of 3
18 years.

19 (4) VACANCIES.—

20 (A) IN GENERAL.—A vacancy of a member
21 of the Board described in subparagraph (H),
22 (I), (J), (K), (L), (M), (N), or (O) of sub-
23 section (a)(2) shall be filled by an appointment
24 made by the remaining members of the Board.

1 (B) TRIBAL REPRESENTATIVES.—Fol-
2 lowing a vacancy of a member of the Board de-
3 scribed in subparagraph (G) of subsection
4 (a)(2), the Secretary shall recommend to the
5 Board a list of not fewer than 3 Tribal rep-
6 resentatives, from which the remaining mem-
7 bers of the Board shall appoint a representative
8 to fill the vacancy.

9 (5) CONTINUATION OF SERVICE.—An individual
10 whose term of service as a member of the Board ex-
11 pires may continue to serve on the Board until a
12 successor is appointed.

13 (6) REMOVAL.—If a member of the Board de-
14 scribed in any of subparagraphs (H) through (O) of
15 subparagraph (a)(2) misses 3 consecutive regularly
16 scheduled Board meetings, the members of the
17 Board may—

18 (A) vote to remove that member; and

19 (B) appoint another individual in accord-
20 ance with paragraph (4).

21 (c) CHAIRPERSON.—

22 (1) IN GENERAL.—The representative of the
23 Association of Fish and Wildlife Agencies appointed
24 under subsection (a)(2)(E) shall serve as Chair-
25 person of the Board.

1 (2) TERM.—The Chairperson of the Board shall
2 serve for a term of 3 years.

3 (d) MEETINGS.—

4 (1) IN GENERAL.—The Board shall meet—

5 (A) at the call of the Chairperson; but

6 (B) not less frequently than twice each cal-
7 endar year.

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

10 (e) PROCEDURES.—

11 (1) IN GENERAL.—The Board shall establish
12 procedures to carry out the business of the Board,
13 including—

14 (A) a requirement that a quorum of the
15 members of the Board be present to transact
16 business;

17 (B) a requirement that no recommenda-
18 tions may be adopted by the Board, except by
19 the vote of $\frac{2}{3}$ of all members;

20 (C) procedures for establishing national
21 goals and priorities for fish habitat conservation
22 for the purposes of this Act;

23 (D) procedures for designating Partner-
24 ships under section 5; and

1 (E) procedures for reviewing, evaluating,
2 and making recommendations regarding fish
3 habitat conservation projects.

4 (2) QUORUM.—A majority of the members of
5 the Board shall constitute a quorum.

6 **SEC. 5. FISH HABITAT PARTNERSHIPS.**

7 (a) AUTHORITY TO RECOMMEND.—The Board may
8 recommend to Congress the designation of Fish Habitat
9 Partnerships in accordance with this section.

10 (b) PURPOSES.—The purposes of a Partnership shall
11 be—

12 (1) to work with other regional habitat con-
13 servation programs to promote cooperation and co-
14 ordination to enhance fish populations and fish habi-
15 tats;

16 (2) to engage local and regional communities to
17 build support for fish habitat conservation;

18 (3) to involve diverse groups of public and pri-
19 vate partners;

20 (4) to develop collaboratively a strategic vision
21 and achievable implementation plan that is scientif-
22 ically sound;

23 (5) to leverage funding from sources that sup-
24 port local and regional partnerships;

1 (6) to use adaptive management principles, in-
2 cluding evaluation of project success and
3 functionality;

4 (7) to develop appropriate local or regional
5 habitat evaluation and assessment measures and cri-
6 teria that are compatible with national habitat con-
7 dition measures; and

8 (8) to implement local and regional priority
9 projects that improve conditions for fish and fish
10 habitat.

11 (c) CRITERIA FOR DESIGNATION.—An entity seeking
12 to be designated by Congress as a Partnership shall—

13 (1) submit to the Board an application at such
14 time, in such manner, and containing such informa-
15 tion as the Board may reasonably require; and

16 (2) demonstrate to the Board that the entity
17 has—

18 (A) a focus on promoting the health of im-
19 portant fish and fish habitats;

20 (B) an ability to coordinate the implemen-
21 tation of priority projects that support the goals
22 and national priorities set by the Board that
23 are within the Partnership boundary;

1 (C) a self-governance structure that sup-
2 ports the implementation of strategic priorities
3 for fish habitat;

4 (D) the ability to develop local and re-
5 gional relationships with a broad range of enti-
6 ties to further strategic priorities for fish and
7 fish habitat;

8 (E) a strategic plan that details required
9 investments for fish habitat conservation that
10 addresses the strategic fish habitat priorities of
11 the Partnership and supports and meets the
12 strategic priorities of the Board;

13 (F) the ability to develop and implement
14 fish habitat conservation projects that address
15 strategic priorities of the Partnership and the
16 Board; and

17 (G) the ability to develop fish habitat con-
18 servation priorities based on sound science and
19 data, the ability to measure the effectiveness of
20 fish habitat projects of the Partnership, and a
21 clear plan as to how Partnership science and
22 data components will be integrated with the
23 overall Board science and data effort.

24 (d) REQUIREMENTS FOR RECOMMENDATION TO CON-
25 GRESS.—The Board may recommend to Congress for des-

1 ignation an application for a Partnership submitted under
2 subsection (c) if the Board determines that the appli-
3 cant—

4 (1) meets the criteria described in subsection
5 (c)(2);

6 (2) identifies representatives to provide support
7 and technical assistance to the Partnership from a
8 diverse group of public and private partners, which
9 may include State or local governments, nonprofit
10 entities, Indian Tribes, and private individuals, that
11 are focused on conservation of fish habitats to
12 achieve results across jurisdictional boundaries on
13 public and private land;

14 (3) is organized to promote the health of impor-
15 tant fish species and important fish habitats, includ-
16 ing reservoirs, natural lakes, coastal and marine en-
17 vironments, and estuaries;

18 (4) identifies strategic fish and fish habitat pri-
19 orities for the Partnership area in the form of geo-
20 graphical focus areas or key stressors or impair-
21 ments to facilitate strategic planning and decision-
22 making;

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

25 (6) includes a governance structure that—

1 (A) reflects the range of all partners; and

2 (B) promotes joint strategic planning and
3 decisionmaking by the applicant;

4 (7) demonstrates completion of, or significant
5 progress toward the development of, a strategic plan
6 to address declines in fish populations, rather than
7 simply treating symptoms, in accordance with the
8 goals and national priorities established by the
9 Board; and

10 (8) promotes collaboration in developing a stra-
11 tegic vision and implementation program that is sci-
12 entifically sound and achievable.

13 (e) REPORT TO CONGRESS.—

14 (1) IN GENERAL.—Not later than February 1
15 of the first fiscal year beginning after the date of en-
16 actment of this Act and each February 1 thereafter,
17 the Board shall develop and submit to the appro-
18 priate congressional committees an annual report, to
19 be entitled “Report to Congress on Future Fish
20 Habitat Partnerships and Modifications”, that—

21 (A) identifies each entity that—

22 (i) meets the requirements described
23 in subsection (d); and

24 (ii) the Board recommends to Con-
25 gress for designation as a Partnership;

1 (B) describes any proposed modifications
2 to a Partnership previously designated by Con-
3 gress under subsection (f); and

4 (C) with respect to each entity rec-
5 ommended for designation as a Partnership, de-
6 scribes, to the maximum extent practicable—

7 (i) the purpose of the recommended
8 Partnership; and

9 (ii) how the recommended Partnership
10 fulfills the requirements described in sub-
11 section (d).

12 (2) PUBLIC AVAILABILITY; NOTIFICATION.—
13 The Board shall—

14 (A) make the report publicly available, in-
15 cluding on the internet; and

16 (B) provide to the appropriate congres-
17 sional committees and the State agency of any
18 State included in a recommended Partnership
19 area written notification of the public avail-
20 ability of the report.

21 (f) DESIGNATION OR MODIFICATION OF PARTNER-
22 SHIP.—Congress shall have the exclusive authority to des-
23 ignate or modify a Partnership.

24 (g) EXISTING PARTNERSHIPS.—

1 (1) DESIGNATION REVIEW.—Not later than 5
2 years after the date of enactment of this Act, any
3 partnership receiving Federal funds as of the date of
4 enactment of this Act shall be subject to a designa-
5 tion review by Congress in which Congress shall
6 have the opportunity to designate the partnership
7 under subsection (f).

8 (2) INELIGIBILITY FOR FEDERAL FUNDS.—A
9 partnership referred to in paragraph (1) that Con-
10 gress does not designate as described in that para-
11 graph shall be ineligible to receive Federal funds
12 under this Act.

13 **SEC. 6. FISH HABITAT CONSERVATION PROJECTS.**

14 (a) SUBMISSION TO BOARD.—Not later than March
15 31 of each year, each Partnership shall submit to the
16 Board a list of priority fish habitat conservation projects
17 recommended by the Partnership for annual funding
18 under this Act.

19 (b) RECOMMENDATIONS BY BOARD.—Not later than
20 July 1 of each year, the Board shall submit to the Sec-
21 retary a priority list of fish habitat conservation projects
22 that includes a description, including estimated costs, of
23 each project that the Board recommends that the Sec-
24 retary approve and fund under this Act for the following
25 fiscal year.

1 (c) CRITERIA FOR PROJECT SELECTION.—The
2 Board shall select each fish habitat conservation project
3 recommended to the Secretary under subsection (b) after
4 taking into consideration, at a minimum, the following in-
5 formation:

6 (1) A recommendation of the Partnership that
7 is, or will be, participating actively in implementing
8 the fish habitat conservation project.

9 (2) The capabilities and experience of project
10 proponents to implement successfully the proposed
11 project.

12 (3) The extent to which the fish habitat con-
13 servation project—

14 (A) fulfills a local or regional priority that
15 is directly linked to the strategic plan of the
16 Partnership and is consistent with the purpose
17 of this Act;

18 (B) addresses the national priorities estab-
19 lished by the Board;

20 (C) is supported by the findings of the
21 habitat assessment of the Partnership or the
22 Board, and aligns or is compatible with other
23 conservation plans;

1 (D) identifies appropriate monitoring and
2 evaluation measures and criteria that are com-
3 patible with national measures;

4 (E) provides a well-defined budget linked
5 to deliverables and outcomes;

6 (F) leverages other funds to implement the
7 project;

8 (G) addresses the causes and processes be-
9 hind the decline of fish or fish habitats; and

10 (H) includes an outreach or education
11 component that includes the local or regional
12 community.

13 (4) The availability of sufficient non-Federal
14 funds to match Federal contributions for the fish
15 habitat conservation project, as required by sub-
16 section (e).

17 (5) The extent to which the fish habitat con-
18 servation project—

19 (A) will increase fish populations in a man-
20 ner that leads to recreational fishing opportuni-
21 ties for the public;

22 (B) will be carried out through a coopera-
23 tive agreement among Federal, State, and local
24 governments, Indian Tribes, and private enti-
25 ties;

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

4 (D) advances the conservation of fish and
5 wildlife species that have been identified by a
6 State agency as species of greatest conservation
7 need;

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

14 (F) promotes strong and healthy fish habi-
15 tats so that desired biological communities are
16 able to persist and adapt.

17 (6) The substantiality of the character and de-
18 sign of the fish habitat conservation project.

19 (d) LIMITATIONS.—

20 (1) REQUIREMENTS FOR EVALUATION.—No
21 fish habitat conservation project may be rec-
22 ommended by the Board under subsection (b) or
23 provided financial assistance under this Act unless
24 the fish habitat conservation project includes an

1 evaluation plan designed using applicable Board
2 guidance—

3 (A) to appropriately assess the biological,
4 ecological, or other results of the habitat protec-
5 tion, restoration, or enhancement activities car-
6 ried out using the assistance;

7 (B) to reflect appropriate changes to the
8 fish habitat conservation project if the assess-
9 ment substantiates that the fish habitat con-
10 servation project objectives are not being met;

11 (C) to identify improvements to existing
12 fish populations, recreational fishing opportuni-
13 ties, and the overall economic benefits for the
14 local community of the fish habitat conservation
15 project; and

16 (D) to require the submission to the Board
17 of a report describing the findings of the assess-
18 ment.

19 (2) ACQUISITION AUTHORITIES.—

20 (A) IN GENERAL.—A State, local govern-
21 ment, or other non-Federal entity is eligible to
22 receive funds for the acquisition of real prop-
23 erty from willing sellers under this Act if the
24 acquisition ensures—

1 (i) public access for fish and wildlife-
2 dependent recreation; or

3 (ii) a scientifically based, direct en-
4 hancement to the health of fish and fish
5 populations, as determined by the Board.

6 (B) STATE AGENCY APPROVAL.—

7 (i) IN GENERAL.—All real property
8 interest acquisition projects funded under
9 this Act must be approved by the State
10 agency in the State in which the project is
11 occurring.

12 (ii) PROHIBITION.—The Board may
13 not recommend, and the Secretary may not
14 provide any funding for, any real property
15 interest acquisition that has not been ap-
16 proved by the State agency.

17 (C) ASSESSMENT OF OTHER AUTHORI-
18 TIES.—The Board may not recommend, and the
19 Secretary may not provide any funding under
20 this Act for, any real property interest acqui-
21 sition unless the Partnership that recommended
22 the project has conducted a project assessment,
23 submitted with the funding request and ap-
24 proved by the Board, to demonstrate all other

1 Federal, State, and local authorities for the ac-
2 quisition of real property have been exhausted.

3 (D) RESTRICTIONS.—A real property in-
4 terest may not be acquired pursuant to a fish
5 habitat conservation project by a State, local
6 government, or other non-Federal entity con-
7 ducted with funds provided under this Act, un-
8 less—

9 (i) the owner of the real property au-
10 thorizes the State, local government, or
11 other non-Federal entity to acquire the
12 real property; and

13 (ii) the Secretary and the Board de-
14 termine that the State, local government,
15 or other non-Federal entity would benefit
16 from undertaking the management of the
17 real property being acquired because that
18 is in accordance with the goals of a Part-
19 nership.

20 (e) NON-FEDERAL CONTRIBUTIONS.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), no fish habitat conservation project may
23 be recommended by the Board under subsection (b)
24 or provided financial assistance under this Act un-
25 less at least 50 percent of the cost of the fish habi-

1 tat conservation project will be funded with non-
2 Federal funds.

3 (2) NON-FEDERAL SHARE.—Such non-Federal
4 share of the cost of a fish habitat conservation
5 project—

6 (A) may not be derived from another Fed-
7 eral grant program; and

8 (B) may include in-kind contributions and
9 cash.

10 (3) SPECIAL RULE FOR INDIAN TRIBES.—Not-
11 withstanding paragraph (1) or any other provision of
12 law, any funds made available to an Indian Tribe
13 pursuant to this Act may be considered to be non-
14 Federal funds for the purpose of paragraph (1).

15 (f) APPROVAL.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of receipt of the recommended priority list
18 of fish habitat conservation projects under sub-
19 section (b), and subject to subsection (d) and based,
20 to the maximum extent practicable, on the criteria
21 described in subsection (c), the Secretary, after con-
22 sulting with the Secretary of Commerce on marine
23 or estuarine projects, shall approve or reject any fish
24 habitat conservation project recommended by the
25 Board.

1 (2) FUNDING.—If the Secretary approves a fish
2 habitat conservation project under paragraph (1),
3 the Secretary shall use amounts made available to
4 carry out this Act to provide funds to carry out the
5 fish habitat conservation project.

6 (3) NOTIFICATION.—If the Secretary rejects
7 under paragraph (1) any fish habitat conservation
8 project recommended by the Board, not later than
9 180 days after the date of receipt of the rec-
10 ommendation, the Secretary shall provide to the
11 Board, the appropriate Partnership, and the appro-
12 priate congressional committees a written statement
13 of the reasons that the Secretary rejected the fish
14 habitat conservation project.

15 **SEC. 7. TECHNICAL AND SCIENTIFIC ASSISTANCE.**

16 (a) IN GENERAL.—The Director, the NOAA Assist-
17 ant Administrator, the EPA Assistant Administrator, and
18 the Director of the United States Geological Survey, in
19 coordination with the Forest Service and other appro-
20 priate Federal departments and agencies, may provide sci-
21 entific and technical assistance to Partnerships, partici-
22 pants in fish habitat conservation projects, and the Board.

23 (b) INCLUSIONS.—Scientific and technical assistance
24 provided under subsection (a) may include—

1 (1) providing technical and scientific assistance
2 to States, Indian Tribes, regions, local communities,
3 and nongovernmental organizations in the develop-
4 ment and implementation of Partnerships;

5 (2) providing technical and scientific assistance
6 to Partnerships for habitat assessment, strategic
7 planning, and prioritization;

8 (3) supporting the development and implemen-
9 tation of fish habitat conservation projects that are
10 identified as high priorities by Partnerships and the
11 Board;

12 (4) supporting and providing recommendations
13 regarding the development of science-based moni-
14 toring and assessment approaches for implementa-
15 tion through Partnerships;

16 (5) supporting and providing recommendations
17 for a national fish habitat assessment;

18 (6) ensuring the availability of experts to assist
19 in conducting scientifically based evaluation and re-
20 porting of the results of fish habitat conservation
21 projects; and

22 (7) providing resources to secure State agency
23 scientific and technical assistance to support Part-
24 nerships, participants in fish habitat conservation
25 projects, and the Board.

1 **SEC. 8. COORDINATION WITH STATES AND INDIAN TRIBES.**

2 The Secretary shall provide a notice to, and cooperate
3 with, the appropriate State agency or Tribal agency, as
4 applicable, of each State and Indian Tribe within the
5 boundaries of which an activity is planned to be carried
6 out pursuant to this Act, including notification, by not
7 later than 30 days before the date on which the activity
8 is implemented.

9 **SEC. 9. INTERAGENCY OPERATIONAL PLAN.**

10 Not later than 1 year after the date of enactment
11 of this Act, and every 5 years thereafter, the Director, in
12 cooperation with the NOAA Assistant Administrator, the
13 EPA Assistant Administrator, the Director of the United
14 States Geological Survey, and the heads of other appro-
15 priate Federal departments and agencies (including, at a
16 minimum, those agencies represented on the Board) shall
17 develop an interagency operational plan that describes—

18 (1) the functional, operational, technical, sci-
19 entific, and general staff, administrative, and mate-
20 rial needs for the implementation of this Act; and

21 (2) any interagency agreements between or
22 among Federal departments and agencies to address
23 those needs.

24 **SEC. 10. ACCOUNTABILITY AND REPORTING.**

25 (a) REPORTING.—

1 (1) IN GENERAL.—Not later than 5 years after
2 the date of enactment of this Act, and every 5 years
3 thereafter, the Board shall submit to the appropriate
4 congressional committees a report describing the
5 progress of this Act.

6 (2) CONTENTS.—Each report submitted under
7 paragraph (1) shall include—

8 (A) an estimate of the number of acres,
9 stream miles, or acre-feet, or other suitable
10 measures of fish habitat, that was maintained
11 or improved by Partnerships under this Act
12 during the 5-year period ending on the date of
13 submission of the report;

14 (B) a description of the public access to
15 fish habitats established or improved under this
16 Act during that 5-year period;

17 (C) a description of the improved opportu-
18 nities for public recreational fishing achieved
19 under this Act; and

20 (D) an assessment of the status of fish
21 habitat conservation projects carried out with
22 funds provided under this Act during that pe-
23 riod, disaggregated by year, including—

1 (i) a description of the fish habitat
2 conservation projects recommended by the
3 Board under section 6(b);

4 (ii) a description of each fish habitat
5 conservation project approved by the Sec-
6 retary under section 6(f), in order of pri-
7 ority for funding;

8 (iii) a justification for—

9 (I) the approval of each fish
10 habitat conservation project; and

11 (II) the order of priority for
12 funding of each fish habitat conserva-
13 tion project;

14 (iv) a justification for any rejection of
15 a fish habitat conservation project rec-
16 ommended by the Board under section
17 6(b) that was based on a factor other than
18 the criteria described in section 6(c); and

19 (v) an accounting of expenditures by
20 Federal, State, or local governments, In-
21 dian Tribes, or other entities to carry out
22 fish habitat conservation projects under
23 this Act.

24 (b) STATUS AND TRENDS REPORT.—Not later than
25 December 31, 2019, and every 5 years thereafter, the

1 Board shall submit to the appropriate congressional com-
2 mittees a report that includes—

3 (1) a status of all Partnerships designated
4 under this Act;

5 (2) a description of the status of fish habitats
6 in the United States as identified by designated
7 Partnerships; and

8 (3) enhancements or reductions in public access
9 as a result of—

10 (A) the activities of the Partnerships; or

11 (B) any other activities carried out pursu-
12 ant to this Act.

13 **SEC. 11. EFFECT OF THE ACT.**

14 (a) WATER RIGHTS.—Nothing in this Act—

15 (1) establishes any express or implied reserved
16 water right in the United States for any purpose;

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

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

21 (4) affects any Federal or State law in exist-
22 ence on the date of enactment of the Act regarding
23 water quality or water quantity.

24 (b) AUTHORITY TO ACQUIRE WATER RIGHTS OR
25 RIGHTS TO PROPERTY.—Only a State, local government,

1 or other non-Federal entity may acquire, under State law,
2 water rights or rights to property with funds made avail-
3 able through Section 13.

4 (c) STATE AUTHORITY.—Nothing in this Act—

5 (1) affects the authority, jurisdiction, or respon-
6 sibility of a State to manage, control, or regulate
7 fish and wildlife under the laws and regulations of
8 the State; or

9 (2) authorizes the Secretary to control or regu-
10 late within a State the fishing or hunting of fish and
11 wildlife.

12 (d) EFFECT ON INDIAN TRIBES.—Nothing in this
13 Act abrogates, abridges, affects, modifies, supersedes, or
14 alters any right of an Indian Tribe recognized by treaty
15 or any other means, including—

16 (1) an agreement between the Indian Tribe and
17 the United States;

18 (2) Federal law (including regulations);

19 (3) an Executive order; or

20 (4) a judicial decree.

21 (e) ADJUDICATION OF WATER RIGHTS.—Nothing in
22 this Act diminishes or affects the ability of the Secretary
23 to join an adjudication of rights to the use of water pursu-
24 ant to subsection (a), (b), or (c) of section 208 of the De-

1 partments of State, Justice, Commerce, and The Judiciary
2 Appropriation Act, 1953 (43 U.S.C. 666).

3 (f) DEPARTMENT OF COMMERCE AUTHORITY.—
4 Nothing in this Act affects the authority, jurisdiction, or
5 responsibility of the Department of Commerce to manage,
6 control, or regulate fish or fish habitats under the Magnu-
7 son-Stevens Fishery Conservation and Management Act
8 (16 U.S.C. 1801 et seq.).

9 (g) EFFECT ON OTHER AUTHORITIES.—

10 (1) PRIVATE PROPERTY PROTECTION.—Nothing
11 in this Act permits the use of funds made available
12 to carry out this Act to acquire real property or a
13 real property interest without the written consent of
14 each owner of the real property or real property in-
15 terest, respectively.

16 (2) MITIGATION.—Nothing in this Act author-
17 izes the use of funds made available to carry out this
18 Act for fish and wildlife mitigation purposes under—

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

21 (B) the Fish and Wildlife Coordination Act
22 (16 U.S.C. 661 et seq.);

23 (C) the Water Resources Development Act
24 of 1986 (Public Law 99–662; 100 Stat. 4082);
25 or

1 (D) any other Federal law or court settle-
2 ment.

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

7 **SEC. 12. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
8 **MITTEE ACT.**

9 The Federal Advisory Committee Act (5 U.S.C. App.)
10 shall not apply to—

11 (1) the Board; or

12 (2) any Partnership.

13 **SEC. 13. FUNDING.**

14 (a) AUTHORIZATION OF APPROPRIATIONS.—

15 (1) FISH HABITAT CONSERVATION PROJECTS.—

16 There is authorized to be appropriated to the Sec-
17 retary \$7,200,000 for each of fiscal years 2019
18 through 2023 to provide funds for fish habitat con-
19 servation projects approved under section 6(f), of
20 which 5 percent is authorized only for projects car-
21 ried out by Indian Tribes.

22 (2) ADMINISTRATIVE AND PLANNING EX-
23 PENSES.—There is authorized to be appropriated to
24 the Secretary for each of fiscal years 2019 through
25 2023 an amount equal to 5 percent of the amount

1 appropriated for the applicable fiscal year pursuant
2 to paragraph (1)—

3 (A) for administrative and planning ex-
4 penses under this Act; and

5 (B) to carry out section 10.

6 (3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—

7 There is authorized to be appropriated for each of
8 fiscal years 2018 through 2022 to carry out, and
9 provide technical and scientific assistance under, sec-
10 tion 7—

11 (A) \$500,000 to the Secretary for use by
12 the United States Fish and Wildlife Service;

13 (B) \$500,000 to the NOAA Assistant Ad-
14 ministrator for use by the National Oceanic and
15 Atmospheric Administration;

16 (C) \$500,000 to the EPA Assistant Ad-
17 ministrator for use by the Environmental Pro-
18 tection Agency; and

19 (D) \$500,000 to the Secretary for use by
20 the United States Geological Survey.

21 (b) AGREEMENTS AND GRANTS.—The Secretary
22 may—

23 (1) on the recommendation of the Board, and
24 notwithstanding sections 6304 and 6305 of title 31,
25 United States Code, and the Federal Financial As-

1 sistance Management Improvement Act of 1999 (31
2 U.S.C. 6101 note; Public Law 106–107), enter into
3 a grant agreement, cooperative agreement, or con-
4 tract with a Partnership or other entity to provide
5 funds authorized by this Act for a fish habitat con-
6 servation project or restoration or enhancement
7 project;

8 (2) apply for, accept, and, subject to the avail-
9 ability of appropriations, use a grant from any indi-
10 vidual or entity to carry out the purposes of this
11 Act; and

12 (3) subject to the availability of appropriations,
13 make funds authorized by this Act available to any
14 Federal department or agency for use by that de-
15 partment or agency to provide grants for any fish
16 habitat protection project, restoration project, or en-
17 hancement project that the Secretary determines to
18 be consistent with this Act.

19 (c) DONATIONS.—

20 (1) IN GENERAL.—The Secretary may—

21 (A) enter into an agreement with any orga-
22 nization described in section 501(c)(3) of the
23 Internal Revenue Code of 1986 that is exempt
24 from taxation under section 501(a) of that

1 Code to solicit private donations to carry out
 2 the purposes of this Act; and

3 (B) accept donations of funds, property,
 4 and services to carry out the purposes of this
 5 Act.

6 (2) TREATMENT.—A donation accepted under
 7 this Act—

8 (A) shall be considered to be a gift or be-
 9 quest to, or otherwise for the use of, the United
 10 States; and

11 (B) may be—

12 (i) used directly by the Secretary; or

13 (ii) provided to another Federal de-
 14 partment or agency through an inter-
 15 agency agreement.

16 **SEC. 14. PROHIBITION AGAINST IMPLEMENTATION OF REG-**
 17 **ULATORY AUTHORITY BY FEDERAL AGEN-**
 18 **CIES THROUGH PARTNERSHIPS.**

19 Any Partnership designated under this Act—

20 (1) shall be for the sole purpose of promoting
 21 fish conservation; and

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

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