

(B) State agency approval**(i) In general**

All real property interest acquisition projects funded under this chapter must 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 acquisition that has not been approved by the State agency.

(C) Assessment of other authorities

The Board may not recommend, and the Secretary may not provide any funding under this chapter for, any real property interest acquisition unless the Partnership that recommended the project has conducted 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.

(D) 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 conducted with funds provided under this chapter, 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 accordance with the goals of a Partnership.

(e) Non-Federal contributions**(1) In general**

Except as provided in paragraphs (2) and (4), no fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this chapter unless at least 50 percent of the cost of the fish habitat conservation project will be funded with non-Federal funds.

(2) Non-Federal share

Such non-Federal share of the cost of a fish habitat conservation project—

(A) may not be derived from another Federal grant program; and

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

(3) Special rule for Indian Tribes

Notwithstanding paragraph (1) or any other provision of law, any funds made available to an Indian Tribe pursuant to this chapter may be considered to be non-Federal funds for the purpose of paragraph (1).

(4) Waiver authority

The Secretary, in consultation with the Secretary of Commerce with respect to marine or

estuarine projects, may waive the application of paragraph (2)(A) with respect to a State or an Indian Tribe, or otherwise reduce the portion of the non-Federal share of the cost of an activity required to be paid by a State or an Indian Tribe under paragraph (1), if the Secretary determines that the State or Indian Tribe does not have sufficient funds not derived from another Federal grant program to pay such non-Federal share, or portion of the non-Federal share, without the use of loans.

(f) Approval**(1) In general**

Not later than 90 days after the date of receipt of the recommended priority list of fish habitat conservation projects under subsection (b), and subject to subsection (d) and based, to the maximum extent practicable, on the criteria described in subsection (c), the Secretary, after consulting with the Secretary of Commerce on marine or estuarine projects, shall approve or reject any fish habitat conservation project recommended by the Board.

(2) Funding

If the Secretary approves a fish habitat conservation project under paragraph (1), the Secretary shall use amounts made available to carry out this chapter to provide funds to carry out the fish habitat conservation project.

(3) Notification

If the Secretary rejects under paragraph (1) any fish habitat conservation project recommended by the Board, not later than 90 days after the date of receipt of the recommendation, the Secretary shall provide to the Board, the appropriate Partnership, and the appropriate congressional committees a written statement of the reasons that the Secretary rejected the fish habitat conservation project.

(Pub. L. 116-188, title II, §205, Oct. 30, 2020, 134 Stat. 931.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c)(5)(E), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 8206. Technical and scientific assistance**(a) In general**

The Director, the National Oceanic and Atmospheric Administration Assistant Administrator, the Environmental Protection Agency Assistant Administrator, and the Director of the United States Geological Survey, in coordination with the Forest Service and other appropriate Federal departments and agencies, may provide scientific and technical assistance to Partnerships, participants in fish habitat conservation projects, and the Board.

(b) Inclusions

Scientific and technical assistance provided under subsection (a) may include—

(1) providing technical and scientific assistance to States, Indian Tribes, regions, local communities, and nongovernmental organizations in the development and implementation of Partnerships;

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

(3) supporting the development and implementation of fish habitat conservation projects that are identified as high priorities by Partnerships and the Board;

(4) supporting and providing recommendations regarding the development of science-based monitoring and assessment approaches for implementation through Partnerships;

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

(6) ensuring the availability of experts to assist in conducting scientifically based evaluation and reporting of the results of fish habitat conservation projects; and

(7) providing resources to secure State agency scientific and technical assistance to support Partnerships, participants in fish habitat conservation projects, and the Board.

(Pub. L. 116-188, title II, §206, Oct. 30, 2020, 134 Stat. 934.)

§ 8207. Coordination with States and Indian Tribes

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

(Pub. L. 116-188, title II, §207, Oct. 30, 2020, 134 Stat. 934.)

§ 8208. Interagency operational plan

Not later than 1 year after October 30, 2020, and every 5 years thereafter, the Director, in cooperation with the National Oceanic and Atmospheric Administration Assistant Administrator, the Environmental Protection Agency Assistant Administrator, the Director of the United States Geological Survey, and the heads of other appropriate Federal departments and agencies (including, at a minimum, those agencies represented on the Board) shall develop an interagency operational plan that describes—

(1) the functional, operational, technical, scientific, and general staff, administrative, and material needs for the implementation of this chapter; and

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

(Pub. L. 116-188, title II, §208, Oct. 30, 2020, 134 Stat. 935.)

§ 8209. Accountability and reporting

(a) Reporting

(1) In general

Not later than 5 years after October 30, 2020, and every 5 years thereafter, the Board shall

submit to the appropriate congressional committees a report describing the progress of this chapter.

(2) Contents

Each report submitted under paragraph (1) shall include—

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

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

(C) a description of the improved opportunities for public recreational fishing achieved under this chapter; and

(D) an assessment of the status of fish habitat conservation projects carried out with funds provided under this chapter during that period, disaggregated by year, including—

(i) a description of the fish habitat conservation projects recommended by the Board under section 8205(b) of this title;

(ii) a description of each fish habitat conservation project approved by the Secretary under section 8205(f) of this title, in order of priority for funding;

(iii) a justification for—

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

(II) the order of priority for funding of each fish habitat conservation project;

(iv) a justification for any rejection of a fish habitat conservation project recommended by the Board under section 8205(b) of this title that was based on a factor other than the criteria described in section 8205(c) of this title; and

(v) an accounting of expenditures by Federal, State, or local governments, Indian Tribes, or other entities to carry out fish habitat conservation projects under this chapter.

(b) Status and trends report

Not later than December 31, 2021, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report that includes—

(1) a status of all Partnerships designated under this chapter;

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

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

(A) the activities of the Partnerships; or

(B) any other activities carried out pursuant to this chapter.

(Pub. L. 116-188, title II, §209, Oct. 30, 2020, 134 Stat. 935.)

§ 8210. Effect of this chapter

(a) Water rights

Nothing in this chapter—

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