

partners, which may include State or local governments, nonprofit entities, Indian Tribes, and private individuals, that are focused on conservation of fish habitats to achieve results across jurisdictional boundaries on public and private land;

(3) is organized to promote the health of important fish species and important fish habitats, including reservoirs, natural lakes, coastal and marine environments, coral reefs, and estuaries;

(4) identifies strategic fish and fish habitat priorities for the Partnership area in the form of geographical focus areas or key stressors or impairments to facilitate strategic planning and decision making;

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

(6) includes a governance structure that—

(A) reflects the range of all partners; and

(B) promotes joint strategic planning and decision making by the applicant;

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

(8) promotes collaboration in developing a strategic vision and implementation program that is scientifically sound and achievable.

(e) Report to Congress

(1) In general

Not later than February 1 of the first fiscal year beginning after October 30, 2020, and each February 1 thereafter, the Board shall develop and submit to the appropriate congressional committees an annual report, to be entitled “Report to Congress on Future Fish Habitat Partnerships and Modifications”, that—

(A) identifies each entity that—

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

(ii) the Board recommends to Congress for designation as a Partnership;

(B) describes any proposed modifications to a Partnership previously designated by Congress under subsection (f);

(C) with respect to each entity recommended for designation as a Partnership, describes, to the maximum extent practicable—

(i) the purpose of the recommended Partnership; and

(ii) how the recommended Partnership fulfills the requirements described in subsection (d).

(2) Public availability; notification

The Board shall—

(A) make the report publicly available, including on the internet; and

(B) provide to the appropriate congressional committees and the State agency of any State included in a recommended Partnership area written notification of the public availability of the report.

(f) Designation or modification of partnership

Congress shall have the exclusive authority to designate or modify a Partnership.

(g) Existing partnerships

(1) Designation review

Not later than 5 years after October 30, 2020, any partnership receiving Federal funds as of October 30, 2020, shall be subject to a designation review by Congress in which Congress shall have the opportunity to designate the partnership under subsection (f).

(2) Ineligibility for Federal funds

A partnership referred to in paragraph (1) that Congress does not designate as described in that paragraph shall be ineligible to receive Federal funds under this chapter.

(Pub. L. 116-188, title II, §204, Oct. 30, 2020, 134 Stat. 928.)

§ 8205. Fish habitat conservation projects

(a) Submission to Board

Not later than March 31 of each year, each Partnership shall submit to the Board a list of priority fish habitat conservation projects recommended by the Partnership for annual funding under this chapter.

(b) Recommendations by Board

Not later than July 1 of each year, the Board shall submit to the Secretary a priority list of fish habitat conservation projects that includes a description, including estimated costs, of each project that the Board recommends that the Secretary approve and fund under this chapter for the following fiscal year.

(c) Criteria for project selection

The Board shall select each fish habitat conservation project recommended to the Secretary under subsection (b) after taking into consideration, at a minimum, the following information:

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

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

(3) The extent to which the fish habitat conservation project—

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

(B) addresses the national priorities established by the Board;

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

(D) identifies appropriate monitoring and evaluation measures and criteria that are compatible with national measures;

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

(F) leverages other funds to implement the project;

(G) addresses the causes and processes behind the decline of fish or fish habitats; and

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

(4) The availability of sufficient non-Federal funds to match Federal contributions for the fish habitat conservation project, as required by subsection (e).

(5) The extent to which the fish habitat conservation project—

(A) will increase fish populations in a manner that leads to recreational fishing opportunities for the public;

(B) will be carried out through a cooperative agreement among Federal, State, and local governments, Indian Tribes, and private entities;

(C) increases public access to land or water for fish and wildlife-dependent recreational opportunities;

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

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

(F) promotes strong and healthy fish habitats so that desired biological communities are able to persist and adapt.

(6) The substantiality of the character and design of the fish habitat conservation project.

(d) Limitations

(1) Requirements for evaluation

No fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this chapter unless the fish habitat conservation project includes an evaluation plan designed using applicable Board guidance—

(A) to appropriately assess the biological, ecological, or other results of the habitat protection, restoration, or enhancement activities carried out using the assistance;

(B) to reflect appropriate changes to the fish habitat conservation project if the assessment substantiates that the fish habitat conservation project objectives are not being met;

(C) to identify improvements to existing fish populations, recreational fishing opportunities, and the overall economic benefits for the local community of the fish habitat conservation project; and

(D) to require the submission to the Board of a report describing the findings of the assessment.

(2) Acquisition authorities

(A) 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 chapter if the acquisition ensures—

(i) public access for 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.

(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.)

Editorial Notes

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