

## **FISH AND WILDLIFE SERVICE FISHERIES**

**Series:** Fisheries

**Part No.:** Fishery Resources Management

**Chapter No.:** National Fish Habitat Action Plan

**New or Supersedes:** New

**1.1 What is the purpose of this chapter?** This chapter provides general requirements, eligibility criteria and administrative procedures to guide the Fish and Wildlife Service's use of funds appropriated to the Service specifically to implement the National Fish Habitat Action Plan. The chapter also provides guidance for other Service programs that affect aquatic habitat. As used in this chapter, the terms "we," "our," and "Service" refer to the Fish and Wildlife Service.

**1.2 What is the National Fish Habitat Action Plan?** The National Fish Habitat Action Plan (Action Plan) was approved for implementation by the Association of Fish and Wildlife Agencies (Association) on March 24, 2006 in Columbus, Ohio. On April 24, 2006, the Secretary of the Interior and the Secretary of Commerce agreed to implement the Action Plan in cooperation with the Association through their respective roles, missions, and legal authorities. The mission of the Action Plan is "to protect, restore, and enhance the nation's fish and aquatic communities through partnerships that foster fish habitat conservation and improve the quality of life for the American people." The Action Plan is non-regulatory and voluntary, and relies upon the energies and expertise of geographically-focused regional Fish Habitat Partnerships dedicated to protecting, restoring, and enhancing fish habitats. All references to the Action Plan in this chapter are to the April 24, 2006 version.

### **1.3 What are the goals of the National Fish Habitat Action Plan?**

These goals are reprinted verbatim from the Action Plan:

- A.** Protect and maintain intact and healthy aquatic systems.
- B.** Prevent further degradation of fish habitats that have been adversely affected.
- C.** Reverse declines in the quality and quantity of aquatic habitats to improve the overall health of fish and other aquatic organisms.
- D.** Increase the quality and quantity of fish habitats that support a broad natural diversity of fish and other aquatic organisms.

### **1.4 What are the objectives of the National Fish Habitat Action Plan?**

These objectives are reprinted verbatim from the Action Plan:

- A.** Conduct a condition analysis of all fish habitats within the United States by 2010.
- B.** Identify priority fish habitats and establish Fish Habitat Partnerships targeting these habitats by 2010.
- C.** Establish 12 or more Fish Habitat Partnerships throughout the United States by 2010.
- D.** Prepare a "Status of Fish Habitats in the United States" report by 2010 and every five years thereafter.
- E.** Protect all healthy and intact fish habitats by 2015.
- F.** Improve the condition of 90 percent of priority habitats and species targeted by Fish Habitat Partnerships by 2020.

### **1.5 What are the Federal authorities for this chapter?**

- A.** Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; 79 Stat. 1125)
- B.** Endangered Species Act (16 U.S.C. 1531-1544; 87 Stat. 884)
- C.** Fish and Wildlife Coordination Act (16 U.S.C. 661-667e)

## **1.6 Who in the Service is responsible for implementing the National Fish Habitat Action Plan?**

### **A. Director - Fish and Wildlife Service**

- (1) Provides Federal leadership and overall guidance and direction to the Service for implementing the Action Plan, and ensures Service-wide coordination.
- (2) Serves on the National Fish Habitat Board.
- (3) Elevates recommendations to the Board regarding matters related to or within the scope of the Action Plan.
- (4) Approves funding decisions as described in Section 1.9 and communicates decisions to the Regional Directors/CNO Manager.

### **B. Assistant Director - Fisheries and Habitat Conservation**

- (1) Administers and oversees the implementation of the Action Plan by the Service.
- (2) Coordinates activities under the Action Plan with other Federal agencies and other entities inside and outside the Service, and provides leadership to encourage partner contributions toward implementing the Plan.
- (3) Recommends allocation of funds to Fish Habitat Partnerships, in consultation with Fisheries Assistant Regional Directors.
- (4) Has the lead responsibility within the Service for accomplishing Action Plan objectives.
- (5) Supports National Fish Habitat Action Plan goals by coordination of activities prescribed in the National Fisheries Program Strategic Plan and other Service program planning documents.

### **C. Chief - Division of Fish and Wildlife Management and Habitat Restoration:**

- (1) Compiles regional submissions of projects recommended for funding within each Fish Habitat Partnership.
- (2) Analyzes Action Plan data from the Fisheries Information System for the purpose of reporting on the nationwide accomplishments, costs, and benefits of Service activities related to the Action Plan. The Service must be able to discreetly identify Action Plan projects for purposes of tracking and performance reporting.
- (3) Coordinates Service activities under the Action Plan with entities inside and outside the Service.
- (4) Cooperates with Service offices and other partners to develop strategies to increase partnership funding for projects under the Action Plan.

### **D. Regional Directors and the California/Nevada Operations Office (CNO) Manager:**

- (1) Implement the Action Plan within their Region/CNO in accordance with this chapter.
- (2) Support the development and operation of Fish Habitat Partnerships.
- (3) Annually provide to the Director a list of recommended projects for implementation within each Fish Habitat Partnership in the region.
- (4) Undertake additional actions as appropriate to implement the Action Plan in their Regions/CNO.

### **E. Assistant Regional Directors - Fisheries**

- (1) Foster and support Fish Habitat Partnerships at the regional level in close coordination with State fish and wildlife agency counterparts.
- (2) Provide regional project ranking in the FONS that reflects Fish Habitat Partnership prioritization.
- (3) Review fish habitat projects submitted to the FONS to ensure project quality and compliance with program guidance.
- (4) Notify Fish Habitat Partnerships of projects selected for funding by the Service within their regions.
- (5) Transmit to the field all current policies, procedures, or national directives issued by the Washington Office, regarding the Action Plan.
- (6) Collect data on the accomplishments, costs, and benefits of the Region's/CNO's activities related to the Action Plan and report that data in the Fisheries Information System – Accomplishment Module. The Service must be able to discreetly identify Action Plan projects for purposes of tracking and performance reporting.

### **F. Assistant Regional Directors – Ecological Services, Refuges, Migratory Birds, Subsistence, and External Affairs**

- (1) Consider the goals of the Action Plan when developing and implementing programs that directly or indirectly affect aquatic habitat.
- (2) Coordinate with Assistant Regional Directors – Fisheries to identify and attain mutual benefits between the Action Plan and Service programs.

**G. Field Station managers and supervisors (Fisheries Program)**

- (1) Coordinate and implement the Action Plan at the field level in close coordination with State fish and wildlife agency counterparts.
- (2) Coordinate with Fish Habitat Partnerships and other Service program offices to identify potential fish habitat projects and enter appropriate projects into the FONS.
- (3) Implement fish habitat projects in accordance with section 1.12 below, and in cooperation with Fish Habitat Partnerships consistent with national guidance, policies, and directives.
- (4) Provide biological expertise and technical support to Fish Habitat Partnership projects that result in improved habitat for Federal trust species.
- (5) Direct outreach efforts for the Action Plan to those geographic areas where there are opportunities to benefit priority resources.
- (6) Report accomplishments and performance information associated with fish habitat projects in the Fisheries Information System.

**H. Field Station managers and supervisors (Ecological Services and Refuges)**

- (1) Consider the goals of the Action Plan and priorities of Fish Habitat Partnerships when planning and evaluating projects that directly or indirectly affect aquatic habitat.
- (2) Coordinate with Fisheries Program field station managers to identify potential fish habitat projects and to enter appropriate projects into the FONS.

**1.7 What terms do I need to know?** Definitions for some of the terms used in this chapter are as follows.

**A. Federal trust species.** Includes tribal trust fish resources, fish species within Service lands, anadromous and catadromous fish, other interjurisdictional fish and aquatic species, endangered, threatened, or candidate species, and species proposed for listing under the Endangered Species Act.

**B. Fisheries Information System (FIS).** A nationwide database that provides a consistent means to identify operational needs and report accomplishments.

**C. Fisheries Operational Needs System (FONS).** A module in FIS that identifies the fisheries operational needs of field stations, including fish habitat project needs.

**D. Fish Habitat Partnerships** – self-directed coalitions that may include state, federal, and local agencies, tribes, non-governmental organizations, corporations, academia, industry, or individuals that work toward common goals under the Action Plan to protect, restore, and enhance fish habitat. Roles of Fish Habitat Partnerships include but are not limited to:

- (1) Provide leadership and help develop fish habitat projects at regional and local levels.
- (2) Work with other regional habitat conservation programs to promote cooperation and coordination leading to the enhanced protection of fish habitats.
- (3) Collaboratively develop a compelling strategic vision and implementation plan that is scientifically sound and achievable.
- (4) Have the ability to develop appropriate regional habitat evaluation measures and criteria that are compatible with national measures.

**E. National Fish Habitat Board** – a governing board established to promote, oversee and coordinate implementation of the Action Plan. The Board develops guidance for recognizing Fish Habitat Partnerships and reviews projects selected for funding by the Director of the Fish and Wildlife Service. The Board consists of members drawn from the following stakeholder groups:

- (1) Association of Fish and Wildlife Agencies and State fish and wildlife agency Association representatives.
- (2) Federal agency representatives.
- (3) Conservation/science/academic members, including the National Fish and Wildlife Foundation.
- (4) At-large members representing tribal governments, interstate management agency representatives, industry (fishing, boating, ecotourism, etc.), elected officials and other interests.

**F. Evaluation and Monitoring** – As used in this chapter, “evaluation” means measuring change in condition resulting from a management action, and “monitoring” means measuring trends in condition over time. Evaluation must be related to a specific management action, and monitoring need not be related to a management action.

## **1.8 How does the Service use National Fish Habitat Action Plan funds that are appropriated to the Service?**

National Fish Habitat Action Plan funds will be used to:

**A.** Support national coordination activities of the Service, activities of the National Fish Habitat Board, and staff for the Board. Activities of the Board supported by the Service may include:

**(1) Coordinating Fish Habitat Partnerships.** The Board will encourage the establishment of Fish Habitat Partnerships in accordance with guidance developed by the Board. The Board will receive and compile reports from the Fish Habitat Partnerships and facilitate sharing of information among the Partnerships.

**(2) Strategic Planning.** The Board will set national goals for improving the condition of habitats and species targeted by Fish Habitat Partnerships.

**(3) Science and Data.** The Board will develop a national framework for assessing and reporting on the condition of fish habitats, and use the framework to create periodic "Status of Fish Habitats" reports.

**(4) Communication and Outreach.** The Board will mobilize and focus national and local support for achieving fish habitat conservation goals. It will promote the value of aquatic habitat and encourage its conservation through a communication and outreach.

**B.** Support Action Plan coordination and leadership at the Regional/CNO level. Activities may include:

**(1) Fish Habitat Partnerships.** Support the development and operation of Fish Habitat Partnerships.

**(2) Fish Habitat Projects.** Compile, review, and rank projects identified by Fish Habitat Partnerships.

**(3) Accomplishment reporting.** Report the Service's accomplishments and performance information associated with fish habitat projects.

**(4) Technical Assistance.** Provide biological expertise and technical support relating to Action Plan implementation.

**(5) Communication and Outreach.** Perform and participate in outreach efforts in support of Action Plan implementation.

**C.** Implement habitat-based cost-shared projects identified by Fish Habitat Partnerships and approved by the Director. Projects will protect, restore, or enhance fish habitats or otherwise directly support habitat-related priorities of Fish Habitat Partnerships. All or a portion of project funds may be transferred to partner organizations if the Service lacks the capability to implement a project. If the Regions/CNO or partners cannot implement approved projects, the Regional Director/CNO Manager has the authority to implement alternative fish habitat projects in consultation with the appropriate Fish Habitat Partnerships. The Regions/CNO also must notify the Chief, Division of Fish and Wildlife Management and Habitat Restoration about the changes to projects funded and implemented. Project funding is provided for implementation in the following manner:

**(1) Direct costs.** Each Region/CNO must use at least 70 percent of fish habitat project funds each fiscal year for habitat-based activities. We consider engineering costs to be direct costs.

Expenditures of the habitat-based funds are appropriate for the following actions and activities:

**(a)** Biologists' time (e.g., project planning), directing project activities (e.g., earthwork, fence installation), site assessments, inventories and feasibility studies, travel to and from the project, project oversight.

**(b)** Equipment (e.g., earth moving equipment; surveying equipment; laboratory equipment).

**(c)** Earthwork (e.g., contracts for earth moving, planting, structure installation, or other site preparation), materials (e.g., fencing, plants and planting supplies, water control structures).

**(d)** Evaluation of biological response. Project design should include, to the extent possible, evaluation of biological response. However, long term monitoring is not eligible for funding.

**(2) Indirect costs.** Regions may use no more than 30 percent of fish habitat project funds allocated each fiscal year for activities that indirectly support fish habitat projects. These activities include:

**(a)** Biologists' time (e.g., training, serving on committees, annual leave and sick leave, miscellaneous technical assistance, education, outreach).

**(b)** Office support activities (e.g., budget, accounting, and processing agreements), data entry, supervision, vehicles, vehicle maintenance, and reasonable office expenses.

**(3) Cost sharing by partners.** A contribution of at least 50 percent of total project costs by Region is required from our partners. Matches may be in-kind services or cash.

**(4) Ineligible expenditures.** Funds appropriated to the Service for implementation of the Action Plan may not be expended on the following activities. If any of these activities is integral to a project under the Action Plan, funds from other appropriate sources should be used to support the activities.

(a) Actions required by existing regulatory programs. Fish habitat expenditures shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(b) Realty costs (e.g. lease or purchase interests in real property, or to make rental or other land use incentive payments to landowners).

(c) Pre-award costs associated with preliminary design, surveys, and appraisals.

(d) Research studies.

(e) Operation and maintenance of facilities, structures, or other construction.

(f) Incentive payments

### **1.9 How does the Service identify and prioritize projects for expenditure of Action Plan funds appropriated to the Service?**

**A.** The only projects eligible for consideration and funding are fish habitat projects ranked highly by Fish Habitat Partnerships.

**B.** Any Service Field Office or program, or other appropriate partners, can submit potential fish habitat projects for consideration for funding.

**C.** Every project must be identified in the FONS. Service Fisheries Field Office staff will work with Fish Habitat Partnerships and other Service program offices to identify fish habitat projects, and enter them into the FONS.

**D.** The Director divides the available project funding among Fish Habitat Partnerships, pursuant to recommendations from the Assistant Director-Fisheries and Habitat Conservation, developed in consultation with the Assistant Regional Directors - Fisheries.

**E.** Fisheries Assistant Regional Directors provide regional project ranking in the FONS that reflects Fish Habitat Partnership prioritization and the criteria listed in Section 1.10 below.

**F.** Regional Directors/CNO Manager provide the Director with recommended projects for implementation within each Fish Habitat Partnership.

**G.** The Director selects projects for funding and consults with the National Fish Habitat Board to seek the Board's concurrence.

**H.** Funds are allocated to Regional Directors/CNO Manager to implement projects approved by the Director.

### **1.10 What are the criteria for selecting fish habitat projects for expenditure of Action Plan funds appropriated to the Service?**

Only projects ranked highly by Fish Habitat Partnerships will be eligible for consideration. Criteria listed below may be used by Fish Habitat Partnerships, and will be used by the Service in its regional FONS ranking to ensure that projects are appropriate for funding by the Service using Action Plan funds. Projects that meet the following criteria would receive a higher ranking (sequence of listing does not imply order of preference):

**A.** Show demonstrable ecological benefits for Federal trust species.

**B.** Exhibit permanence of fish habitat benefits.

**C.** Make use of the most current scientific knowledge and proven technology.

**D.** Have the greatest cost effectiveness and a high likelihood of being completed within the specified time frame and budget.

**E.** Generate the maximum in matching funds and cost-sharing contributions.

**F.** Reduce habitat fragmentation.

**G.** Results in self-sustaining systems that minimize the use and dependence on artificial structures.

**H.** Include adequate evaluation protocols.

**1.11 Do projects funded by the Service have to comply with Federal, State, and local laws and regulations?**

Yes. Service managers and supervisors responsible for implementing fish habitat projects must document compliance with all applicable Federal laws and regulations (e.g. National Environmental Policy Act, Endangered Species Act, Clean Water Act, National Historic Preservation Act, Rivers and Harbors Act). Fish habitat projects must also comply with any applicable State, local, and tribal laws and regulations that do not conflict with, or are not preempted by, Federal laws and regulations.

**1.12 How does the Service implement fish habitat projects using Action Plan funds appropriated to the Service?**

A. Our managers and supervisors responsible for implementing fish habitat projects:

**(1) Document compliance** of fish habitat projects with applicable regulations and Service policies according to the guidance in section 1.11 above.

**(2) Coordinate and work as partners** with other Federal, State, and tribal agencies, local governments, conservation organizations, private entities, and other Service programs to identify and implement fish habitat projects.

**(3) Ensure appropriate documentation.** All agreements and supporting documentation must contain a project plan that describes responsibilities and commitments of all parties. Each fish habitat project file must include copies of purchase orders; receipts for labor, materials, and supplies; and any additional information necessary to accurately account for all expenditures.

**(4) Ensure project quality.** Projects should incorporate the best available science and management practices. This includes identification of management goals such as those outlined in species recovery, watershed restoration, and ecosystem team plans, and evaluation of population responses, where appropriate. All projects must be cost-effective, reflect best available proven technology and adaptive management, and incorporate lessons learned from previous projects.

**(5) Track accomplishments.** Project managers and supervisors track accomplishments to meet requirements under the Government Performance and Results Act. They:

**(a)** Take photographs of conditions before and after project completion to document habitat improvements and project success, where appropriate and feasible.

**(b)** Identify benefits that link back to performance measures of the Fisheries Program.

**(c)** Report accomplishments in the FIS Accomplishment Module.

**(6) Secure signed Service Landowner Agreements** spanning a minimum of ten years for every project on private property.

B. Multiple financial tools can be used for projects requiring a transfer of funds to another party. These tools include but are not limited to:

**(1) Cooperative agreement.** No Federal funds are obligated until a cooperative agreement is approved by both the Service and the cooperating party. The cooperative agreement is a legal instrument reflecting:

**(a)** A relationship between the Federal Government and a State government, a local government, or other recipient when the principal purpose of the relationship is the transfer of money, property (real or personal), services, or anything of value to the recipient to carry out a public purpose during a specified period of time.

**(b)** A commitment to carry out the work described in the approved project proposal in accordance with the terms and conditions of the cooperative agreement.

**(2) Grant agreement.** If cooperative agreements are deemed inappropriate by the Solicitor, a grant agreement can be used to implement fish projects.

**(3) Contract, etc.** Contracts and additional forms of binding legal documents can also be used to support fish habitat projects