

113TH CONGRESS
1ST SESSION

H. R. 2261

To ensure the continuation of successful fisheries mitigation programs, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2013

Mr. CRAWFORD (for himself, Mr. WESTMORELAND, and Mr. ROE of Tennessee) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural 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

A BILL

To ensure the continuation of successful fisheries mitigation
programs, and for other purposes.

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 Mitigation
5 Fisheries Coordination Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The operation of dams and other water di-
2 version projects are for the benefit of the American
3 public. They provide inexpensive energy, flood con-
4 trol, water storage for municipal and agricultural
5 purposes, and opportunities for recreational boating
6 and enjoyment. The construction and operation of
7 these Federal water resources development projects
8 have had impacts on many water systems, habitats,
9 and their respective fish populations, resulting in the
10 need to build and operate fish hatcheries to mitigate
11 for aquatic resources affected by these projects.

12 (2) In accordance with the Fish and Wildlife
13 Act of 1956 (16 U.S.C. 742a et seq.), the Fish and
14 Wildlife Coordination Act (16 U.S.C. 661 et seq.),
15 the Watershed Protection and Flood Prevention Act
16 (16 U.S.C. 1001 et seq.), and the National Environ-
17 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
18 the United States Fish and Wildlife Service has es-
19 tablished policy (501 FW 2) to seek to mitigate for
20 fish, wildlife, and their habitats, and uses thereof,
21 from the effects of land and water developments.

22 (3) The Service currently operates fish hatch-
23 eries that are involved in mitigation fishery activities
24 related to construction and operation of Federal
25 water resources development projects.

1 (4) Inconsistency in authorities to construct
2 and operate Federal water resources development
3 projects has led to a myriad of mechanisms for fund-
4 ing and conducting Federal mitigation fishery activi-
5 ties. In most cases, Federal water project develop-
6 ment agencies fund mitigation fishery costs. In some
7 cases, the Service expends its appropriations to off-
8 set or completely pay for mitigation fishery costs.

9 (5) The water development agency should bear
10 the financial responsibility for mitigation fishery
11 costs incurred by the Service.

12 **SEC. 3. MITIGATION FISHERY ACTIVITIES.**

13 (a) IMPOSITION OF CHARGES.—The Director of the
14 Service shall impose a charge for conducting mitigation
15 fishery activities.

16 (b) FISHERY MITIGATION PLANS.—

17 (1) DEVELOPMENT.—A charge imposed by the
18 Service under subsection (a) shall be paid by a water
19 development agency in accordance with a fishery
20 mitigation plan developed and approved by the Di-
21 rector and the head of the agency.

22 (2) CONTENTS.—A fishery mitigation plan de-
23 veloped under this subsection shall—

24 (A) describe the long-term goals and an-
25 nual targets under which the Service will con-

1 duct mitigation fishery activities in connection
2 with projects carried out by a water develop-
3 ment agency;

4 (B) establish charges to be imposed by the
5 Service on the agency for conducting the miti-
6 gation fishery activities; and

7 (C) include the terms under which the
8 agency will make payments on the charges to
9 the Service.

10 (3) PARTICIPATION OF STATES AND INDIAN
11 TRIBES.—A fishery mitigation plan under this sec-
12 tion shall be developed in cooperation and coordina-
13 tion with affected States and Indian tribes.

14 (4) RENEGOTIATION.—The Director of the
15 Service and the head of a water development agency
16 shall renegotiate a fishery mitigation plan under this
17 subsection every 3 years to adjust for changing miti-
18 gation fishery costs covered by the plan.

19 (c) AMOUNT OF CHARGES.—Charges imposed by the
20 Service for conducting mitigation fishery activities shall be
21 reasonably related to the mitigation fishery costs associ-
22 ated with the activities.

23 (d) PAYMENT OF CHARGES.—

24 (1) IN GENERAL.—On or before the first day of
25 each fiscal year beginning after September 30, 2013,

1 a water development agency shall make a payment
2 to the Service for that fiscal year as required under
3 a fishery mitigation plan developed by the Service
4 and the agency under subsection (b).

5 (2) CREDITING OF PAYMENTS; AVAILABILITY
6 OF AMOUNTS.—Funds paid to the Service under this
7 subsection shall—

8 (A) be credited to the appropriation of the
9 Service initially charged for providing the serv-
10 ice for which the payment is being made;

11 (B) be available to the Service for expendi-
12 ture in amounts specified in appropriations
13 Acts; and

14 (C) remain available until expended.

15 (3) PROJECTS WITHOUT FISHERY MITIGATION
16 PLANS.—In the absence of a fishery mitigation plan,
17 the Service may conduct mitigation fishery activities
18 and receive funding from a water development agen-
19 cy for the activities based on the terms and condi-
20 tions that applied with respect to the activities in the
21 prior fiscal year.

22 (e) DEFINITIONS.—In this section, the following defi-
23 nitions apply:

24 (1) MITIGATION FISHERY ACTIVITIES.—The
25 term “mitigation fishery activities” means rearing

1 and stocking of native and nonnative fish to replace
2 or maintain fishery resources or harvest levels (or
3 both) lost as a result of a Federal water resources
4 development project, and includes project planning,
5 population assessment and evaluation, genetic moni-
6 toring, broodstock development, and fish health sam-
7 pling.

8 (2) MITIGATION FISHERY COSTS.—The term
9 “mitigation fishery costs” means the expenditures
10 necessary to operate, maintain, and rehabilitate miti-
11 gation fishery facilities and to conduct mitigation
12 fishery activities, and includes personnel, transpor-
13 tation, utilities, contractual services, fish feed, sup-
14 plies, equipment, routine maintenance, deferred
15 maintenance, fish eggs, technical support, fish
16 health, management and administration, planning,
17 outreach and education, and hatchery product eval-
18 uations.

19 (3) MITIGATION FISHERY FACILITY.—The term
20 “mitigation fishery facility” means a facility de-
21 scribed in subsection (g) that is owned and operated
22 by the Service through the National Fish Hatchery
23 System for the purpose, either wholly or substan-
24 tially in part, of conducting mitigation fishery activi-
25 ties.

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

3 (5) WATER DEVELOPMENT AGENCY.—The term
4 “water development agency” means the Army Corps
5 of Engineers, the Bureau of Reclamation, or the
6 Tennessee Valley Authority.

7 (f) LISTING OF MITIGATION FISHERY FACILITIES.—
8 The mitigation fishery facilities referred to in subsection
9 (f) are as follows:

10 (1) In Arkansas—

11 (A) Greers Ferry National Fish Hatchery;

12 and

13 (B) Norfolk National Fish Hatchery.

14 (2) In Georgia—

15 (A) Chattahoochee Forest National Fish
16 Hatchery; and

17 (B) Warm Springs Fish Health Center.

18 (3) In Kentucky, Wolf Creek National Fish
19 Hatchery.

20 (4) In Missouri, Neosho National Fish Hatch-
21 ery.

22 (5) In Montana—

23 (A) Ennis National Fish Hatchery; and

24 (B) Bozeman Fish Health Center.

25 (6) In North Dakota—

1 (A) Garrison Dam National Fish Hatch-
2 ery; and

3 (B) Valley City National Fish Hatchery.

4 (7) In Pennsylvania, Lamar Fish Health Cen-
5 ter.

6 (8) In South Dakota, Gavins Point National
7 Fish Hatchery.

8 (9) In Tennessee—

9 (A) Dale Hollow National Fish Hatchery;
10 and

11 (B) Erwin National Fish Hatchery.

12 (10) In Utah, Jones Hole National Fish Hatch-
13 ery.

14 (11) In West Virginia, White Sulphur Springs
15 National Fish Hatchery.

16 (12) In Wisconsin, LaCrosse Fish Health Cen-
17 ter.

18 (13) In Wyoming, Saratoga National Fish
19 Hatchery.

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