



# ACE Act Implementation Status Update

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Ryan Roberts – NFHP Program Manager, AFWA





# Outline

1. ACE Act Section Overview
2. Implementation Progress
3. Outstanding Challenges
4. What's Next & When?



# 1. Ace Act Section Overview



## “ACE” Act (PL 116-188, Title II) Sections Summary

NFHP has been operating since 2006 as a voluntary effort under the National Fish Habitat Action Plan (NFHAP). The NFHAP was codified in the ACE Act (PL 116-188, Title II) which has 12 sections that characterize, define, and specify the actions to be achieved by NFHP. They are as follows:

- **Section 201** – Defines the overarching purposes of the NFHP.
- **Section 202** – Contains definitions specific to the legislation.
- **Section 203** – Outlines the Board makeup, qualifications, selection process, term requirement criteria, required responsibilities, and overall Board processes and functions.
- **Section 204** – Describes the FHPs including: purposes, qualification criteria, formal recognition processes, and responsibilities.



## “ACE” Act Section Provisions (Continued)

- **Section 205** – Focuses on conservation projects. Defines the processes and outlines the criteria related to the selection, prioritization, and funding for FHP fish habitat conservation projects — including funding eligibility criteria and non-federal match contribution requirements (currently 1:1).
- **Section 206** – Defines key NFHP science and technical support roles for a number of federal agencies including: (USFWS), (NOAA), (EPA), (USFS) and (USGS) in addition to other federal entities. It also summarizes support functions and funding allocations for these roles and provides other related guidance (**Relates to Sections 208: IOP and 212: Scientific & Technical Support Funding Sources**).



## “ACE” Act Section Provisions (Continued)

- **Section 207** – Summarizes Secretary of Interior, State, and Indian Tribe coordination requirements.
- **Section 208** – Summarizes requirements and purposes of the Interagency Operation Plan (IOP) that is designed to support NFHP and cooperation from all federal agencies involved with fish habitat.
- **Section 209** – Summarizes specific Board accounting and reporting requirements that are due once every five years to Congress and supplements the annual Congressional Reporting Requirements summarized in Section 204.
- **Section 210** – Further clarifies the effect of the legislation and its limitations.
- **Section 211** – Establishes non-applicability of the Federal Advisory Committee to both the Board and FHPs.
- **Section 212** – Provides an overview of funding authorization, appropriation categories, and criteria that supplement other relevant prior sections.



## 2. Implementation Progress



- **Section 203** – Outlines the Board makeup, qualifications, selection process, term requirement criteria, required responsibilities, and overall Board processes and functions.
- **Section 204** – Describes the FHPs including: purposes, qualification criteria, formal recognition processes, and responsibilities.
- **Section 205** – Focuses on conservation projects. Defines the processes and outlines the criteria related to the selection, prioritization, and funding for FHP fish habitat conservation projects — including funding eligibility criteria and non-federal match contribution requirements (currently 1:1).
- **Section 209** – Summarizes specific Board accounting and reporting requirements that are due once every five years to Congress and supplements the annual Congressional Reporting Requirements summarized in Section 204.



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# 3. Outstanding Challenges



- **Section 208** – Summarizes requirements and purposes of the Interagency Operation Plan (IOP) that is designed to support NFHP and cooperation from all federal agencies involved with fish habitat.
- **Section 212** – Provides an overview of funding authorization, appropriation categories, and criteria that supplement other relevant prior sections.
  - Section 212 (a) Parts 1 and 2 Funded/Implemented –
  - Part (3) unknown related to Sections (206 and 208)
    - in-kind Contributions from Federal Agencies, including USGS and NOAA, as well as the USFWS the National Level.



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• **Section 212 relevant to Section 206 Implementation and Section 208 IOP**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—There is authorized to be appropriated for each of fiscal years 2021 through 2025 to carry out, and provide technical and scientific assistance under, section 206—



(A) \$400,000 to the Secretary for use by the United States Fish and Wildlife Service;

(B) \$400,000 to the National Oceanic and Atmospheric Administration Assistant Administrator for use by the National Oceanic and Atmospheric Administration;

(C) \$400,000 to the Environmental Protection Agency Assistant Administrator for use by the Environmental Protection Agency;

(D) \$400,000 to the Secretary for use by the United States Geological Survey;

(E) \$400,000 to the Secretary of Agriculture, acting through the Chief of the Forest Service, for use by the Forest Service.

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## What could Technical and Scientific Assistance Support?

- National Fish Habitat Assessment
- NFHP Project Tracking System
- Furthering Federal Agency involvement/support for NFHP Efforts
- Assisting Fish Habitat Partnerships with Science and Technical Assistance Needs
- Project Monitoring.....



# Existing Agreement Flexibility

## Section 212 (b)

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

(1) on the recommendation of the Board, and not with standing sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106–107), enter into a grant agreement, cooperative agreement, or contract with a Partnership or other entity to provide funds authorized by this title for a fish habitat conservation project or restoration or enhancement project;

(2) apply for, accept, and, subject to the availability of appropriations, use a grant from any individual or entity to carry out the purposes of this title; and

(3) subject to the availability of appropriations, make funds authorized by this Act available to any Federal department or agency for use by that department or agency to provide grants for any fish habitat protection project, restoration project, or enhancement project that the Secretary determines to be consistent with this title.



# Section 206 & 212 Related Challenges

- Unknown Status re: Processes and Timing to Allocate Section 212 Funding to Implement Section 206
- Funding Status by Agency for Section 212 (a)(3) Unknown
- Limited Time Prior to 2025 Reauthorization of PL 116-188, Title II



## **Section 212 Funding Purposes (defined in Section 206)**

(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



## 4. What's Next & When



# Discussion Points

- Summarize existing & future status for implementing Section 206 & Related Section 212 (a) (3) funding by Agency.
- Timing for Board to collaborate with Federal Agencies to develop/implement Section 212 funding processes related to Section 206?
- How Can the Board help Federal Agencies with this funding process and implementation ?
- Potential consequences for not implementing these portions of Federal Law?
- Should challenges with Section 212 be included in Report to Congress?
- Next steps moving forward?



# Questions/Discussion