

February 29, 2008 Draft Executive Order

**DRAFT
EXECUTIVE ORDER
IMPLEMENTING THE NATIONAL FISH HABITAT ACTION PLAN**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose

The purpose of this order is to promote cooperative conservation by ensuring that Federal agencies with direct or indirect responsibilities for aquatic habitat conservation support State-led efforts to implement the National Fish Habitat Action Plan in accordance with their respective agency missions, policies, and regulations. The Action Plan is a science-based, voluntary and non-regulatory partnership effort at local, regional, and national levels to protect, restore and enhance the Nation's fish and aquatic communities and improve the quality of life for the American people. Aquatic habitat supports fish, shellfish, and other aquatic life that is important to the Nation's biological diversity, the economies of local communities, and recreational use and enjoyment by millions of Americans.

Section 2. Definitions

- a) Cooperative conservation - actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.
- b) National Fish Habitat Action Plan (Action Plan) - the April 24, 2006 *National Fish Habitat Action Plan* and any subsequent revisions or amendments to the Action Plan.
- c) National Fish Habitat Board - a governing board established by the Action Plan to promote, oversee and coordinate implementation of the Action Plan.
- d) Federal Caucus - a working group of Federal agencies, chaired by the U.S. Fish and Wildlife Service, organized to coordinate Federal participation in implementation of the Action Plan.
- e) Fish Habitat Partnership – a National Fish Habitat Board approved group of state, federal, local, nonprofit, tribal, Alaskan Native, or private individuals or entities that coordinate to implement the Plan at a regional level.
- f) Aquatic communities - organisms living or growing in, on, or near the water and interacting with one another in a specific region under relatively similar environmental conditions.
- g) Aquatic habitat - any area upon which aquatic organisms depend, directly or indirectly, to carry out their life processes, including any area used by aquatic organisms for spawning, incubation, nursery, rearing, growth to maturity, food supply, or migration, including any area adjacent to the aquatic environment if

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such adjacent area :1) contributes elements, such as the input of detrital material or the promotion of planktonic and insect populations providing food, which makes fish life possible; 2) protects water sources, quantity, or quality; 3) provides public access for the use of fishery resources; or 4) serves as a buffer protecting the aquatic environment.

Section 3. Goals

The goals of the National Fish Habitat Action Plan are to:

- 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 species.

Section 4. National Fish Habitat Board

The Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service, and Secretary of Commerce, acting through the Assistant Administrator of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, shall participate as members of the National Fish Habitat Board and its Executive Leadership Team. Representatives of other agencies may participate as members of the Board as requested by the Executive Leadership Team.

Section 5. Federal Activities

To carry out the purpose of this order, each Federal agency with direct or indirect responsibilities for aquatic habitat conservation shall, as appropriate and to the extent permitted by law and subject to the availability of appropriations, and in accordance with their respective agency missions, policies, and regulations:

- a) Participate as a member of the Federal Caucus at policy and technical levels to coordinate Federal participation in implementation of the Action Plan, in support of State-led efforts to achieve the goals of the Action Plan.
- b) Review its policies, procedures, resources, and capabilities for opportunities to further the goals of the Action Plan, and revise these where appropriate to support the goals.
- c) Incorporate the goals of the Action Plan in its own plans for managing Federal lands and water resources, during regularly scheduled reviews of such plans.
- d) Contribute materials, services, or matching funds to projects that support the goals of the Action Plan and Fish Habitat Partnerships established under the Plan.
- e) Consider the goals of the Action Plan when awarding loans, grants, contracts, and cooperative agreements to State agencies or other entities when such awards may influence fish habitat.
- f) Consider the goals of the Action Plan when issuing permits to States or private entities when such permits may influence fish habitat.

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- g) Collect, manage, analyze and share data and contribute information technology expertise to build or integrate databases to assess aquatic communities, habitat conditions and outcomes of projects.
- h) Encourage efforts by non-federal partners to implement the Action Plan.
- i) Contribute to the development of informational materials for stakeholders and the general public to raise awareness of the values of aquatic habitat and the Action Plan.
- j) Coordinate its activities in support of the Action Plan with other interagency efforts, including but not limited to the Aquatic Nuisance Species Task Force and the Coral Reef Task Force

Section 6. Agency Reports

By September 30, 2009 and at two-year intervals thereafter, Federal agencies with direct or indirect responsibilities for aquatic habitat conservation shall report to the Chair of the Council on Environmental Quality and to the National Fish Habitat Board through the Federal Caucus on agency accomplishments and progress in support of State-led efforts to achieve the goals of the Action Plan.

Section 8. Judicial Review

This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.