

108TH CONGRESS
1ST SESSION

H. R. 1945

To authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2003

Mr. THOMPSON of California (for himself, Mr. SIMPSON, Mr. CUNNINGHAM, Mrs. TAUSCHER, Mr. GREENWOOD, Mr. WU, Ms. WOOLSEY, Mr. FARR, Mrs. DAVIS of California, Mr. STARK, Mr. MATSUI, Mr. SMITH of Washington, and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Resources

A BILL

To authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, 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 “Pacific Salmon Recov-
5 ery Act”.

1 **SEC. 2. SALMON CONSERVATION AND SALMON HABITAT**
2 **RESTORATION ASSISTANCE.**

3 (a) REQUIREMENT TO PROVIDE ASSISTANCE.—Sub-
4 ject to the availability of appropriations, the Secretary of
5 Commerce shall provide financial assistance in accordance
6 with this Act to qualified States and qualified tribal gov-
7 ernments for salmon conservation and salmon habitat res-
8 toration activities.

9 (b) ALLOCATION.—Of the amounts available to pro-
10 vide assistance under this section each fiscal year (after
11 the application of section 3(g)), the Secretary—

12 (1) shall allocate 85 percent among qualified
13 States, in equal amounts; and

14 (2) shall allocate 15 percent among qualified
15 tribal governments, in amounts determined by the
16 Secretary.

17 (c) TRANSFER.—

18 (1) IN GENERAL.—The Secretary shall prompt-
19 ly transfer—

20 (A) to a qualified State that has submitted
21 a Conservation and Restoration Plan under sec-
22 tion 3(a) amounts allocated to the qualified
23 State under subsection (b)(1) of this section,
24 unless the Secretary determines, within 30 days
25 after the submittal of the plan to the Secretary,

1 that the plan is inconsistent with the require-
2 ments of this Act; and

3 (B) to a qualified tribal government that
4 has entered into a memorandum of under-
5 standing with the Secretary under section 3(b)
6 amounts allocated to the qualified tribal govern-
7 ment under subsection (b)(2) of this section.

8 (2) TRANSFERS TO QUALIFIED STATES.—The
9 Secretary shall make the transfer under paragraph
10 (1)(A)—

11 (A) to the Washington State Salmon Re-
12 covery Board, in the case of amounts allocated
13 to Washington;

14 (B) to the Oregon State Watershed En-
15 hancement Board, in the case of amounts allo-
16 cated to Oregon;

17 (C) to the California Department of Fish
18 and Game for the California Coastal Salmon
19 Recovery Program, in the case of amounts allo-
20 cated to California;

21 (D) to the Governor of Alaska, in the case
22 of amounts allocated to Alaska; and

23 (E) to the Office of Species Conservation,
24 in the case of amounts allocated to Idaho.

25 (d) REALLOCATION.—

1 (1) AMOUNTS ALLOCATED TO QUALIFIED
2 STATES.—Amounts that are allocated to a qualified
3 State for a fiscal year shall be reallocated under sub-
4 section (b)(1) among the other qualified States, if—

5 (A) the qualified State has not submitted
6 a plan in accordance with section 3(a) as of the
7 end of the fiscal year; or

8 (B) the amounts remain unobligated at the
9 end of the subsequent fiscal year.

10 (2) AMOUNTS ALLOCATED TO QUALIFIED TRIB-
11 AL GOVERNMENTS.—Amounts that are allocated to a
12 qualified tribal government for a fiscal year shall be
13 reallocated under subsection (b)(2) among the other
14 qualified tribal governments, if the qualified tribal
15 government has not entered into a memorandum of
16 understanding with the Secretary in accordance with
17 section 3(b) as of the end of the fiscal year.

18 **SEC. 3. RECEIPT AND USE OF ASSISTANCE.**

19 (a) QUALIFIED STATE SALMON CONSERVATION AND
20 RESTORATION PLAN.—

21 (1) IN GENERAL.—To receive assistance under
22 this Act, a qualified State shall develop and submit
23 to the Secretary a Salmon Conservation and Salmon
24 Habitat Restoration Plan.

1 (2) CONTENTS.—Each Salmon Conservation
2 and Salmon Restoration Plan shall, at a minimum—

3 (A) be consistent with other applicable
4 Federal laws;

5 (B) be consistent with the goal of salmon
6 recovery;

7 (C) except as provided in subparagraph
8 (D), give priority to use of assistance under this
9 section for projects that—

10 (i) provide a direct and demonstrable
11 benefit to salmon or their habitat;

12 (ii) provide the greatest benefit to
13 salmon conservation and salmon habitat
14 restoration relative to the cost of the
15 projects; and

16 (iii) conserve, and restore habitat,
17 for—

18 (I) salmon that are listed as en-
19 dangered species or threatened spe-
20 cies, proposed for such listing, or can-
21 didates for such listing, under the En-
22 dangered Species Act of 1973 (16
23 U.S.C. 1531 et seq.); or

1 (II) salmon that are given special
2 protection under the laws or regula-
3 tions of the qualified State;

4 (D) in the case of a plan submitted by a
5 qualified State in which, as of the date of the
6 enactment of this Act, there is no area at which
7 a salmon species referred to in subparagraph
8 (C)(iii)(I) spawns—

9 (i) give priority to use of assistance
10 for projects referred to in subparagraph
11 (C)(i) and (ii) that contribute to proactive
12 programs to conserve and enhance species
13 of salmon that intermingle with, or are
14 otherwise related to, species referred to in
15 subparagraph (C)(iii)(I), which may in-
16 clude (among other matters)—

17 (I) salmon-related research, data
18 collection, and monitoring;

19 (II) salmon supplementation and
20 enhancement;

21 (III) salmon habitat restoration;

22 (IV) increasing economic oppor-
23 tunities for salmon fishermen; and

24 (V) national and international co-
25 operative habitat programs; and

1 (ii) provide for revision of the plan
2 within one year after any date on which
3 any salmon species that spawns in the
4 qualified State is listed as an endangered
5 species or threatened species, proposed for
6 such listing, or a candidate for such list-
7 ing, under the Endangered Species Act of
8 1973 (16 U.S.C. 1531 et seq.);

9 (E) establish specific goals and timelines
10 for activities funded with such assistance;

11 (F) include measurable criteria by which
12 such activities may be evaluated;

13 (G) require that activities carried out with
14 such assistance shall—

15 (i) be scientifically based;

16 (ii) be cost effective;

17 (iii) not be conducted on private land
18 except with the consent of the owner of the
19 land; and

20 (iv) contribute to the conservation and
21 recovery of salmon;

22 (H) require that the qualified State main-
23 tain its aggregate expenditures of funds from
24 non-Federal sources for salmon habitat restora-
25 tion programs at or above the average level of

1 such expenditures in the 2 fiscal years pre-
2 ceding the date of the enactment of this Act;
3 and

4 (I) ensure that activities funded under this
5 Act are conducted in a manner in which, and
6 in areas where, the State has determined that
7 they will have long-term benefits.

8 (3) SOLICITATION OF COMMENTS.—In pre-
9 paring a plan under this subsection a qualified State
10 shall seek comments on the plan from local govern-
11 ments in the qualified State.

12 (b) TRIBAL MOU WITH SECRETARY.—

13 (1) IN GENERAL.—To receive assistance under
14 this Act, a qualified tribal government shall enter
15 into a memorandum of understanding with the Sec-
16 retary regarding use of the assistance.

17 (2) CONTENTS.—Each memorandum of under-
18 standing shall, at a minimum—

19 (A) be consistent with other applicable
20 Federal laws;

21 (B) be consistent with the goal of salmon
22 recovery;

23 (C) give priority to use of assistance under
24 this Act for activities that—

1 (i) provide a direct and demonstrable
2 benefit to salmon or their habitat;

3 (ii) provide the greatest benefit to
4 salmon conservation and salmon habitat
5 restoration relative to the cost of the
6 projects; and

7 (iii) conserve, and restore habitat,
8 for—

9 (I) salmon that are listed as en-
10 dangered species or threatened spe-
11 cies, proposed for such listing, or can-
12 didates for such listing, under the En-
13 dangered Species Act of 1973 (16
14 U.S.C. 1531 et seq.); or

15 (II) salmon that are given special
16 protection under the ordinances or
17 regulations of the qualified tribal gov-
18 ernment;

19 (D) in the case of a memorandum of un-
20 derstanding entered into by a qualified tribal
21 government for an area in which, as of the date
22 of the enactment of this Act, there is no area
23 at which a salmon species that is referred to in
24 subparagraph (C)(iii)(I) spawns—

1 (i) give priority to use of assistance
2 for projects referred to in subparagraph
3 (C)(i) and (ii) that contribute to proactive
4 programs described in subsection
5 (a)(2)(D)(i);

6 (ii) include a requirement that the
7 memorandum shall be revised within 1
8 year after any date on which any salmon
9 species that spawns in the area is listed as
10 an endangered species or threatened spe-
11 cies, proposed for such listing, or a can-
12 didate for such listing, under the Endan-
13 gered Species Act of 1973 (16 U.S.C.
14 1531 et seq.);

15 (E) establish specific goals and timelines
16 for activities funded with such assistance;

17 (F) include measurable criteria by which
18 such activities may be evaluated;

19 (G) establish specific requirements for re-
20 porting to the Secretary by the qualified tribal
21 government;

22 (H) require that activities carried out with
23 such assistance shall—

24 (i) be scientifically based;

25 (ii) be cost effective;

1 (iii) not be conducted on private land
2 except with the consent of the owner of the
3 land; and

4 (iv) contribute to the conservation or
5 recovery of salmon; and

6 (I) require that the qualified tribal govern-
7 ment maintain its aggregate expenditures of
8 funds from non-Federal sources for salmon
9 habitat restoration programs at or above the
10 average level of such expenditures in the 2 fis-
11 cal years preceding the date of the enactment
12 of this Act.

13 (c) ELIGIBLE ACTIVITIES.—

14 (1) IN GENERAL.—Assistance under this Act
15 may be used by a qualified State in accordance with
16 a plan submitted by the State under subsection (a),
17 or by a qualified tribal government in accordance
18 with a memorandum of understanding entered into
19 by the government under subsection (b), to carry out
20 or make grants to carry out, among other activities,
21 the following:

22 (A) Watershed evaluation, assessment, and
23 planning necessary to develop a site-specific and
24 clearly prioritized plan to implement watershed

1 improvements, including for making multi-year
2 grants.

3 (B) Salmon-related research, data collec-
4 tion, and monitoring, salmon supplementation
5 and enhancement, and salmon habitat restora-
6 tion.

7 (C) Maintenance and monitoring of
8 projects completed with such assistance.

9 (D) Technical training and education
10 projects, including teaching private landowners
11 about practical means of improving land and
12 water management practices to contribute to
13 the conservation and restoration of salmon
14 habitat.

15 (E) Other activities related to salmon con-
16 servation and salmon habitat restoration.

17 (2) USE FOR LOCAL AND REGIONAL
18 PROJECTS.—Funds allocated to qualified States
19 under this Act shall be used for local and regional
20 projects.

21 (d) USE OF ASSISTANCE FOR ACTIVITIES OUTSIDE
22 OF JURISDICTION OF RECIPIENT.—Assistance under this
23 section provided to a qualified State or qualified tribal
24 government may be used for activities conducted outside
25 the areas under its jurisdiction if the activity will provide

1 conservation benefits to naturally produced salmon in
2 streams of concern to the qualified State or qualified tribal
3 government, respectively.

4 (e) COST SHARING BY QUALIFIED STATES.—

5 (1) IN GENERAL.—A qualified State shall
6 match, in the aggregate, the amount of any financial
7 assistance provided to the qualified State for a fiscal
8 year under this Act, in the form of monetary con-
9 tributions or in-kind contributions of services for
10 projects carried out with such assistance. For pur-
11 poses of this paragraph, monetary contributions by
12 the State shall not be considered to include funds re-
13 ceived from other Federal sources.

14 (2) LIMITATION ON REQUIRING MATCHING FOR
15 EACH PROJECT.—The Secretary may not require a
16 qualified State to provide matching funds for each
17 project carried out with assistance under this Act.

18 (3) TREATMENT OF MONETARY CONTRIBU-
19 TIONS.—For purposes of subsection (a)(2)(H), the
20 amount of monetary contributions by a qualified
21 State under this subsection shall be treated as ex-
22 penditures from non-Federal sources for salmon con-
23 servation and salmon habitat restoration programs.

24 (f) COORDINATION OF ACTIVITIES.—

1 (1) IN GENERAL.—Each qualified State and
2 each qualified tribal government receiving assistance
3 under this Act is encouraged to carefully coordinate
4 salmon conservation activities of its agencies to
5 eliminate duplicative and overlapping activities.

6 (2) CONSULTATION.—Each qualified State and
7 qualified tribal government receiving assistance
8 under this Act shall consult with the Secretary to
9 ensure there is no duplication in projects funded
10 under this Act.

11 (g) LIMITATION ON ADMINISTRATIVE EXPENSES.—

12 (1) FEDERAL ADMINISTRATIVE EXPENSES.—Of
13 the amount made available under this Act each fiscal
14 year, not more than 1 percent may be used by the
15 Secretary for administrative expenses incurred in
16 carrying out this Act.

17 (2) STATE AND TRIBAL ADMINISTRATIVE EX-
18 PENSES.—Of the amount allocated under this Act to
19 a qualified State or qualified tribal government each
20 fiscal year, not more than 3 percent may be used by
21 the qualified State or qualified tribal government,
22 respectively, for administrative expenses incurred in
23 carrying out this Act.

1 **SEC. 4. PUBLIC PARTICIPATION.**

2 (a) QUALIFIED STATE GOVERNMENTS.—Each quali-
3 fied State seeking assistance under this Act shall establish
4 a citizens advisory committee or provide another similar
5 forum for local governments and the public to participate
6 in obtaining and using the assistance.

7 (b) QUALIFIED TRIBAL GOVERNMENTS.—Each
8 qualified tribal government receiving assistance under this
9 Act shall hold public meetings to receive recommendations
10 on the use of the assistance.

11 **SEC. 5. CONSULTATION NOT REQUIRED.**

12 Consultation under section 7 of the Endangered Spe-
13 cies Act of 1973 (16 U.S.C. 1531 et seq.) shall not be
14 required based solely on the provision of financial assist-
15 ance under this Act.

16 **SEC. 6. REPORTS.**

17 (a) QUALIFIED STATES.—Each qualified State shall,
18 by not later than December 31 of each year, submit to
19 the Committee on Commerce, Science, and Transportation
20 of the Senate and the Committee on Resources of the
21 House of Representatives an annual report on the use of
22 financial assistance received by the qualified State under
23 this Act. The report shall contain an evaluation of the suc-
24 cess of this Act in meeting the criteria listed in section
25 3(a)(2).

26 (b) SECRETARY.—

1 (1) ANNUAL REPORT REGARDING QUALIFIED
2 TRIBAL GOVERNMENTS.—The Secretary shall, by not
3 later than December 31 of each year, submit to the
4 Committee on Commerce, Science, and Transpor-
5 tation of the Senate and the Committee on Re-
6 sources of the House of Representatives an annual
7 report on the use of financial assistance received by
8 qualified tribal governments under this Act. The re-
9 port shall contain an evaluation of the success of
10 this Act in meeting the criteria listed in section
11 3(b)(2).

12 (2) BIENNIAL REPORT.—The Secretary shall,
13 by not later than December 31 of the second year
14 in which amounts are available to carry out this Act,
15 and of every second year thereafter, submit to the
16 Committee on Commerce, Science, and Transpor-
17 tation of the Senate and the Committee on Re-
18 sources of the House of Representatives a biennial
19 report on the use of funds allocated to qualified
20 States under this Act. The report shall review pro-
21 grams funded by the States and evaluate the success
22 of this Act in meeting the criteria listed in section
23 3(a)(2).

24 **SEC. 7. DEFINITIONS.**

25 In this Act:

1 (1) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given that term in section 4(e) of
3 the Indian Self-Determination and Education Assist-
4 ance Act (25 U.S.C. 450b(e)).

5 (2) QUALIFIED STATE.—The term “qualified
6 State” means each of the States of Alaska, Wash-
7 ington, Oregon, California, and Idaho.

8 (3) QUALIFIED TRIBAL GOVERNMENT.—The
9 term “qualified tribal government” means—

10 (A) a tribal government of an Indian tribe
11 in Washington, Oregon, California, or Idaho
12 that the Secretary of Commerce, in consultation
13 with the Secretary of the Interior, determines—

14 (i) is involved in salmon management
15 and recovery activities under the Endan-
16 gered Species Act of 1973 (16 U.S.C.
17 1531 et seq.); and

18 (ii) has the management and organi-
19 zational capability to maximize the benefits
20 of assistance provided under this Act; and

21 (B) a village corporation as defined in or
22 established pursuant to the Alaska Native
23 Claims Settlement Act (43 U.S.C. 1601 et seq.)
24 that the Secretary of Commerce, in consultation
25 with the Secretary of the Interior, determines—

1 (i) is involved in salmon conservation
2 and management; and

3 (ii) has the management and organi-
4 zational capability to maximize the benefits
5 of assistance provided under this Act.

6 (4) SALMON.—The term “salmon” means any
7 naturally produced salmon or naturally produced
8 trout of the following species:

9 (A) Coho salmon (*oncorhynchus kisutch*).

10 (B) Chinook salmon (*oncorhynchus*
11 *tshawytscha*).

12 (C) Chum salmon (*oncorhynchus keta*).

13 (D) Pink salmon (*oncorhynchus*
14 *gorbuscha*).

15 (E) Sockeye salmon (*oncorhynchus nerka*).

16 (F) Steelhead trout (*oncorhynchus*
17 *mykiss*).

18 (G) Sea-run cutthroat trout (*oncorhynchus*
19 *clarki clarki*).

20 (H) For purposes of application of this Act
21 in Oregon—

22 (i) Lahontan cutthroat trout
23 (*oncorhynchus clarki henshawi*); and

24 (ii) Bull trout (*salvelinus confluentus*).

1 (I) For purposes of application of this Act
 2 in Washington and Idaho, Bull trout (*salvelinus*
 3 *confluentus*).

4 (5) SECRETARY.—The term “Secretary” means
 5 the Secretary of Commerce.

6 **SEC. 8. REPORT REGARDING TREATMENT OF INTER-**
 7 **NATIONAL FISHERY COMMISSION PEN-**
 8 **SIONERS.**

9 The President shall—

10 (1) determine the number of United States citi-
 11 zens who—

12 (A) served as employees of the Inter-
 13 national Pacific Salmon Fisheries Commission
 14 or the International North Pacific Fisheries
 15 Commission; and

16 (B) worked in Canada in the course of em-
 17 ployment with that commission;

18 (2) calculate for each such employee the dif-
 19 ference between—

20 (A) the value, in United States currency,
 21 of the annuity payments made and to be made
 22 (determined by an actuarial valuation) by or on
 23 behalf of each such commission to the em-
 24 ployee; and

1 (B) the value, in Canadian currency, of
2 such annuity payments; and

3 (3) by not later than September 1, 2004, sub-
4 mit to the Committee on Resources of the House of
5 Representatives and the Committee on Commerce,
6 Science and Transportation of the Senate a report
7 on the determinations and calculations made under
8 paragraphs (1) and (2).

9 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated
11 \$250,000,000 for each of the fiscal years 2004, 2005, and
12 2006 to carry out this Act. Funds appropriated under this
13 section may remain until expended.

14 **SEC. 10. SENSE OF CONGRESS; REQUIREMENT REGARDING**
15 **NOTICE.**

16 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
17 AND PRODUCTS.—In the case of any equipment or prod-
18 ucts that may be authorized to be purchased with financial
19 assistance provided under this Act, it is the sense of the
20 Congress that entities receiving such assistance should, in
21 expending the assistance, purchase only equipment and
22 products made in the United States.

23 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
24 providing financial assistance under this Act, the Sec-
25 retary shall provide to each recipient of the assistance a

1 notice describing the statement made in subsection (a) by
2 the Congress.

3 (c) REPORT.—Any entity that receives funds under
4 this Act shall report any expenditures of such funds on
5 items made outside of the United States to the Congress
6 within 180 days of the expenditure.

7 **SEC. 11. SENSE OF THE CONGRESS REGARDING BIPAR-**
8 **TISAN JULY 2000 GOALS.**

9 It is the sense of the Congress that the Congress sup-
10 ports the bipartisan July 2000 goals, objectives, and rec-
11 ommendations of the Governors of Idaho, Montana, Or-
12 egon and Washington to protect and restore salmon and
13 other aquatic species to sustainable and harvestable levels
14 while meeting the requirements of the Endangered Species
15 Act of 1973, the Clean Water Act, the Pacific Northwest
16 Electric Power Planning and Conservation Act, tribal
17 treaty rights, and executive orders and while taking into
18 account the need to preserve a sound economy in Alaska,
19 California, Idaho, Montana, Oregon, and Washington.

20 **SEC. 12. REPORT ON EFFECTS ON PACIFIC SALMON**
21 **STOCKS OF CERTAIN TIMBER HARVESTING**
22 **IN CANADA.**

23 The Secretary, in conjunction with other Federal
24 agencies, shall by not later than December 31 of each year
25 report to the Congress to the best of the ability of the

- 1 Secretary regarding the effects on Pacific Salmon stocks
- 2 of timber harvesting on publicly owned lands in British
- 3 Columbia.

