(Pub. L. 98–244, § 11, as added Pub. L. 106–408, title II, § 208, Nov. 1, 2000, 114 Stat. 1781.)

REFERENCES IN TEXT

Public Law 90–209, referred to in text, is Pub. L. 90–209, Dec. 18, 1967, 81 Stat. 656, as amended, popularly known as the National Park Foundation Act, which is classified generally to subchapter III (§ 19e et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 19e of this title and Tables.

CHAPTER 57A—PARTNERSHIPS FOR WILDLIFE

Sec.
3741. Findings.
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§ 3741. Findings

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1967, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread, systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act [16 U.S.C. 1531 et seq.], and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act [16 U.S.C. 4401 et seq.] have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

(Pub. L. 102–587, title VII, § 7102, Nov. 4, 1992, 106 Stat. 5094.)

REFERENCES IN TEXT

The Endangered Species Act referred to in par. (10), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The North American Wetlands Conservation Act, referred to in par. (13), is Pub. L. 101–233, Dec. 13, 1989, 103 Stat. 1968, as amended, which is classified principally to chapter 64 (§ 4401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

SHORT TITLE

Section 7101 of title VII of Pub. L. 102–587 provided that: ''This Title [enacting this chapter] may be cited as the 'Partnerships for Wildlife Act'.''

§ 3742. Purposes

The purposes of this chapter are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the States and of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

(Pub. L. 102–587, title VII, § 7103, Nov. 4, 1992, 106 Stat. 5095; Pub. L. 103–375, § 6(1), Oct. 19, 1994, 108 Stat. 3495.)

AMENDMENTS

1994—Par. (3). Pub. L. 103–375 inserted ''the States and of'' after ''under the leadership of''.

§ 3743. Definitions

As used in this chapter—

(1) The terms ''conserve'' and ''conservation'' mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term ''designated State agency'' means the government agency, department, or division of any State that is empowered under the laws of the State to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term ''fish and wildlife'' means wild members of the animal kingdom that are in an unconfined state.

(4) The term ''Fund'' means the Wildlife Conservation and Appreciation Fund established under section 3744(g) of this title.

(5) The term ''National Fish and Wildlife Foundation'' means the charitable and nonprofit corporation established under section 3701 of this title.

(6) The term ''nonconsumptive activities'' means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term ''State'' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, or American Samoa.

(9) The term ''wildlife conservation and appreciation project'' means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 1362(6) of this title.

(Pub. L. 102–587, title VII, § 7104, Nov. 4, 1992, 106 Stat. 5096; Pub. L. 103–375, § 6(2), (3), Oct. 19, 1994, 108 Stat. 3495.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (9)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

1994—Par. (2). Pub. L. 103–375, § 6(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'designated State agency' means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.''

Par. (4). Pub. L. 103–375, § 6(2)(B), made technical amendment to reference to section 3744(g) of this title to correct reference to corresponding provision of original act.

Par. (8). Pub. L. 103–375, § 6(3)(B), added par. (8). Former par. (8) redesignated (9).

Pub. L. 103–375, § 6(2)(C), (D), substituted semicolon for period at end of subpar. (A) and ''section 1362(6)'' for ''section 1362(5)'' in subpar. (C).

Par. (9). Pub. L. 103–375, § 6(3)(A), redesignated par. (8) as (9).

§ 3744. Wildlife partnership program

(a) In general

The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) Eligible projects

The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) Project standards

The Secretary shall not provide funding to carry out an eligible wildlife conservation and

appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) Limitations on Federal payment

The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project; and

(4) may not be used to defray the administrative cost of State programs.

(e) Non-Federal share of projects

(1) State share

Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from State, non-Federal sources, except that if designated State agencies from 2 or more States cooperate in implementing such a project at least 30 percent shall be paid with amounts from such State, non-Federal sources. Payments required by this paragraph may not be in the form of an in-kind contribution.

(2) Private share

Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from voluntary contributions by private entities or persons, except that if designated State agencies from 2 or more States cooperate in implementing such a project, at least 30 percent shall be paid from such sources. Subject to the approval of the Secretary, such contributions for a project may be in the form of, but are not required to be limited to, private cash donations, and the contribution of materials, equipment, or services necessary for the project.

(f) Eligibility of designated State agencies

No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) Establishment of Fund

(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects.

(h) Authorization of appropriations

There are authorized to be appropriated to the Fund and to the Secretary not to exceed $6,250,000 for each of fiscal years 1999 through 2003.

(Pub. L. 102–587, title VII, § 7105, Nov. 4, 1992, 106 Stat. 5097; Pub. L. 103–375, § 6(4)–(7), Oct. 19, 1994, 108 Stat. 3495, 3496; Pub. L. 105–312, title III, § 303, Oct. 30, 1998, 112 Stat. 2958.)

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–312 substituted ''not to exceed $6,250,000 for each of fiscal years 1999 through 2003.'' for ''for each of fiscal years 1992 through 1998 not to exceed $6,250,000.''

1994—Subsec. (d)(5). Pub. L. 103–375, § 6(4), struck out par. (5) which read as follows: ''may not exceed the State share of the cost of implementing such a project.''

Subsec. (e). Pub. L. 103–375, § 6(5), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.''

Subsec. (g)(2). Pub. L. 103–375, § 6(6)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall deposit into the Fund—

''(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects; and

''(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.''

Subsec. (g)(3), (4). Pub. L. 103–375, § 6(6)(B), struck out pars. (3) and (4) which read as follows:

''(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

''(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation

and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.''

Subsec. (h). Pub. L. 103–375, § 6(7), substituted ''1998'' for ''1995'' and struck out before period at end ''to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation''.

CHAPTER 57B—PARTNERS FOR FISH AND WILDLIFE

Sec.
3771. Findings and purpose.
3772. Definitions.
3773. Partners for Fish and Wildlife Program.
3774. Authorization of appropriations.

§ 3771. Findings and purpose

(a) Findings

Congress finds that—

(1) approximately 60 percent of fish and wildlife in the United States are on private land;

(2) it is imperative to facilitate private landowner-centered and results-oriented efforts that promote efficient and innovative ways to protect and enhance natural resources;

(3) there is no readily available source of technical biological information that the public can access to assist with the application of state-of-the-art techniques to restore, enhance, and manage fish and wildlife habitats;

(4) a voluntary cost-effective program that leverages public and private funds to assist private landowners in the conduct of state-of-the-art fish and wildlife habitat restoration, enhancement, and management projects is needed;

(5) durable partnerships working collaboratively with willing private landowners to implement on-the-ground projects has lead to the reduction of endangered species listings;

(6) Executive Order No. 13352 (69 Fed. Reg. 52989) directs the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency to pursue new cooperative conservation programs involving the collaboration of Federal, State, local, and tribal governments, private for-profit and non-profit institutions, non-governmental entities, and individuals;

(7) since 1987, the Partners for Fish and Wildlife Program has exemplified cooperative conservation as an innovative, voluntary partnership program that helps private landowners restore wetland and other important fish and wildlife habitat; and

(8) through 33,103 agreements with private landowners, the Partners for Fish and Wildlife Program has accomplished the restoration of 677,000 acres of wetland, 1,253,700 acres of prairie and native grasslands, and 5,560 miles of riparian and in-stream habitat since 1987, demonstrating much of that success since only 2001.

(b) Purpose

The purpose of this chapter is to provide for the restoration, enhancement, and management of fish and wildlife habitats on private land through the Partners for Fish and Wildlife Program, a program that works with private landowners to conduct cost-effective habitat projects for the benefit of fish and wildlife resources in the United States.

(Pub. L. 109–294, § 2, Oct. 3, 2006, 120 Stat. 1351.)

REFERENCES IN TEXT

Executive Order No. 13352, referred to in subsec. (a)(6), is Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, which is set out as a note under section 4332 of Title 42, The Public Health and Welfare.

SHORT TITLE

Pub. L. 109–294, § 1, Oct. 3, 2006, 120 Stat. 1351, provided that: ''This Act [enacting this chapter] may be cited as the 'Partners for Fish and Wildlife Act'.''

§ 3772. Definitions

In this chapter:

(1) Federal trust species

The term ''Federal trust species'' means migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern.

(2) Habitat enhancement

(A) In general

The term ''habitat enhancement'' means the manipulation of the physical, chemical, or biological characteristics of a habitat to change a specific function or seral stage of the habitat.

(B) Inclusions

The term ''habitat enhancement'' includes—

(i) an activity conducted to increase or decrease a specific function for the purpose of benefitting species, including—

(I) increasing the hydroperiod and water depth of a stream or wetland beyond what would naturally occur;

(II) improving waterfowl habitat conditions;

(III) establishing water level management capabilities for native plant communities;

(IV) creating mud flat conditions important for shorebirds; and

(V) cross fencing or establishing a rotational grazing system on native range to improve grassland nesting bird habitat conditions; and

(ii) an activity conducted to shift a native plant community successional stage, including—

(I) burning an established native grass community to reduce or eliminate invading brush or exotic species;

(II) brush shearing to set back early successional plant communities; and

(III) forest management that promotes a particular seral stage.

(C) Exclusions

The term ''habitat enhancement'' does not include regularly scheduled and routine maintenance and management activities, such as annual mowing or spraying of unwanted vegetation.

(3) Habitat establishment

The term ''habitat establishment'' means the manipulation of physical, chemical, or bio-