

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

Pub. L. 102-587, title VII, §7101, Nov. 4, 1992, 106 Stat. 5094, 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 non-profit 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 non-consumptive 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 $\frac{1}{3}$ 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 $\frac{1}{3}$ 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.