

(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), 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), 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 adminis-

tered 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.

Sec.	
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 led 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 biological characteristics of a project site to create and maintain habitat that did not previously exist on the project site, including construction of—

(A) shallow water impoundments on non-hydric soils; and

(B) side channel spawning and rearing habitat.

#### (4) Habitat improvement

The term “habitat improvement” means restoring, enhancing, or establishing physiographic, hydrological, or disturbance conditions necessary to establish or maintain na-