

109TH CONGRESS
1ST SESSION

S. 260

AN ACT

To authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

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 “Partners for Fish and
5 Wildlife Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) approximately 60 percent of fish and wild-
4 life in the United States are on private land;

5 (2) it is imperative to facilitate private land-
6 owner-centered and results-oriented efforts that pro-
7 mote efficient and innovative ways to protect and en-
8 hance natural resources;

9 (3) there is no readily available source of tech-
10 nical biological information that the public can ac-
11 cess to assist with the application of state-of-the-art
12 techniques to restore, enhance, and manage fish and
13 wildlife habitats;

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

19 (5) durable partnerships working collaboratively
20 with willing private landowners to implement on-the-
21 ground projects has lead to the reduction of endan-
22 gered species listings;

23 (6) Executive Order No. 13352 (69 Fed. Reg.
24 52989) directs the Departments of the Interior, Ag-
25 riculture, Commerce, and Defense and the Environ-
26 mental Protection Agency to pursue new cooperative

1 conservation programs involving the collaboration of
2 Federal, State, local, and tribal governments, private
3 for-profit and non-profit institutions, non-govern-
4 mental entities, and individuals;

5 (7) since 1987, the Partners for Fish and Wild-
6 life Program has exemplified cooperative conserva-
7 tion as an innovative, voluntary partnership program
8 that helps private landowners restore wetland and
9 other important fish and wildlife habitat; and

10 (8) through 33,103 agreements with private
11 landowners, the Partners for Fish and Wildlife Pro-
12 gram has accomplished the restoration of 677,000
13 acres of wetland, 1,253,700 acres of prairie and na-
14 tive grasslands, and 5,560 miles of riparian and in-
15 stream habitat since 1987, demonstrating much of
16 that success since only 2001.

17 (b) PURPOSE.—The purpose of this Act is to provide
18 for the restoration, enhancement, and management of fish
19 and wildlife habitats on private land through the Partners
20 for Fish and Wildlife Program, a program that works with
21 private landowners to conduct cost-effective habitat
22 projects for the benefit of fish and wildlife resources in
23 the United States.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) FEDERAL TRUST SPECIES.—The term
 2 “Federal trust species” means migratory birds,
 3 threatened species, endangered species, interjurisdic-
 4 tional fish, marine mammals, and other species of
 5 concern.

6 (2) HABITAT ENHANCEMENT.—

7 (A) IN GENERAL.—The term “habitat en-
 8 hancement” means the manipulation of the
 9 physical, chemical, or biological characteristics
 10 of a habitat to change a specific function or
 11 seral stage of the habitat.

12 (B) INCLUSIONS.—The term “habitat en-
 13 hancement” includes—

14 (i) an activity conducted to increase
 15 or decrease a specific function for the pur-
 16 pose of benefitting species, including—

17 (I) increasing the hydroperiod
 18 and water depth of a stream or wet-
 19 land beyond what would naturally
 20 occur;

21 (II) improving waterfowl habitat
 22 conditions;

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

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

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

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

10 (I) burning an established native
 11 grass community to reduce or elimi-
 12 nate invading brush or exotic species;

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

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

18 (C) EXCLUSIONS.—The term “habitat en-
 19 hancement” does not include regularly sched-
 20 uled and routine maintenance and management
 21 activities, such as annual mowing or spraying of
 22 unwanted vegetation.

23 (3) HABITAT ESTABLISHMENT.—The term
 24 “habitat establishment” means the manipulation of
 25 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 native plant and animal communities, including periodic manipulations to maintain intended habitat conditions on completed project sites.

(5) HABITAT RESTORATION.—

(A) IN GENERAL.—The term “habitat restoration” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning the majority of natural functions to the lost or degraded native habitat.

(B) INCLUSIONS.—The term “habitat restoration” includes—

(i) an activity conducted to return a project site, to the maximum extent prac-

1 ticable, to the ecological condition that ex-
 2 isted prior to the loss or degradation,
 3 including—

4 (I) removing tile drains or plug-
 5 ging drainage ditches in former or de-
 6 graded wetland;

7 (II) returning meanders and sus-
 8 tainable profiles to straightened
 9 streams;

10 (III) burning grass communities
 11 heavily invaded by exotic species to re-
 12 establish native grass and plant com-
 13 munities; and

14 (IV) planting plant communities
 15 that are native to the project site;

16 (ii) if restoration of a project site to
 17 its original ecological condition is not prac-
 18 ticable, an activity that repairs 1 or more
 19 of the original habitat functions and that
 20 involve the use of native vegetation,
 21 including—

22 (I) the installation of a water
 23 control structure in a swale on land
 24 isolated from overbank flooding by a

1 major levee to simulate natural
2 hydrological processes; and

3 (II) the placement of streambank
4 or instream habitat diversity struc-
5 tures in streams that cannot be re-
6 stored to original conditions or profile;
7 and

8 (iii) removal of a disturbing or de-
9 grading element to enable the native habi-
10 tat to reestablish or become fully func-
11 tional.

12 (6) PRIVATE LAND.—

13 (A) IN GENERAL.—The term “private
14 land” means any land that is not owned by the
15 Federal Government or a State.

16 (B) INCLUSIONS.—The term “private
17 land” includes tribal land and Hawaiian home-
18 land.

19 (7) PROJECT.—The term “project” means a
20 project carried out under the Partners for Fish and
21 Wildlife Program established by section 4.

22 (8) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

1 **SEC. 4. PARTNERS FOR FISH AND WILDLIFE PROGRAM.**

2 The Secretary shall carry out the Partners for Fish
3 and Wildlife Program within the United States Fish and
4 Wildlife Service to provide—

5 (1) technical and financial assistance to private
6 landowners for the conduct of voluntary projects to
7 benefit Federal trust species by promoting habitat
8 improvement, habitat restoration, habitat enhance-
9 ment, and habitat establishment; and

10 (2) technical assistance to other public and pri-
11 vate entities regarding fish and wildlife habitat res-
12 toration on private land.

13 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to carry out
15 this Act not more than \$75,000,000 for each of fiscal
16 years 2006 through 2011.

Passed the Senate June 27, 2005.

Attest:

Secretary.

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