

## Calendar No. 371

114TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 114-210

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### BIPARTISAN SPORTSMEN'S ACT OF 2016

—————  
FEBRUARY 24, 2016.—Ordered to be printed  
—————

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

#### R E P O R T

together with

#### MINORITY VIEWS

[To accompany S. 659]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 659) to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### GENERAL STATEMENT AND BACKGROUND

Hunting and fishing has long been a tradition in the United States for both subsistence and for recreation. According to the 2013 Sportsmen's Economic Impact Report from the Congressional Sportsmen's Foundation, roughly 37.4 million people engaged in hunting or fishing activities in 2011. Sportsmen and women inherently have special ties to the land, and regularly spend more than \$3 billion per year on conservation efforts. The purpose of S. 659 is to ensure more access to hunting and fishing, reauthorize conservation programs, and encourage responsible recreational activities, by addressing the following issues.

#### *TSCA regulation of ammunition and sport fishing equipment*

Anti-hunting and fishing interests are currently litigating against the Environmental Protection Agency ("EPA") attempting

to force the Agency to expand its authority under the Toxic Substance Control Act (“TSCA”) to regulate traditional ammunition and recreational fishing tackle. These organizations assert that this is necessary to address impacts to wildlife populations that are resulting nationwide from the use of traditional tackle and ammunition. However, the Committee has received testimony that there is no credible science to support these allegations.

The Committee also received testimony that regulating ammunition and tackle under TSCA would likely result in significant increases in the price of ammunition and tackle for sportsmen due to the significantly higher raw materials and manufacturing costs of using alternatives to lead. The impact of these price increases, according to testimony received by the Committee, would not only result in the loss of hunters, recreational shooters and anglers, it would also have detrimental impacts on countless manufacturing facilities resulting in significant job loss.

For the past two fiscal years, EPA’s appropriations bills have included the following language: “None of the funds made available by this or any other Act may be used to regulate the lead content of ammunition, ammunition components, or fishing tackle under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other law.”

*Pittman-Robertson conservation grants for shooting ranges*

Under the Pittman-Robertson Act, excise taxes are collected on sporting equipment and ammunition and can be used to develop and maintain public shooting ranges as well as providing wildlife conservation funding. The Committee received testimony that hunters, recreational shooters and firearms, archery, and ammunition manufacturers are the largest financial supporters of wildlife conservation throughout the United States having contributed more than \$7 billion to habitat conservation, recreational shooting and wildlife management through Pittman-Robertson excise tax payments since the program’s inception.

According to testimony received by the Committee, Pittman-Robertson funds have not always been administered in a manner that encourages the creation of recreational shooting opportunities.

*Importation of polar bear trophies legally harvested before May 15, 2008*

The Marine Mammal Protection Act (“MMPA”) was enacted in 1972 to prohibit, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. MMPA protection extends to all marine mammals. One exception to the MMPA provides that the Secretary of the Interior may issue a permit for the importation of legally harvested polar bears taken in sport hunts in Canada (16 U.S.C. 1374 (5)(a)).

However, on May 15, 2008, the United States Fish and Wildlife Service (“FWS”) listed the polar bear as “threatened” under the Endangered Species Act (“ESA”). Under Section 9 “Prohibited Act”, the FWS prohibits the importation of any such species into the United States (16 U.S.C. 1538 (a)(1)(b)). Thus, any polar bear trophies that were legally harvested before May 15, 2008, but not yet imported into the United States were not granted import permits.

FWS estimates 41 polar bears were legally harvested from approved populations in Canada before the polar bear was listed as threatened under the ESA. The Committee recognizes that the permitting process for sport hunts in another country can take a significant amount of time to complete. It also recognizes that polar bears were legally taken in Canada, for which the permitting process began before the FWS considered the polar bear for listing.

*Treatment of normal agricultural activities under the Migratory Bird Treaty Act*

Under the Migratory Bird Treaty Act (“MBTA”) the hunting of migrating birds by aid of baiting or on or over any baited area can result in fines up to \$10,000. The statute currently does not define “baiting” or “baited area.” This lack of defined terms has created confusion and potential liability for hunting on or near farmer’s fields after harvest of a crop.

*Right to bear arms at Water Resources Development Projects*

The Army Corps of Engineers (“Corps”) manages land around the over 400 reservoirs in 43 states. Under section 327.13 of title 36, Code of Federal Regulations, the Corps has promulgated regulations that prohibit the possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons at water resources development projects administered by the Corps. The regulations provide exceptions for law enforcement officers, unloaded firearms being transported for sporting purposes and firearms possessed with the written permission of the District Commander.

In 2009, Congress enacted legislation which allowed for individuals to possess and transport firearms in and across National Park Service lands. However, this legislation does not apply to land managed by the Corps.

*North American Wetlands Conservation Act*

North American Wetlands Conservation Act (“NAWCA”) is a program that provides grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico for the benefit of wetlands-associated migratory birds and other wildlife. The authorization of appropriations for this Act expired in 2012.

*Multinational Species Conservation Funds*

The Multinational Species Conservation Funds (“MSCF”) are federal programs administered by the FWS that make targeted investments in conservation of several global priority species. The first Fund, for African elephants, was authorized by Congress in 1989 to address rampant ivory poaching. Since that time, four more Funds have been authorized to help protect Asian elephants, great apes, marine turtles, tigers and rhinos. Since 1989, these programs have awarded over 2,300 grants, targeting key regions to ensure the protection of these animals, but the authorizations for these programs has expired.

*Neotropical Migratory Bird Conservation Act*

The Neotropical Migratory Bird Treaty Act (“the Act”) provides grants to support conservation of the migratory bird population and fosters international cooperation for initiatives that will perpetuate healthy bird populations. Since 2002, the Act has provided more than \$50.1 million in grants to support 451 projects in 36 countries. The law was originally enacted in 2000 authorizing \$5 million per year. This language would extend authorization of \$6.5 million per year for five years. Additionally, a minimum of 75% of the funds must be used for projects outside the United States.

*User fees at Army Corps of Engineers recreation facilities*

Current law (33 U.S.C. 2328) enables the Corps to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreational facilities and natural resources at civil works projects. These partnerships help ensure that Corps recreational facilities are well-maintained and remain open, and that natural resources are protected and conserved. For many years, the Corps used this authority to enter into Cooperative Joint Management agreements and leases allowing partners to collect and re-invest recreation user fees.

On September 12, 2013, Corps Headquarters released new guidance disallowing this practice. Based upon a legal review, the Corps determined that this practice exceeds existing statutory authority by allowing partners to collect user fees and reinvest the proceeds to maintain and improve Corps facilities.

*National Fish and Wildlife Foundation*

The National Fish and Wildlife Foundation (“NFWF”) was created by Congress in 1984 to bridge the public and private sector to protect and restore the country’s fish, wildlife, and plant habitats. NFWF is an independent 501(c)(3) nonprofit organization. Its Board of Director is made up of 30 members who are appointed by the Secretary of the Interior. Its supports programs in all 50 states and U.S. territories.

*Duplicative regulation of pesticides*

Section 301 of the Federal Water Pollution Control Act (Clean Water Act or CWA) prohibits the discharge of a pollutant into navigable waters from a point source without a permit. 33 U.S.C. 1311(a). Consistent with the legislative history of FIFRA, for over 30 years, the EPA did not interpret this section to require a discharge permit for pesticide use when the pesticide is used in a manner consistent with its FIFRA label. However, in 2001, the U.S. Court of Appeals for the Ninth Circuit held in *Headwaters, Inc. v. Talent Irrigation District* that the application of herbicides to control aquatic weeds that were choking an irrigation canal violated the CWA under the circumstances before the court (which involved a spill, not FIFRA-compliant use). 243 F.3d 526 (9th Cir. 2001). In 2002, the Ninth Circuit held that aerial pesticide spraying by the Forest Service to control a predicted outbreak of the Douglas Fir Tussock Moth was regulated by the CWA. The court reached this conclusion even though the spraying complied with FIFRA because the court did not address the question of whether the pesticides were pollutants and instead erroneously assumed

that the parties agreed they were pollutants. *League of Wilderness Defenders v. Forsgren*, 309 F.3d 1181 (9th Cir. 2002).

In response to the regulatory uncertainty created by these decisions, in 2006 EPA promulgated a rule to codify its long-held position that FIFRA-compliant pesticide use is not the discharge of a pollutant. 71 Fed. Reg. 68,483 (Nov. 27, 2006). Like EPA's long-standing policy, this rule relied on compliance with FIFRA to protect the human health and the environment and determined that properly used pesticides are products, not wastes. Various environmental groups sued to overturn this rule.

In January 2009, in *National Cotton Council v. EPA*, 553 F.3d 927 (6th Cir. 2009), the Sixth Circuit vacated EPA's 2006 rule holding that the CWA definition of "discharge of a pollutant" could include the use of pesticides if any residue remains after use, even though the pesticide is a product and not a waste at the time of discharge. This novel decision is not consistent with decisions in the D.C. Circuit that hold that the CWA does not regulate sources of pollutants. See *NRDC v. EPA*, 859 F.2d 156, 169 *et seq.* (D.C. Cir. 1988); *American Iron and Steel Inst. v. EPA*, 155 F.3d 979, 996 (D.C. Cir. 1997).

The duplicative and unnecessary regulation caused by the *National Cotton Council* decision has real world consequences. In an August 4, 2015, letter to the Environment and Public Works Committee, the American Mosquito Control Association said:

Currently, mosquito control programs are vulnerable to lawsuits where fines may be up to \$35,000 per day for activities that do not involve harm to the environment, as is the standard under FIFRA, but rather simple paperwork violations of the Clean Water Act (CWA). In order to attempt to comply with this potential liability, these government agencies must divert scarce resources to CWA monitoring. In some cases, some smaller applicators have simply chosen not to engage in vector control activities.

As a result, "the regulatory burdens are potentially depriving the general public of the economic and health benefits of mosquito control." Given the outbreak of the mosquito-borne Zika virus, this is an even greater concern now.

#### *State management of fisheries*

In parts of Florida and Texas, the state boundaries extend for 3 marine leagues into the ocean. Alabama, Mississippi, and Louisiana have boundary lines just 3 miles into the ocean. State boundaries can determine whether the state or the federal government manage the fish populations. Due to the size of the fishing industry, both recreational and professional, in the Gulf of Mexico, this unequal distribution can cause be impactful upon local communities.

#### *Gray wolves*

On December 28, 2011, FWS finalized a rule to remove the gray wolf in the western Great Lakes (including Michigan, Minnesota, and Wisconsin) from the federal list of threatened or endangered species. However, on December 18, 2014, a federal judge overruled

this decision, restoring federal protection for the species in the Western Great Lakes.

On August 31, 2012, FWS announced its intention to publish a final rule removing gray wolves from the federal list of threatened or endangered species in Wyoming. Beginning September 30, 2012, wolves in Wyoming were managed by the state under an approval management plan. However, on September 23, 2014, a federal judge overruled FWS's Service's decision, restoring federal protection for the species in Wyoming.

#### *Alaska Wildlife Regulation*

On January 8, 2016, FWS issued the proposed regulation, "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska." The proposed regulation seeks to restrict access and limit hunting, fishing, and trapping activities. The state of Alaska and the Alaskan Congressional Delegation oppose this regulation, citing its erosion of state wildlife management in contravention of the Alaska National Interest Lands Conservation Act and the National Wildlife Refuge System Improvement Act.

#### *Fish Habitat Conservation*

The National Fish Habitat Partnership is a program to conserve the nation's fish and aquatic communities through partnerships that foster fish habitat conservation. It was modeled after the success of the North American Wetlands Conservation Act ("NAWCA"). It supports existing fish habitat partnerships and works to foster new efforts. Additionally, it is focused on setting national goals to improve aquatic systems and reverse the decline of healthy fish habitats.

### OBJECTIVES OF THE LEGISLATION

The Bipartisan Sportsmen's Act of 2016 contains a number of provisions that will increase access to hunting and fishing, correct inconsistencies in the law, and extend programs that are vital to our conservation efforts.

### SECTION-BY-SECTION ANALYSIS

#### *Section 1. Short title*

This Act may be cited as the "Bipartisan Sportsmen's Act of 2016"

#### *Section 2. Modification of Definition of Sport Fishing Equipment Under the Toxic Substances Control Act*

Section 2 would make permanent the appropriations language that bans EPA from regulating ammunition and sport fishing tackle under TSCA by amending that Act to clarify that an existing exemption to EPA's authority under TSCA, for products subject to Pittman-Robertson excise taxes, applies not only to assembled cartridges but also to their component parts. This section also creating a similar exemption for articles of fishing tackle subject to Wallop-Breaux excise taxes.

*Section 3. Target practice and marksmanship*

Subsection (a) states the purpose of this section.

Subsection (b) defines the term “public target range.”

Subsection (c) amends the Pittman-Robertson Wildlife Restoration Act to provide 5 years for obligation of funds, allowing projects to be funded over multiple budget cycles; to allow a state to pay up to 90% of the costs of acquiring land for, expanding, or constructing public target ranges (the current maximum is 75%); and to increase the federal cost-share for public ranges to up to 90%.

Subsection (d) states that it is the sense of Congress that federal land agencies should cooperate with state and local governments to maintain shooting ranges.

*Section 4. Permits for importation of polar bear trophies taken in sport hunts in Canada*

This section amends the Marine Mammal Protection Act to require the Secretary of the Interior to issue import permits for polar bear trophies legally taken in a sport hunt in Canada, as long as the individual seeking the permit submits proper documentation, including documentation that the trophy was taken before May 15, 2008. Under this section, the 41 legally harvested polar bears taken prior to the species’ “threatened” listing that remain in Canada will be granted permits for importation if proper documentation is provided.

*Section 5. Baiting of migratory game birds*

This section amends MBTA by defining the terms “baited area,” “baiting” and “normal agricultural practices” to ensure that practices carried out to produce a marketable crop and recommended by the applicable State office of the Cooperative Extension System of the Department of Agriculture and, if requested, with the concurrence of the head of the applicable State department of fish and wildlife, are not considered baiting under the Act.

*Section 6. Protecting the right of individuals to bear arms at water resources development projects*

This section prohibits the Secretary of the Army from promulgating or enforcing any regulation that prohibits an individual from possessing a firearm in any area open to the public (other than a Federal Facility as defined in 18 U.S.C. 930(g)) at a water resource development project administered by the Corps, as long as the individual is not otherwise prohibited from possessing a firearm and is in compliance with state law in which the project is located.

*Section 7. North American Wetlands Conservation Act*

This section extends the authorization of appropriations for NAWCA for \$50 million per year for fiscal years 2016 through 2021, and clarifies that property conveyed under this Act be maintained for conservation purposes.

*Section 8. Multinational Species Conservation Funds reauthorization*

This section reauthorizes appropriations for the Multinational Species Conservation Funds. This section reauthorizes the African Elephant Conservation Act (16 U.S.C. 4245(a)) from FY16 through

FY20. This section reauthorizes the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306(a)) from FY16 through FY20. This section reauthorizes the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266(a)) from FY16 through FY20. This section reauthorizes the Great Ape Conservation Act of 2000 (16 U.S.C. 6305) from FY16 through FY20 and includes an amendment to the Act to include a multiyear grant process for eligible applicants to carry out a project that demonstrates an effective, long-term conservation strategy for great apes and their habitats. This section reauthorizes the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6606) and includes an amendment to the Act to include those marine turtles located in territories of the United States.

*Section 9. Reauthorization of Neotropical Migratory Bird Conservation Act*

This section reauthorizes the Neotropical Migratory Bird Conservation Act, authorizing appropriations of \$6.5 million for each of fiscal years 2015 through 2020. This section also amends the Act to require 75 percent of the funds appropriated each year to be spent on projects outside of the U.S.

*Section 10. Challenge cost-sharing program for management of recreation facilities*

This section amends the Water Resources Development Act of 1992 to allow non-Federal entities to collect user fees at recreation facilities located at Corps water resources development projects and use those fees for operation, maintenance and management of the recreation site where they are collected. This language would restore the practice that existed before September 2013.

*Section 11. National Fish and Wildlife Foundation Establishment Act*

This section reauthorizes the National Fish and Wildlife Foundation for each fiscal years 2015 through 2020.

*Section 12. Use of authorized pesticides; Discharges of pesticides; Report*

This section amends FIFRA and CWA to prohibit EPA from requiring a CWA permit for the use of pesticides in or near navigable waters if the pesticide is already authorized for sale, distribution, or use under FIFRA and is used in compliance with FIFRA.

*Section 13. Seaward boundaries*

This section amends the Submerged Lands Act by extending the seaward boundaries for Alabama, Florida, Louisiana, and Mississippi by three or more marine leagues, about nine miles, from the coast line of each State for management activities pursuant to the fishery management plan for the reef fish resources of the Gulf of Mexico.

*Section 14. Reissuance of final rule regarding gray wolves in the Western Great Lakes*

This section requires the Secretary of the Interior to reissue the final rule published on December 28, 2011, which would de-list the



gray wolf in the Western Great Lakes from the Endangered Species Act. The reissuance is not subject to judicial review.

*Section 15. Reissuance of final rule regarding gray wolves in Wyoming*

This section requires the Secretary of the Interior to reissue the final rule published on September 10, 2012, a rule to de-list the gray wolf in Wyoming from the Endangered Species Act. The reissuance is not subject to judicial review.

*Section 16. Prohibition on issuance of final rule*

This section prohibits FWS from finalizing the proposed rule on January 8, 2016, “Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska.” It also prohibits the issuance of a rule that is substantially similar to the January 8, 2016. The proposed regulations would restrict and limit hunting and trapping activities in Alaska.

*Section 17. National Fish Habitat Conservation*

This section would enact the “National Fish Habitat Conservation Through Partnerships Act”

Subsection (a) provides that this Act may be cited as the ‘National Fish Habitat Conservation Act’.

Subsection (b) states that the purpose is to encourage partnerships among public agencies and other interested parties to promote fish conservation.

Subsection (c) provides definitions of several terms used in the Act.

Subsection (d) establishes the National Fish Habitat Board to oversee and promote the implementation of the Act, to establish national goals and priorities, to designate partnerships, and to review and recommend aquatic habitat projects.

Subsection (e) establishes procedures for designating Fish Habitat Partnerships and outlines criteria for approval of partnerships.

Subsection (f) establishes procedures for consideration of fish habitat projects by the Board and criteria for the board to use in evaluating and recommending projects for funding to the Secretaries of Interior and Commerce. Projects must include a 50% non-Federal cost share.

Subsection (g) authorizes technical and scientific assistance from the Director of the FWS, Assistant Administrator for Fisheries of NOAA, and Director of the United States Geological Survey (USGS), to provide technical and scientific assistance to the Fish Habitat Partnerships.

Subsection (h) provides that the Secretary of the Interior shall provide a notice to the appropriate State or tribal agency within which an activity is planned to be carried out pursuant with this Act no later than 30 days before the planned activity is implemented.

Subsection (i) requires the Director, in cooperation with other agencies, to develop an interagency operational plan.

Subsection (j) requires the Board to submit reports to appropriate congressional committees on the implementation of this section. This subsection also requires the Board to submit to the appropriate congressional committees a report describing the status

of aquatic habitats in the United States by December 31, 2016 and each five years thereafter.

Subsection (k) states that nothing in this Act establishes a water right in the United States, affects any water right in existence, or affects state water law. This section further clarifies that nothing in the Act affects state rights to manage wildlife and fish, affects tribal rights, affects existing federal authorities for land or water acquisition, or enables the use of funds provided by the Act to acquire real property without the consent of the property owner. This section also states that nothing in this Act allows the use of funds for fish and wildlife mitigation under existing Federal laws and court settlements.

Subsection (l) exempts the Board and Partnership from the Federal Advisory Committee Act (5 U.S.C. App.).

Subsection (m) authorizes \$7,200,000 for each of fiscal years 2016 through 2021 for the Secretary of the Interior to provide funds for approved fish habitat conservation projects), of which 5 percent shall be made available for each fiscal year for projects carried out by Indian tribes. This section authorizes five percent of the funds be used for administrative expenses and authorizes the Secretary to transfer to FWS, NOAA, and USGS \$500,000 each to provide technical and scientific assistance.

#### LEGISLATIVE HISTORY

The Bipartisan Sportsman's Act of 2015 was introduced by Senator Dan Sullivan (R-AK) on March 4, 2015. The bill was referred to the Committee on Environment and Public Works. The Committee reported S. 659, as amended, favorably on January 20, 2016.

#### HEARINGS

On March 17, 2015, the subcommittee on Fisheries, Water, and Wildlife held a hearing to examine S. 659. The three witnesses included: Jeff Crane, President of the Congressional Sportsman's Foundation; Dale Hall, CEO of Ducks Unlimited; and Wayne Pacelle, President and CEO of The Humane Society of the United States.

#### ROLLCALL VOTES

On January 20, 2016, the Senate Committee on Environment and Public Works conducted a business meeting to consider an amendment in the nature of a substitute to S. 659. The bill, as amended, was favorably reported out of Committee by a vote of 12–8.

#### *Amendments approved*

Crapo-Carper-Fischer #1—An amendment to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters was adopted by a roll call vote of 12 yeas, 8 nays (Senators Barrasso, Boozman, Capito, Carper, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted yea, and Senators Booker, Boxer, Cardin, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted nay).

Sullivan #1—An amendment to prohibit the Director of the United States Fish and Wildlife Service from issuing a final rule

relating to predator harvest on National Wildlife Refuges in the State of Alaska was adopted by roll call vote of 11 yeas, 9 nays (Senators Barrasso, Boozman, Capito, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted yea, and Senators Booker, Boxer, Cardin, Carper, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted nay).

Cardin #1—An amendment to reauthorize the Neotropical Migratory Bird Conservation Act (adopted by unanimous voice vote).

Cardin #2—An amendment to improve the National Fish and Wildlife Foundation Establishment Act (adopted by unanimous voice vote).

Vitter #1—An amendment to establish the seaward boundaries of certain coastal States (as modified) was adopted by roll call vote of 11 yeas, 9 nays (Senators Barrasso, Boozman, Capito, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted yea, and Senators Booker, Boxer, Cardin, Carper, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted nay).

Crapo #1—An amendment to conserve fish and fish habitat in the United States through partnerships that foster fish habitat conservation, enhance fish and wildlife-dependent recreation, and for other purposes (adopted by unanimous voice vote).

Rounds #1—An amendment to add a provision relating to the conveyance of real property for wetland ecosystem conservation (adopted by voice vote).

Barrasso #1—An amendment to direct the Secretary of the Interior to reissue final rules relating to listing the gray wolf in the Western Great Lakes and Wyoming under the Endangered Species Act of 1973 (adopted by voice vote).

#### *Amendments rejected*

Boxer #1—An amendment to modify a provision relating to the definition of sport fishing equipment under the Toxic Substances Control Act failed by roll call vote of yeas 9, 11 nays (Senators Booker, Boxer, Cardin, Carper, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted yea, and Senators Barrasso, Boozman, Capito, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted nay).

Boxer #2—An amendment to modify provisions relating to permits for the importation of polar bear parts failed by roll call vote of yeas 9, 11 nays (Senators Booker, Boxer, Cardin, Carper, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted yea, and Senators Barrasso, Boozman, Capito, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted nay).

Markey #1—An amendment to strike all sections except Sec. 1, short title; Sec. 7, North American Wetlands Conservation Act; and Sec. 8, Multinational Species Conservation Funds Reauthorization (failed by voice vote).

Boxer #4—An amendment to modify provisions relating to protecting the right of individuals to bear arms at water resources development projects failed by roll call vote of 9 yeas, 11 nays (Senators Booker, Boxer, Cardin, Carper, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted yea, and Senators Barrasso, Boozman, Capito, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted nay).

*Final Committee vote to report*

S. 659, as amended, was favorably reported by roll call vote of 12 yeas, 8 nays (Senators Barrasso, Boozman, Capito, Carper, Crapo, Fischer, Rounds, Sessions, Sullivan, Vitter, Wicker, and Inhofe voted yea, and Senators Booker, Boxer, Cardin, Gillibrand, Markey, Merkley, Sanders, and Whitehouse voted nay).

## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes evaluation of the regulatory impact of the reported bill.

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the Committee notes that the Congressional Budget Office found that S. 659 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would impose no costs on state, local, or tribal governments. The Congressional Budget Office found that S. would impose a private-sector mandate as defined in UMRA by eliminating the ability of plaintiffs to seek judicial review of rules to remove certain gray wolves from the endangered species list. CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

## COST OF LEGISLATION

FEBRUARY 18, 2016.

Hon. JIM INHOFE,  
*Chairman, Committee on Environment and Public Works,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 659, the Bipartisan Sportsmen's Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL.

Enclosure.

*S. 659—Bipartisan Sportsmen's Act of 2016*

Summary: S. 659 would amend and reauthorize various programs conducted by the U.S. Fish and Wildlife Service (USFWS) related to the conservation of wetlands, certain species, and fish habitats. The bill also would authorize funding for the National Fish and Wildlife Foundation, a nonprofit corporation established by federal law to provide grants for activities related to conserving and managing fish, wildlife, plants, and other natural resources.

Based on information provided by the USFWS, CBO estimates that implementing the legislation would cost \$505 million over the

2016–2021 period and \$95 million after 2021, assuming appropriation of the authorized amounts. Because enacting S. 659 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO also estimates that enacting S. 659 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 659 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit state, local, and tribal governments.

S. 659 would impose a private-sector mandate as defined in UMRA by eliminating the ability of plaintiffs to seek judicial review of rules to remove certain gray wolves from the endangered species list. CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary impact of S. 659 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2016	2017	2018	2019	2020	2021	2016–2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
<b>Wetlands Conservation:</b>							
Authorization Level .....	15	50	50	50	50	50	265
Estimated Outlays .....	4	16	28	37	44	48	177
<b>Species Conservation:</b>							
Authorization Level .....	22	37	37	37	37	0	168
Estimated Outlays .....	16	31	34	36	36	10	163
<b>National Fish and Wildlife Foundation:</b>							
Authorization Level .....	18	25	25	25	25	0	118
Estimated Outlays .....	18	25	25	25	25	0	118
<b>Fish Habitat Conservation:</b>							
Authorization Level .....	2	10	10	10	10	10	50
Estimated Outlays .....	1	8	9	9	9	10	46
<b>Total Changes:</b>							
Authorization Level <sup>a</sup> .....	56	121	121	121	121	60	600
Estimated Outlays .....	39	79	96	107	115	67	505

Note: Amounts may not sum to totals because of rounding.  
<sup>a</sup> 1AThe U.S. Fish and Wildlife Service received appropriations totaling \$65 million in fiscal year 2016 to carry out many of the activities that would be reauthorized under S. 659. The authorization level shown here for 2016 is the difference between the amounts already appropriated and the amounts that would be authorized by S. 659.

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted in 2016 and the authorized amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar programs.

S. 659 would authorize appropriations through 2021 for the USFWS to carry out activities related to the conservation of wetlands, certain species, and fish habitats. In addition, a portion of those amounts would be used to fund the National Fish and Wildlife Foundation. CBO estimates that implementing the legislation would cost \$505 million over the 2016–2021 period and \$95 million after 2021, assuming appropriation of the authorized amounts.

*Wetlands Conservation*

Section 7 would authorize the appropriation of \$50 million a year through 2021 to carry out the North American Wetlands Conserva-

tion Act (NAWCA). Under that act, the USFWS awards competitive grants for projects to conserve wetlands in the United States, Mexico, and Canada. In 2016, the agency received \$35 million to carry out activities related to NAWCA. CBO estimates that carrying out section 7 would cost \$177 million over the 2016–2021 period and \$88 million after 2021.

#### *Species Conservation*

Sections 8 and 9 would authorize the appropriation of about \$37 million a year through 2020 to carry out programs aimed at preserving various species including elephants, rhinoceros, tigers, great apes, marine turtles, and neotropical migratory birds. In 2016, the USFWS received appropriations totaling \$15 million to carry out those programs. CBO estimates that carrying out sections 8 and 9 would cost \$163 million over the 2016–2021 period and \$5 million after 2021.

#### *National Fish and Wildlife Foundation*

Section 11 would authorize the appropriation of \$25 million a year through 2020 to fund activities of the National Fish and Wildlife Foundation. The foundation is a nonprofit corporation established by federal law to provide grants for activities related to conserving and managing fish, wildlife, plants, and other natural resources. In 2016, the USFWS received appropriations totaling \$7 million to fund the foundation. CBO estimates that implementing section 11 would cost \$118 million over the 2016–2021 period.

#### *Fish Habitat Conservation*

Section 17 would authorize the appropriation of about \$10 million a year through 2021 to carry out fish habitat conservation projects and provide technical assistance to nonfederal entities. The program would be aimed at facilitating partnerships between the federal government and local governments, nonprofits, and private individuals. In 2016, the USFWS received appropriations totaling about \$8 million to carry out similar activities. CBO estimates that implementing section 17 would cost \$46 million over the 2016–2021 period and \$4 million after 2021.

Pay-As-You-Go considerations: None.

Increase in long term direct spending and deficits: CBO estimates that enacting S. 659 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Estimated impact on state, local, and tribal governments: S. 659 contains no intergovernmental as defined in UMRA and would benefit public entities that operate recreational facilities at federal water projects by allowing them to collect user fees to defray operating costs. The bill also would benefit state agencies by lowering the matching requirement for federal grants that support public shooting ranges. Finally, the bill would benefit state, local, and tribal governments by authorizing federal grants for conservation partnerships that protect fish habitats. Any costs incurred by those entities, including matching contributions, would be incurred voluntarily.

Estimated impact on the private sector: S. 659 would impose a private-sector mandate as defined in UMRA on plaintiffs by elimi-

nating the ability to seek judicial review of rules to remove gray wolves in the western Great Lakes region or in the state of Wyoming from the endangered species list. The cost of a mandate that eliminates a right of action is the forgone income and value of awards in such cases. Because such losses would generally not occur for the types of cases involved, CBO expects that the mandate would probably impose no costs. Consequently, CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## MINORITY VIEWS

The Bipartisan Sportsmen's Act of 2015, which had the potential to be broadly supported bipartisan legislation, has not lived up to its name. While the bill includes provisions—such as the reauthorization of the North American Wetlands Conservation Act—that we strongly support, there are serious concerns with other items in the bill. We offered constructive compromises to address these issues, but none of those proposals were accepted. In addition, at the markup of this legislation, the Committee adopted multiple harmful and divisive amendments that make the legislation even more controversial.

It is unfortunate that the Committee is moving forward with the Sportsmen's bill without addressing the serious issues raised by dozens of conservation, environmental and animal welfare groups. The bill creates broad new exemptions from the Toxic Substances Control Act with no ability to determine whether the products exempted are harmful to people. The bill also prevents the U.S. Army Corps of Engineers from implementing commonsense restrictions on firearms use on Corps properties, including on infrastructure that the Corps has determined is critical to homeland security.

Numerous compromises were rejected that would have addressed these and other critical concerns. For example, a Republican majority of the committee voted to defeat an amendment intended to ensure Congress could continue to monitor the impacts of lead and other contaminants in fishing tackle, which the bill would permanently exempt from regulation under the Toxic Substances Control Act. Following the scandal in Flint, Michigan, where children have been poisoned by lead in the drinking water, it is shocking that such an amendment would be rejected on a party line vote. In addition, the Republican Majority failed to address concerns raised about a provision to add a new exemption to the Marine Mammal Protection Act for the importation of sport-hunted polar bear trophies and rejected clarifying changes to ensure that the bill did not hamper the ability of the U.S. Fish and Wildlife Service to enforce protections under the Migratory Bird Treaty Act.

The Republican majority also voted to approve an amendment to roll back protection of our waters from pesticide pollution. The amendment would eliminate the requirement to obtain a Clean Water Act permit when pesticides are sprayed into rivers, lakes, and streams.

The U.S. Environmental Protection Agency (EPA) has determined that over 1,800 waterbodies, such as streams and lakes, are damaged because of pesticide use. Due to limited monitoring, the actual number of polluted waterbodies may be higher. Pesticide contamination of rivers and streams has also been confirmed by state water pollution control agencies. According to EPA's National Summary of State Information, States report that approximately



16,819 miles of rivers and streams, 1,766 square miles of bays and estuaries, and 260,342 acres of lakes are currently impaired or threatened by pesticides—meaning that the particular waterbody fails to meet a particular use, such as a source of drinking water, fish, shellfish, and wildlife propagation, or recreation.

To address this pollution, EPA developed a streamlined application and approval process for individuals that intend to apply pesticides. This includes emergency procedures to allow for spraying of pesticides to address a pest emergency that could affect public health. In such emergencies, pesticide applicators do not have to receive approval before applying a pesticide.

The potential for human exposure to pesticides through drinking water or other contact with water is an area of significant concern. Depending on the type of pesticide, an array of health implications can arise including: skin and eye irritation, nervous system impacts, impacts on adolescent development of children, hormone or endocrine disruption, or cancer. In light of this concerning information and following the drinking water crisis in Flint, Michigan, we should work in a bipartisan manner to reduce pollution, not adopt partisan amendments to roll back existing protections.

The Committee also adopted amendments to take away protections under the Endangered Species Act for endangered gray wolves; to block an ongoing rulemaking to protect wildlife on national wildlife refuges in Alaska, which explicitly exempts subsistence use on these refuges and complies with the requirements of the Alaska National Interest Lands Conservation Act and the National Wildlife Refuge System Improvement Act; and to modify the Federal oversight of fisheries management in coastal waters—an issue over which the Committee does not have jurisdiction. We oppose these unrelated amendments that weaken existing safeguards for our nation's fish and wildlife and further undermine support for the legislation.

While we are extremely disappointed in the approach taken at the markup of this legislation, we remain ready to work with our colleagues to produce truly bipartisan and broadly-supported legislation that is free of poison pill provisions and that will benefit sportsmen and women while upholding our nation's landmark public health and environmental laws.

BARBARA BOXER.  
BENJAMIN L. CARDIN.  
BERNARD SANDERS.  
SHELDON WHITEHOUSE.  
JEFF MERKLEY.  
KIRSTEN GILLIBRAND.  
CORY A. BOOKER.  
EDWARD MARKEY.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

\* \* \* \* \*

**TOXIC SUBSTANCES CONTROL ACT**

\* \* \* \* \*

**SEC. 2. FINDINGS, POLICY, AND INTENT.**

(a) FINDINGS.—The Congress finds that—

(1)\* \* \*

\* \* \* \* \*

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) The<sup>2</sup> term “Administrator” means the Administrator of the Environmental Protection Agency.

(2)(A) Except as provided in subparagraph (B), the term “chemical substance” means any organic or inorganic substance of a particular molecular identity, including—

- (i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and
- (ii) any element or uncombined radical.

(B) Such term does not include—

- (i) any mixture,
- (ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,
- (iii) tobacco or any tobacco product,
- (iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code)and any component of such an article (limited to shot shells, cartridges, and components of shot shells and cartridges), [and]

<sup>2</sup>In Public Law 94-469, which enacted this section, the word “the” was lower case. “The” has been shown capitalized to reflect the probable intent of Congress.

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device~~...~~; and

(vii) any sport fishing equipment (as such term is defined in section 4162(a) of the Internal Revenue Code of 1986) the sale of which is subject to the tax imposed by section 4161(a) of such Code (determined without regard to any exemptions from such tax provided by section 4162 or 4221 or any other provision of such Code), and sport fishing equipment components.

The term “food” as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

\* \* \* \* \*

**PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT**

\* \* \* \* \*

**SEC. 2. [16 U.S.C. 669a] DEFINITIONS.**

As used in this Act—

(1) the term “conservation” means the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife, including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population, as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law;

(2) the term ‘public target range’ means a specific location that—

(A) is identified by a governmental agency for recreational shooting;

(B) is open to the public;

(C) may be supervised; and

(D) may accommodate archery or rifle, pistol, or shotgun shooting;

[(2)] (3) the term “Secretary” means the Secretary of the Interior;

[(3)] (4) the term “State fish and game department” or “State fish and wildlife department” means any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department or State fish and wildlife department.

[(4)] (5) the term “wildlife” means any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range;

[(5)] (6) the term “wildlife-associated recreation” means projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, wildlife observation and photography, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, field trialing, trail heads, and access for such projects;

[(6)] (7) the term “wildlife conservation and restoration program” means a program developed by a State fish and wildlife department and approved by the Secretary under section 304(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies (including those that gather, evaluate, and disseminate information on wildlife and their habitats), wildlife conservation organizations, and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects;

[(7)] (8) the term “wildlife conservation education” means projects, including public outreach, intended to foster responsible natural resource stewardship; and

[(8)] (9) the term “wildlife-restoration project” includes the wildlife conservation and restoration program and means the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects.

\* \* \* \* \*

#### SEC. 8.

SEC. 8. [16 U.S.C. 669g] (a) Maintenance of wildlife-restoration projects established under the provisions of this Act shall be the duty of the State in accordance with their respective laws. Beginning July 1, 1945, the term “wildlife-restoration project”, as defined in section 2 of this Act, shall include maintenance of completed projects. Notwithstanding any other provisions of this Act, funds apportioned to a State under this Act may be expended by the State for management (exclusive of law enforcement and public relations) of wildlife areas and resources. Funds from the Wildlife Conservation and Restoration Account may be used for a wildlife conservation education program, except that no such funds may be used for education efforts, projects, or programs that promote or encourage opposition to the regulated taking of wildlife.

[(b) Each State]

(b) EXPENDITURES FOR MANAGEMENT OF WILDLIFE AREAS AND RESOURCES.—

(1) IN GENERAL.—*Except as provided in paragraph (2), each State* ;may use the funds apportioned to it under section 4(c) to pay up to 75 per centum of the costs of a hunter safety program and the **【construction, operation,】** *operation* and maintenance of public target ranges, as a part of such program. **【The non-Federal share】**

(2) EXCEPTION.—*Notwithstanding the limitation described in paragraph (1), a State may pay up to 90 percent of the cost of acquiring land for, expanding, or constructing a public target range.*

(3) NON-FEDERAL SHARE.—*The non-Federal share*; of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. **【The Secretary】**

(4) REGULATIONS.—*The Secretary*;shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public target ranges under this subsection.

\* \* \* \* \*

**SEC. 10. [16 U.S.C. 669h-1] FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS.**

(a) IN GENERAL.—

(1) GRANTS.—Of the revenues covered into the fund, \$7,500,000 for each of fiscal years 2001 and 2002, and \$8,000,000 for fiscal year 2003 and each fiscal year thereafter, shall be apportioned among the States in the manner specified in section 4(c) by the Secretary of the Interior and used to make grants to the States to be used for—

(A) in the case of a State that has not used all of the funds apportioned to the State under section 4(c) for the fiscal year in the manner described in section 8(b)—

(i) the enhancement of hunter education programs, hunter and sporting firearm safety programs, and hunter development programs;

(ii) the enhancement of interstate coordination and development of hunter education and shooting range programs;

(iii) the enhancement of bow hunter and archery education, safety, and development programs; and

(iv) the enhancement of construction or development of firearm shooting ranges and archery ranges, and the updating of safety features of firearm shooting ranges and archery ranges; and

(B) in the case of a State that has used all of the funds apportioned to the State under section 4(c) for the fiscal year in the manner described in section 8(b), any use authorized by this Act (including hunter safety programs and the construction, operation, and maintenance of public target ranges).

(2) LIMITATION ON USE.—Under paragraph (1), a State shall not be required to use more than the amount described in section 8(b) for hunter safety programs and the construction, operation, and maintenance of public target ranges.

(3) ALLOCATION OF ADDITIONAL AMOUNTS.—*Of the amount apportioned to a State for any fiscal year under section 4(b), the State may elect to allocate not more than 10 percent, to be combined with the amount apportioned to the State under paragraph (1) for that fiscal year, for acquiring land for, expanding, or constructing a public target range.*

[(b) COST SHARING.—The Federal share of the cost of any activity carried out with a grant under this section shall not exceed 75 percent of the total cost of the activity.]

(b) COST SHARING.—

(1) IN GENERAL.—*Except as provided in paragraph (2), the Federal share of the cost of any activity carried out using a grant under this section shall not exceed 75 percent of the total cost of the activity.*

(2) PUBLIC TARGET RANGE CONSTRUCTION OR EXPANSION.—*The Federal share of the cost of acquiring land for, expanding, or constructing a public target range in a State on Federal or non-Federal land pursuant to this section or section 8(b) shall not exceed 90 percent of the cost of the activity.*

(c) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—

(1) PERIOD OF AVAILABILITY.—[Amounts made]

(A) IN GENERAL.—*Except as provided in subparagraph (B), amounts made available and apportioned for grants under this section shall remain available only for the fiscal year for which the amounts are apportioned.*

(B) EXCEPTION.—*Amounts provided for acquiring land for, constructing, or expanding a public target range shall remain available for expenditure and obligation during the 5-fiscal-year period beginning on October 1 of the first fiscal year for which the amounts are made available.*

\* \* \* \* \*

**MARINE MAMMAL PROTECTION ACT OF 1972**

\* \* \* \* \*

**SEC. 2.**

SEC. 2. [16 U.S.C. 1361] The Congress finds that—

(1)\* \* \*

\* \* \* \* \*

**SEC. 104.**

SEC. 104. [16 U.S.C. 1374] (a) The Secretary may issue permits which authorize the taking or importation of any marine mammal. Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections<sup>6</sup> 101(a)(5) or 306, or subsection (h) of this section.

(b) Any permit issued under this section shall—

(1) be consistent with any applicable regulation established by the Secretary under section 103 of this title, and

(2) specify

<sup>6</sup> So in law. Probably should be “section”. See section 5(b)(1) of the Marine Mammal Protection Act Amendments of 1994 (P.L. 103–238, 108 Stat. 537).

(A) the number and kind of animals which are authorized to be taken or imported,

(B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken, or from which they may be imported,

(C) the period during which the permit is valid, and

(D) any other terms or conditions which the Secretary deems appropriate.

In any case in which an application for a permit cites as a reason for the proposed taking the overpopulation of a particular species or population stock, the Secretary shall first consider whether or not it would be more desirable to transplant a number of animals (but not to exceed the number requested for taking in the application) of that species or stock to a location not then inhabited by such species or stock but previously inhabited by such species or stock.

(c)(1) Any permit issued by the Secretary which authorizes the taking or importation of a marine mammal for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock shall specify, in addition to the conditions required by subsection (b) of this section, the methods of capture, supervision, care, and transportation which must be observed pursuant to such taking or importation. Any person authorized to take or import a marine mammal for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock shall furnish to the Secretary a report on all activities carried out by him pursuant to that authority.

\* \* \* \* \*

(5)<sup>9</sup>(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary until

<sup>9</sup>Margins so in law. Section 5(b)(2)(D) of the Marine Mammal Protection Act Amendments of 1994 (P.L. 103-238, 108 Stat. 539) added paragraphs (5) through (10).

expended for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

[(D) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30 day period under subsection (d)(2), issue a permit for the importation of polar bear parts (other than internal organs) from polar bears taken in sport hunts in Canada before the date of enactment of the Marine Mammal Protection Act Amendments of 1994<sup>10</sup>, to each applicant who submits, with the permit application, proof that the polar bear was legally harvested in Canada by the applicant. The Secretary shall issue such permits without regard to the provisions of subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3) of this section, and sections 101 and 102. This subparagraph shall not apply to polar bear parts that were imported before the effective date of this subparagraph.]

*(D)(i) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30-day period under subsection (d)(2), issue a permit for the importation of any polar bear part (other than an internal organ) from a polar bear taken in a sport hunt in Canada to any person—*

*(I) who submits, with the permit application, proof that the polar bear was legally harvested by the person before February 18, 1997; or*

*(II) who has submitted, in support of a permit application submitted before May 15, 2008, proof that the polar bear was legally harvested by the person before May 15, 2008, from a polar bear population from which a sport-hunted trophy could be imported before that date in accordance with section 18.30(i) of title 50, Code of Federal Regulations.*

<sup>10</sup>Section 149 of the Department of the Interior and Related Agencies Appropriations Act, 2004 (Public Law 108–108; 117 Stat. 1281) provides:



(ii) *The Secretary shall issue permits under clause (i)(I) without regard to subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3), and sections 101 and 102. Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(I). This clause shall not apply to polar bear parts that were imported before June 12, 1997.*

(iii) *The Secretary shall issue permits under clause (i)(II) without regard to subparagraph (C)(ii) of this paragraph or subsection (d)(3). Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(II). This clause shall not apply to polar bear parts that were imported before the date of enactment of the Bipartisan Sportsmen’s Act of 2016.*

\* \* \* \* \*

**MIGRATORY BIRD TREATY ACT**

\* \* \* \* \*

**SEC. 2.**

SEC. 2. [16 U.S.C. 703] (a) IN GENERAL.—

\* \* \* \* \*

**SEC. 3.**

SEC. 3. [16 U.S.C. 704] (a) That subject to the provisions and in order to carry out the purposes of the conventions, the Secretary of Agriculture<sup>3</sup> is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

[(b) It shall be unlawful for any person to—

[(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

[(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.]

(b) PROHIBITION OF BAITING.—

(1) DEFINITIONS.—*In this subsection:*

(A) BAITED AREA.—

(i) IN GENERAL.—*The term ‘baited area’ means—*

*(I) any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or*

<sup>3</sup>Section 4(f) of Reorg. Plan No. II of 1939 (5 U.S.C. App.) transferred functions of the Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to the Secretary of the Interior.

scattered, if the salt, grain, or feed could lure or attract migratory game birds; and

(II) in the case of waterfowl, cranes (family Gruidae), and coots (family Rallidae), a standing, unharvested crop that has been manipulated through activities such as mowing, discing, or rolling, unless the activities are normal agricultural practices.

(ii) EXCLUSIONS.—An area shall not be considered to be a 'baited area' if the area—

(I) has been treated with a normal agricultural practice;

(II) has standing crops that have not been manipulated; or

(III) has standing crops that have been or are flooded.

(B) BAITING.—The term 'baiting' means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could lure or attract migratory game birds to, on, or over any areas on which a hunter is attempting to take migratory game birds.

(C) MIGRATORY GAME BIRD.—The term 'migratory game bird' means migratory bird species—

(i) that are within the taxonomic families of Anatidae, Columbidae, Gruidae, Rallidae, and Scolopacidae; and

(ii) for which open seasons are prescribed by the Secretary of the Interior.

(D) NORMAL AGRICULTURAL PRACTICE.—

(i) IN GENERAL.—The term 'normal agricultural practice' means any practice in 1 annual growing season that—

(I) is carried out in order to produce a marketable crop, including planting, harvest, post-harvest, or soil conservation practices; and

(II) is recommended for the successful harvest of a given crop by the applicable State office of the Cooperative Extension System of the Department of Agriculture, in consultation with, and if requested, the concurrence of, the head of the applicable State department of fish and wildlife.

(ii) INCLUSIONS.—

(I) IN GENERAL.—Subject to subclause (II), the term 'normal agricultural practice' includes the destruction of a crop in accordance with practices required by the Federal Crop Insurance Corporation for agricultural producers to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) on land on which a crop during the current or immediately preceding crop year was not harvestable due to a natural disaster (including any hurricane, storm, tornado, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,

*drought, fire, snowstorm, or other catastrophe that is declared a major disaster by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).*

(II) LIMITATIONS.—*The term ‘normal agricultural practice’ only includes a crop described in subclause (I) that has been destroyed or manipulated through activities that include (but are not limited to) mowing, discing, or rolling if the Federal Crop Insurance Corporation certifies that flooding was not an acceptable method of destruction to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

(E) WATERFOWL.—*The term ‘waterfowl’ means native species of the family Anatidae.*

(2) PROHIBITION.—*It shall be unlawful for any person—*

*(A) to take any migratory game bird by baiting or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or*

*(B) to place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by baiting or on or over the baited area.*

(3) REGULATIONS.—*The Secretary of the Interior may promulgate regulations to implement this subsection.*

(4) REPORTS.—*Annually, the Secretary of Agriculture shall submit to the Secretary of the Interior a report that describes any changes to normal agricultural practices across the range of crops grown by agricultural producers in each region of the United States in which the recommendations are provided to agricultural producers.*

\* \* \* \* \*

**NORTH AMERICAN WETLANDS CONSERVATION ACT**

\* \* \* \* \*

**SECTION 1. [16 U.S.C. 4401 note] SHORT TITLE.**

This Act may be cited as the “North American Wetlands Conservation Act”.

**SEC. 4. [16 U.S.C. 4403] ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.**

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this Act referred to as the “Council”) which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) one shall be the Director of the United States Fish and Wildlife Service, who shall be the responsible Federal official

for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)<sup>1</sup>;

(B) one shall be the **【Secretary of the Board】** *Executive Director of the Board* of the National Fish and Wildlife Foundation appointed pursuant to section 3(g)(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702);

\* \* \* \* \*

**SEC. 6. [16 U.S.C. 4405] CONDITIONS RELATING TO WETLANDS CONSERVATION PROJECTS.**

(a) **PROJECTS IN THE UNITED STATES.**—(1) Subject to the allocation requirements of section 8(a)(2) and the limitations on Federal contributions under section 8(b) of this Act, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved by the Migratory Bird Conservation Commission, with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

**【(3) In lieu of】**

(3) **PROVISION OF FUNDS OR CONVEYANCE OF REAL PROPERTY INTEREST.**—

(A) **IN GENERAL.**—*In lieu of* including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this Act, the Secretary may, with the concurrence of the Migratory Bird Conservation Commission, grant or otherwise provide the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act or convey any real property interest acquired in whole or in part with such funds without cost to a State or to another public agency or other entity upon a finding by the Secretary that the real property interests should not be included in the National Wildlife Refuge System: *Provided*, That any grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. **【The Secretary shall】**

(B) **DETERMINATION.**—*The Secretary shall* not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in ac-

<sup>1</sup>The amendment made by section 112(1) of Public Law 101-593 (104 Stat. 2962) to insert “, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)” after “Service” and before the period was inserted after “Service” and before the semicolon to reflect the probable intent of Congress.

cordance with the objectives of this Act, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this Act. **【Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.】**

*(C) REAL PROPERTY.—Any real property interest conveyed under this paragraph shall be subject to terms and conditions that ensure that—*

*(i) the real property interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent on that ecosystem;*

*(ii) the grantor of a real property interest has been provided with information relating to all available conservation options, including conservation options that involve the conveyance of a real property interest for a limited period of time; and*

*(iii) the provision of the information described in clause (ii) has been documented.*

\* \* \* \* \*

**SEC. 7. [16 U.S.C. 4406] AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.**

(a) **AID IN WILDLIFE RESTORATION.—(1) [Amends section 3 of the Act of September 2, 1937]**

(2) **[Amends section 4(a) of the Act of September 2, 1937]**

(3) The amendments made by this subsection of this Act take effect October 1, 1989.

(b) **MIGRATORY BIRD FINES, PENALTIES, FORFEITURES.—**The sums received under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines, or from forfeitures of property are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act. This subsection shall not be construed to require the sale of instrumentalities.

(c) **AUTHORIZATION OF APPROPRIATIONS.—**In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act not to exceed—

- (1) \$55,000,000 for fiscal year 2003;
- (2) \$60,000,000 for fiscal year 2004;
- (3) \$65,000,000 for fiscal year 2005;
- (4) \$70,000,000 for fiscal year 2006; **[and]**
- (5) \$75,000,000 for each of fiscal years 2008 through 2012**【.】**

*,and*

- (6) \$50,000,000 for each of fiscal years 2016 through 2021.

(d) **AVAILABILITY OF FUNDS.—**Sums made available under this section shall be available until expended.

\* \* \* \* \*

**AFRICAN ELEPHANT CONSERVATION ACT**

\* \* \* \* \*

**SEC. 2001. [16 U.S.C. 4201 note] SHORT TITLE.**

This title may be cited as the “African Elephant Conservation Act”.

**SEC. 2306. [16 U.S.C. 4245] AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to the Fund and to the Secretary a total of not to exceed \$5,000,000 for each of fiscal years [2007 through 2012] *2016 through 2020* to carry out this title, to remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this title, the Secretary may expend not more than 3 percent or \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this title.

\* \* \* \* \*

**RHINOCEROS AND TIGER CONSERVATION ACT OF 1994**

\* \* \* \* \*

**SECTION 1. [16 U.S.C. 5301 note] SHORT TITLE.**

This Act may be cited as the “Rhinos and Tiger Conservation Act of 1994”.

**SEC. 10. [16 U.S.C. 5306] AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to the Fund 10,000,000 for each of fiscal years [2007 through 2012] *2016 through 2020* to carry out this Act, to remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

**ASIAN ELEPHANT CONSERVATION ACT OF 1997**

\* \* \* \* \*

**SECTION 1. [16 U.S.C. 4261 note] SHORT TITLE.**

This Act may be cited as the “Asian Elephant Conservation Act of 1997”.

**SEC. 8. [16 U.S.C. 4266] AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years [2007 through 2012] *2016 through 2020* to carry out this Act, which may remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

\* \* \* \* \*

**GREAT APE CONSERVATION ACT OF 2000**

**SEC. 6301. Findings and purposes**

(a) FINDINGS.—

(1) great ape populations have declined to the point that the long-term survival of the species in the wild is in serious jeopardy;

(2)\* \* \*

\* \* \* \* \*

**SEC. 6303. Great ape conservation assistance**

(a) IN GENERAL.— Subject to the availability of funds and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of great apes for which project proposals are approved by the Secretary in accordance with this section.

\* \* \* \* \*

(i) PANEL.—

(1) IN GENERAL.—**[Every 2 years]** *Within one year after the date of the enactment of the Bipartisan Sportsmen's Act of 2016, and every 5 years thereafter,* the Secretary **[may convene]** *shall convene* a panel of experts to identify the greatest needs and priorities for the conservation of great apes. *The panel shall, to the extent practicable, include representatives from foreign range states with expertise in great ape conservation.*

(2) *In identifying conservation needs and priorities under paragraph (1), the panel shall consider relevant great ape conservation plans or strategies including scientific research and findings related to—*

*(A) the conservation needs and priorities of great apes;*

*(B) regional or species-specific action plans or strategies;*

*(C) applicable strategies developed or initiated by the Secretary; and*

*(D) any other applicable conservation plan or strategy.*

(3) *The Secretary, subject to the availability of appropriations, may pay expenses of convening and facilitating meetings of the panel.*

**[(2)] (4) APPLICABILITY OF FACAA.**—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to a panel convened under paragraph (1).

(j) MULTIYEAR GRANTS.—

(1) IN GENERAL.—*The Secretary may award a multiyear grant under this section to a person who is otherwise eligible for a grant under this section, to carry out a project that the person demonstrates is an effective, long-term conservation strategy for great apes and their habitats.*

(2) ANNUAL GRANTS NOT AFFECTED.—*This subsection shall not be construed as precluding the Secretary from awarding grants on an annual basis.*

**SEC. 6304. GREAT APE CONSERVATION FUND.**

(a) ESTABLISHMENT—There is established in the Multinational Species Conservation Fund a separate account to be known as the “Great Ape Conservation Fund”, consisting of-

- (1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e) of this section;
- (2) amounts appropriated to the Fund under section 6305 of this title; and
- (3) any interest earned on investment of amounts in the Fund under subsection (c) of this section.

(b) Expenditures from Fund

(1) IN GENERAL.—Subject to paragraph (2), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to provide assistance under section 6303 of this title.

(2) ADMINISTRATIVE EXPENSES—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to ~~【\$100,000】~~ 150,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

\* \* \* \* \*

**SEC. 6305. AUTHORIZATION OF APPROPRIATIONS**

There are authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years ~~【2006 through 2010】~~ 2016 through 2020.

\* \* \* \* \*

**CHAPTER 85-MARINE TURTLE CONSERVATION**

**SEC. 6601. FINDINGS AND PURPOSES**

(a) FINDINGS.—The Congress finds that-

- (1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp’s ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;
- (2)\* \* \*

\* \* \* \* \*

(b) PURPOSE—The purpose of this chapter is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries *and territories of the United States* by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

**SEC. 6602. DEFINITIONS**

In this chapter:

(1) CITES The term “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) Conservation the term “conservation” means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries *and territories of the*



*United States* and of marine turtles in those habitats, including-

(3) Fund the term "Fund" means the Marine Turtle Conservation Fund established by section 6604 of this title.

(4) Marine turtle

(A)\* \* \*

\* \* \* \* \*

(7) TERRITORY OF THE UNITED STATES.—*The term 'territory of the United States' means each of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.*

**SEC. 6603. MARINE TURTLE CONSERVATION ASSISTANCE**

(a) IN GENERAL—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS—

(1) ELIGIBLE APPLICANTS—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by-

(A) any wildlife management authority of a foreign country or territory of the *United States* that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

\* \* \* \* \*

(d) CRITERIA FOR APPROVAL—The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries and territories of the *United States* to implement marine turtle conservation programs.

**SEC. 6604. MARINE TURTLE CONSERVATION FUND**

(a) ESTABLISHMENT—There is established in the Multinational Species Conservation Fund a separate account to be known as the "Marine Turtle Conservation Fund", consisting of-

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 6605 of this title; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) EXPENDITURES FROM FUND—

(1) IN GENERAL—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 6603 of this title.

(2) ADMINISTRATIVE EXPENSES—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to ~~【\$80,000】~~ \$150,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

\* \* \* \* \*

**SEC. 6606. AUTHORIZATION OF APPROPRIATIONS**

There is authorized to be appropriated to the Fund 5,000,000 for ~~【each of fiscal years 2005 through 2009】~~ each of fiscal years 2016 through 2020.

\* \* \* \* \*

**Neotropical Migratory Bird Conservation Act**

**SECTION 1. [16 U.S.C. 6101 note] SHORT TITLE.**

This Act may be cited as the “Neotropical Migratory Bird Conservation Act”.

**[SEC. 10. [16 U.S.C. 6109] AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—There is authorized to be appropriated to the Account to carry out this Act for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b), to remain available until expended, of which not less than 75 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

[(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

- [(1) \$5,000,000 for each of fiscal years 2006 and 2007;
- [(2) \$5,500,000 for fiscal year 2008;
- [(3) \$6,000,000 for fiscal year 2009; and
- [(4) \$6,500,000 for fiscal year 2010.

[(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

[(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.]

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—*There is authorized to be appropriated to carry out this Act \$6,500,000 for each of fiscal years 2015 through 2020.*

(b) USE OF FUNDS.—*Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.*

\* \* \* \* \*

**Water Resources Development Act of 1992**

\* \* \* \* \*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Water Resources Development Act of 1992”.

**SEC. 225. CHALLENGE COST-SHARING PROGRAM FOR THE MANAGEMENT OF RECREATION FACILITIES.**

(a) IN GENERAL.—The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary’s jurisdiction.

(b) COOPERATIVE AGREEMENTS.—To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary’s jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(c) USER FEES.—

(1) COLLECTION OF FEES.—

(A) IN GENERAL.—*The Secretary may allow a non-Federal public or private entity that has entered into an agreement pursuant to subsection (b) to collect user fees for the use of developed recreation sites and facilities, whether developed or constructed by that entity or the Department of the Army.*

(B) USE OF VISITOR RESERVATION SERVICES.—*A public or private entity described in subparagraph (A) may use to manage fee collections and reservations under this section any visitor reservation service that the Secretary has provided for by contract or interagency agreement, subject to such terms and conditions as the Secretary determines to be appropriate.*

(2) USE OF FEES.—*A non-Federal public or private entity that collects user fees under paragraph (1) may—*

(A) *retain up to 100 percent of the fees collected, as determined by the Secretary; and*

(B) *notwithstanding section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)(4)), use that amount for operation, maintenance, and management at the recreation site at which the fee is collected.*

(3) TERMS AND CONDITIONS.—*The authority of a non-Federal public or private entity under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to protect the interests of the United States.*

[(c)] (d) CONTRIBUTIONS.—For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)” and shall be available until expended to carry out the purposes of this section.

\* \* \* \* \*

**NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT**

\* \* \* \* \*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Fish and Wildlife Foundation Establishment Act”.

**SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.****(a) ESTABLISHMENT AND MEMBERSHIP.—**

(1) **IN GENERAL.**—The Foundation shall have a governing Board of Directors (referred to in this Act as the “Board”), which shall consist of 30 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.

(2) **REPRESENTATION OF DIVERSE POINTS OF VIEW.**—To the maximum extent practicable, the membership of the Board shall represent diverse points of view relating to conservation and management of fish, wildlife, plants, and other natural resources.

(3) **NOT FEDERAL EMPLOYEES.**—Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

**(b) APPOINTMENT AND TERMS.—**

(1) **AGENCY HEADS.**—The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.

**[(2) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR].—**

(2) **IN GENERAL.**—*After consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 28 Directors who, to the maximum extent practicable, shall—*

*(A) be knowledgeable and experienced in matters relating to the conservation of fish, wildlife, or other natural resources; and*

*(B) represent a balance of expertise in ocean, coastal, freshwater, and terrestrial resource conservation.*

**[(3) TERMS.—**

**[(A) IN GENERAL.**—Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

**[(B) INITIAL APPOINTMENTS TO NEW MEMBER POSITIONS.**—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2001, three Directors for a term of 6 years.

**[(C) SUBSEQUENT APPOINTMENTS TO NEW MEMBER POSITIONS.**—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2002—

**[(i) two Directors for a term of 2 years; and**

**[(ii) three Directors for a term of 4 years.]**

(3) **TERMS.**—*Each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.*

\* \* \* \* \*

**(g) GENERAL POWERS.—**

(1) The Board may complete the organization of the Foundation by—

- (A) appointing officers and employees;
- (B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act; and
- (C) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

[(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers]

(A) IN GENERAL.—*Officers* and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

[(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

- [(i) shall serve, at the direction of the Board, as its chief operating officer; and
- [(ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.]

(B) EXECUTIVE DIRECTOR.—*The Foundation shall have an Executive Director who shall be—*

- (i) appointed by, and serve at the direction of, the Board as the chief executive officer of the Foundation; and*
- (ii) knowledgeable and experienced in matters relating to fish and wildlife conservation.*

\* \* \* \* \*

**SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

(a) IN GENERAL.—The Foundation—

- (1) shall have perpetual succession;
- (2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;
- (3) shall have its principal offices in the District of Columbia or in a county in the State of Maryland or Virginia that borders on the District of Columbia; and
- (4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

[(c) POWERS.—To carry out its purposes under]

(c) POWERS.—

(1) IN GENERAL.—*To carry out the purposes described in; section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—*

【(1)】 *(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;*

【(2)】 *(B) to acquire by purchase or exchange any real or personal property or interest therein, subject to subsection (e);*

【(3)】 *(C) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;*

【(4)】 *(D) to deposit any funds provided to the Foundation by the Federal Government into accounts 【that are insured by an agency or instrumentality of the United States】 at 1 or more financial institutions that are members of the Federal Deposit Insurance Corporation or the Securities Investment Protection Corporation;*

【(5)】 *(E) to make use of any interest or investment income that accrues as a consequence of actions taken under 【paragraph (3) or (4)】 subparagraph (C) or (D) to carry out the purposes of the Foundation;*

【(6)】 *(F) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;*

【(7)】 *(G) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;*

【(8)】 *(H) to borrow money and issue bonds, debentures, or other debt instruments;*

【(9)】 *(I) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Foundation shall not be personally liable, except for gross negligence;*

【(10)】 *(J) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions【; and】;*

【(11)】 *(K) to do any and all acts necessary and proper to carry out the purposes of the Foundation.】*

*(K) to receive and administer restitution and community service payments, amounts for mitigation of impacts to natural resources, and other amounts arising from legal, regulatory, or administrative proceedings, subject to the condition that the amounts are received or administered for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources; and*

*(L) to do acts necessary to carry out the purposes of the Foundation.*

【For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.】

(2) TREATMENT OF REAL PROPERTY.—

(A) IN GENERAL.—*For purposes of this Act, an interest in real property shall be treated as including easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources.*

(B) ENCUMBERED REAL PROPERTY.—*A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.*

(3) SAVINGS CLAUSE.—*The acceptance and administration of amounts by the Foundation under paragraph (1)(K) does not alter, supersede, or limit any regulatory or statutory requirement associated with those amounts.*

【(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

【(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

【(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

【(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

【(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

【(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C.

1375(a)(1)) as a civil penalty assessed by the Secretary under that section.

[(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

[(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

[(A) are the most endangered (including the northern right whale (*Eubaleana glacialis*)); or

[(B) most warrant, and are most likely to benefit from, research management, or educational activities that may be funded with amounts made available from the fund.

[(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.]

[(h) (f) EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.—The Foundation shall not make any expenditure of Federal funds in connection with any one transaction for printing services or capital equipment that is greater than \$10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.

[(i) (g) NOTICE TO MEMBERS OF CONGRESS.—The Foundation shall not make a grant of Federal funds in an amount greater than \$10,000 unless, by not later than 30 days before the grant is made, the Foundation provides notice of the grant to the Member of Congress for the congressional district in which the project to be funded with the grant will be carried out.

\* \* \* \* \*

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act for each of fiscal years 2006 through 2010—

[(A) \$25,000,000 to the Department of the Interior; and  
 [(B) \$5,000,000 to the Department of Commerce.]

(1) IN GENERAL.—*There are authorized to be appropriated to carry out this Act for each of fiscal years 2015 through 2020—*

*(A) \$15,000,000 to the Secretary of the Interior;  
 (B) \$5,000,000 to the Secretary of Agriculture; and  
 (C) \$5,000,000 to the Secretary of Commerce.*

\* \* \* \* \*

(b) ADDITIONAL AUTHORIZATION.—

[(1) IN GENERAL.—In addition to the amounts authorized to be appropriated under subsection (a), the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this Act.]



## (1) AMOUNTS FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—*In addition to the amounts authorized to be appropriated under subsection (a), Federal departments, agencies, or instrumentalities may provide Federal funds to the Foundation, subject to the condition that the amounts are used for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with this Act.*

(B) ADVANCES.—*Federal departments, agencies, or instrumentalities may advance amounts described in subparagraph (A) to the Foundation in a lump sum without regard to when the expenses for which the amounts are used are incurred.*

(C) MANAGEMENT FEES.—*The Foundation may assess and collect fees for the management of amounts received under this paragraph.*

(2) USE OF **[funds]** *Amounts accepted from federal agencies.—Federal funds provided to the Foundation under paragraph (1) [shall be used] may be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons [and State and local government agencies], State and local government agencies, and other entities.*

## (3) ADMINISTRATION OF AMOUNTS.—

(A) IN GENERAL.—*In entering into contracts, agreements, or other partnerships pursuant to this Act, a Federal department, agency, or instrumentality shall have discretion to waive any competitive process applicable to the department, agency, or instrumentality for entering into contracts, agreements, or partnerships with the Foundation if the purpose of the waiver is—*

*(i) to address an environmental emergency resulting from a natural or other disaster; or*

*(ii) as determined by the head of the applicable Federal department, agency, or instrumentality, to reduce administrative expenses and expedite the conservation and management of fish, wildlife, plants, and other natural resources.*

(B) REPORTS.—*The Foundation shall include in the annual report submitted under section 7(b) a description of any use of the authority under subparagraph (A) by a Federal department, agency, or instrumentality in that fiscal year.*

(c) PROHIBITION ON USE OF GRANT AMOUNTS FOR LITIGATION AND LOBBYING EXPENSES.—*Amounts provided as a grant by the Foundation shall not be used for—*

*(1) any expense related to litigation; or*

*(2) any activity the purpose of which is to influence legislation pending before Congress.*

(d) USE OF GIFTS, DEVISES, OR BEQUESTS OF MONEY OR OTHER PROPERTY.—*Any gifts, devises, or bequests of amounts or other property, or any other amounts or other property, transferred to, deposited with, or otherwise in the possession of the Foundation pursuant to this Act, may be made available by the Foundation to Fed-*

*eral departments, agencies, or instrumentalities and may be accepted and expended (or the disposition of the amounts or property directed), without further appropriation, by those Federal departments, agencies, or instrumentalities, subject to the condition that the amounts or property be used for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources.*

**SEC. 11. LIMITATION ON AUTHORITY.**

Nothing in this Act authorizes the Foundation to perform any function the *exclusive* authority for which is provided to the National Park Foundation by subchapter II of chapter 1011 of title 54, United States Code.

\* \* \* \* \*

**FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT**

\* \* \* \* \*

**SECTION 1. [7 U.S.C. prec. 121] SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Insecticide, Fungicide, and Rodenticide Act”.

**SEC. 3. [7 U.S.C. 136a] REGISTRATION OF PESTICIDES.**

(a) **REQUIREMENT OF REGISTRATION.**—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.

(b) **EXEMPTIONS.**—A pesticide which is not registered with the Administrator may be transferred if—

(1)\* \* \*

\* \* \* \* \*

(f) **MISCELLANEOUS.**—

(1) **EFFECT OF CHANGE OF LABELING OR FORMULATION.**—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

(2) **REGISTRATION NOT A DEFENSE.**—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act. As long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the Act.

(3) **AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.**—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—Any mixture or other combination of—

(A) 1 or more nitrogen stabilizers registered under this Act; and

(B) 1 or more fertilizer products,

shall not be subject to the provisions of this section or sections 4, 5, 7, 15, and 17(a)(2) if the mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination, the mixture or combination is mixed or combined in accordance with such labeling, and the mixture or combination does not contain any active ingredient other than the nitrogen stabilizer.

(5) USE OF AUTHORIZED PESTICIDES.—*Except as provided in section 402(s) of the Federal Water Pollution Control Act (33 U.S.C. 1342), the Administrator or a State shall not require a permit under that Act for a discharge from a point source into navigable waters of—*

(A) a pesticide authorized for sale, distribution, or use under this Act; or

(B) the residue of the pesticide, resulting from the application of the pesticide.

\* \* \* \* \*

**Federal Water Pollution Control Act**

\* \* \* \* \*

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) \* \* \*

\* \* \* \* \*

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either (A) all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) \* \* \*

\* \* \* \* \*

(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(s) DISCHARGES OF PESTICIDES.—

(1) NO PERMIT REQUIREMENT.—*Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of—*

(A) *a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); or*

(B) *the residue of the pesticide, resulting from the application of the pesticide.*

(2) EXCEPTIONS.—*Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:*

(A) *A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) relevant to protecting water quality if—*

(i) *the discharge would not have occurred without the violation; or*

(ii) *the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.*

(B) *Stormwater discharges subject to regulation under subsection (p).*

(C) *The following discharges subject to regulation under this section:*

(i) *Manufacturing or industrial effluent.*

(ii) *Treatment works effluent.*

(iii) *Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.*

\* \* \* \* \*

**SUBMERGED LANDS ACT**

SEC. 2. When used in this Act—

(a) The term “lands beneath navigable waters” means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State, or 3 marine leagues distant from the coast line of a State described in section 4(b), and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 4 hereof but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending [from the coast line] more than three geographical miles *from the coast line of a State, or more than 3 marine leagues from the coast line of a State described in section 4(b),* into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues *from the coast line of a State, or more than 3 marine leagues from the coast line of a State described in section 4(b),* into the Gulf of Mexico, except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory;

\* \* \* \* \*

SEC. 3. RIGHTS OF THE STATES.—

(a) It is hereby determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are hereby, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

(b)(1)\* \* \*

\* \* \* \* \*

SEC. 4. SEAWARD BOUNDARIES.—[The]

(a) GENERAL RULE.—

(1) IN GENERAL.—*Except for the States described in subsection (b),* the seaward boundary of each original coastal State is hereby approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. [Any State]

(2) EXTENSIONS.—*Any State* admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. [Any claim]

(3) CLAIMS.—*Any claim* heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is hereby approved and confirmed, without prejudice to its claim, if any it has, that its boundaries extend beyond that line. [Nothing]

(4) PRIOR APPROVAL.—*Nothing* in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond three geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress.

(b) SEAWARD BOUNDARIES OF CERTAIN COASTAL STATES.—*Subject to subsection (a), for management activities pursuant to the fishery management plan for the reef fish resources of the Gulf of Mexico or any amendment to such plan, the seaward boundary of each of the following States shall be a line 3 marine leagues distant from the coast line of the State as of the date that is 1 day before the date of enactment of this subsection:*

- (1) *Alabama.*
- (2) *Florida.*
- (3) *Louisiana.*
- (4) *Mississippi.*

