

Public Law 109–294
109th Congress

An Act

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

Oct. 3, 2006
[S. 260]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Partners for Fish and Wildlife Act”.

Partners for Fish
and Wildlife Act.
16 USC 3771
note.

SEC. 2. FINDINGS AND PURPOSE.

16 USC 3771.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

(8) through 33,103 agreements with private landowners, the Partners for Fish and Wildlife Program has accomplished the restoration of 677,000 acres of wetland, 1,253,700 acres

of prairie and native grasslands, and 5,560 miles of riparian and in-stream habitat since 1987, demonstrating much of that success since only 2001.

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

16 USC 3772.

SEC. 3. DEFINITIONS.

In this Act:

(1) **FEDERAL TRUST SPECIES.**—The term “Federal trust species” means migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern.

(2) **HABITAT ENHANCEMENT.**—

(A) **IN GENERAL.**—The term “habitat enhancement” means the manipulation of the physical, chemical, or biological characteristics of a habitat to change a specific function or seral stage of the habitat.

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

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

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

(II) improving waterfowl habitat conditions;

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

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

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

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

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

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

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

(C) **EXCLUSIONS.**—The term “habitat enhancement” does not include regularly scheduled and routine maintenance and management activities, such as annual mowing or spraying of unwanted vegetation.

(3) **HABITAT ESTABLISHMENT.**—The term “habitat establishment” means the manipulation of physical, chemical, or biological characteristics of a project site to create and maintain habitat that did not previously exist on the project site, including construction of—

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

(B) side channel spawning and rearing habitat.

(4) HABITAT IMPROVEMENT.—The term “habitat improvement” means restoring, enhancing, or establishing physiographic, hydrological, or disturbance conditions necessary to establish or maintain native plant and animal communities, including periodic manipulations to maintain intended habitat conditions on completed project sites.

(5) HABITAT RESTORATION.—

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

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

(i) an activity conducted to return a project site, to the maximum extent practicable, to the ecological condition that existed prior to the loss or degradation, including—

(I) removing tile drains or plugging drainage ditches in former or degraded wetland;

(II) returning meanders and sustainable profiles to straightened streams;

(III) burning grass communities heavily invaded by exotic species to reestablish native grass and plant communities; and

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

(ii) if restoration of a project site to its original ecological condition is not practicable, an activity that repairs 1 or more of the original habitat functions and that involve the use of native vegetation, including—

(I) the installation of a water control structure in a swale on land isolated from overbank flooding by a major levee to simulate natural hydrological processes; and

(II) the placement of streambank or instream habitat diversity structures in streams that cannot be restored to original conditions or profile; and

(iii) removal of a disturbing or degrading element to enable the native habitat to reestablish or become fully functional.

(6) PRIVATE LAND.—

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

(B) INCLUSIONS.—The term “private land” includes tribal land and Hawaiian homeland.

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

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

16 USC 3773.

SEC. 4. PARTNERS FOR FISH AND WILDLIFE PROGRAM.

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

(1) technical and financial assistance to private landowners for the conduct of voluntary projects to benefit Federal trust species by promoting habitat improvement, habitat restoration, habitat enhancement, and habitat establishment; and

(2) technical assistance to other public and private entities regarding fish and wildlife habitat restoration on private land.

16 USC 3774.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

Approved October 3, 2006.

LEGISLATIVE HISTORY—S. 260:**HOUSE REPORTS:** No. 109–562 (Comm. on Resources).**SENATE REPORTS:** No. 109–86 (Comm. on Environment and Public Works).**CONGRESSIONAL RECORD:**

Vol. 151 (2005): June 27, considered and passed Senate.

Vol. 152 (2006): Sept. 20, considered and passed House.