

U.S. FISH AND WILDLIFE SERVICE

Listed below are statutory references and short summaries of specific acts that authorize the U.S. Fish and Wildlife Service (FWS) to enter partnership arrangements with other federal agencies, States, and public or private organizations. In many of these statutes authority is delegated from the Secretary of the Interior to the FWS. These authorities are categorized into four groups: broad partnership authorities, which are cited as authority for a myriad of partnership arrangements; specific authorities, which designate particular programs for which partnership arrangements are contemplated; grant statutes, which provide for assistance programs to advance fish and wildlife objectives; and donation authorities, which are included in the broader partnership statutes and described separately for ease of reference. Also the list of [Department-level authorities](#) may be consulted.

The Solicitor's Office can help the FWS determine the most appropriate ways of using these authorities to accomplish its partnership goals. Consultation with the Solicitor's Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of these goals.

A. BROAD PARTNERSHIP AUTHORITIES

- 1. Partnerships for Fish and Wildlife Purposes (16 U.S.C. 661 *et seq.*):** The Fish and Wildlife Coordination Act provides authority for the Secretary to enter into agreements with Federal and State agencies, as well as public and private organizations, to assist in the protection of fish and wildlife and their habitats. This broad authority includes provisions for the Secretary to receive donations of lands and funds, as well as to enter into grants and cooperative agreements for the benefit of fish and wildlife species and their habitat.
- 2. Partnerships to Benefit Fish and Wildlife Resources (16 U.S.C. 742a. *et seq.*):** The Fish and Wildlife Act of 1956 grants the Secretary broad authority to, "take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources. ..." The statute specifically authorizes the acceptance of gifts and the services of volunteers for programs and projects that benefit the mission of the U.S. Fish and Wildlife Service. Further, the act specifically authorizes the Secretary to enter into cooperative agreements for programs and projects to benefit specific units of the National Wildlife Refuge System.
- 3. Partnerships for Wildlife Program (16 U.S.C. 3741):** The Partnerships for Wildlife Act establishes the Wildlife Conservation and Appreciation Fund, to receive appropriated funds and donations from the National Fish and Wildlife Foundation and other private sources to assist the State fish and game agencies in carrying out their responsibilities for the conservation of non-game species. Funds are provided to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under the statute.

B. SPECIFIC PARTNERSHIP AUTHORITIES

1. **Cooperation with States for Threatened and Endangered Species (16 U.S.C. 1531 *et seq.*):** Section 6 of the Endangered Species Act directs the Secretary to cooperate with the States to the greatest extent practicable in the conservation of threatened and endangered species of fish and wildlife and plants.
2. **Cooperation in the Exchange and Use of Refuge System Lands (16 U.S.C. 668dd *et seq.*):** The National Wildlife Refuge System Administration Act allows agreements for the exchange of lands, of equal values, for inclusion in the refuge system. Also, the act allows FWS to enter into Memoranda of Understanding (MOU's) with federal agencies for the creation of overlay refuges, where another federal agency has administrative authority over lands. The Act allows for the permitting of uses within the refuges that are compatible with the major purposes for which a given refuge was established.
 - [2a] **Agreements to Implement the Convention on Great Lakes Fisheries between the United States and Canada (16 U.S.C. §§ 931-939):** The Great Lakes Fishery Act of 1956 implements the Convention on Great Lakes Fisheries between the United States and Canada; authorizes construction, operation and maintenance of sea lamprey control works; and established the Great Lakes Fisheries Commission.
 - [2b] **Agreements and Assistance for Research and Development of Aquaculture (16 U.S.C. §§ 2801-2810):** The National Aquaculture Act of 1980 directs the Secretary of the Interior to participate in the development of a National Aquaculture Development Plan and authorizes research, development, and other activities to encourage the development of aquaculture in the United States.
3. **Cooperation with State and Local Governments Regarding Migratory Birds (16 U.S.C. 715 *et seq.*):** The Migratory Bird Conservation Act authorizes the Secretary to cooperate with State and local governments in law enforcement activities. The Act also provides that any lands to be acquired by the FWS, with the approval of the Migratory Bird Commission, must be approved by the Governor of the State where the lands are to be acquired.
4. **Cooperation with the National Fish and Wildlife Foundation (16 U.S.C. 3701 *et seq.*):** The National Fish and Wildlife Foundation Establishment Act established the National Fish and Wildlife Foundation as a federally chartered charitable, non-profit corporation to administer donations of real or personal property, or interests therein, in connection with FWS programs and conservation activities on the United States. The Secretary appoints the members of the Foundation's board, and the Director of the FWS serves as an ex-officio, non-voting member of the board.
5. **Cooperation with States on Non-Game Species (16 U.S.C. 2901 *et seq.*):** The Fish and Wildlife Conservation Act authorizes the Secretary to give financial and technical assistance to the States for

development, revision, and implementation of conservation plans and programs for non-game fish and wildlife.

6. **Cooperation with States for Law Enforcement (16 U.S.C. 7421):** The Fish and Wildlife Improvement Act of 1978 authorizes the Secretary to establish, conduct and assist with national training programs for State fish and wildlife law enforcement personnel. The Act provides authority for the Secretary to enter law enforcement cooperative agreements with State or other federal agencies.
- [6a] **Fish and Wildlife Resources Cooperative Agreements (16 U.S.C. § 753a):** The Fish and Wildlife Improvement Act of 1978, as amended by Pub. L. No. 95-615, authorizes the Secretary of the Interior to enter into cooperative agreements with colleges and universities, State fish and game agencies, and nonprofit organizations for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources.
7. **Recreational Uses on Refuges (16 U.S.C. 460k *et seq.*):** The Refuge Recreation Act authorizes the Secretary to administer refuges, hatcheries and other conservation areas for recreational uses, when such uses do not interfere with the areas' primary purposes.
8. **Tax Deductions for Conservation Easements (26 U.S.C. 170):** The U.S. Tax Code allows taxpayers to take a deduction for a "qualified real property interest" contributed to a charitable organization (including the FWS), exclusively for conservation purposes protected in perpetuity. [26 U.S.C. 170 is not a DOI or FWS authority *per se*; rather it authorizes a tax deduction by the donor provided that DOI or a bureau agrees to accept a property donation.]
9. **Cooperation on Federal Energy Regulatory Commission (FERC) Licensed Projects: (16 U.S.C. 661 *et seq.*):** Pursuant to the Fish and Wildlife Coordination Act the Secretary is authorized to cooperate with project licensees, other federal agencies, state agencies and non-governmental organizations in carrying out the purposes of the Act. Certain provisions of the Federal Power Act, 16 U.S.C. 791 *et seq.*, authorize the Secretary, as part of a licensing proceeding, to request or mandate that FERC include such cooperative efforts in a project license.
10. **Partnerships Involving Fish and Wildlife Resources on Military Reservations (16 U.S.C. 670a *et seq.*):** The Sikes Act provides for cooperation by the Departments of Interior and Defense, along with State agencies, in the planning, development and maintenance of fish and wildlife resources on military reservations throughout the United States.
11. **Partnerships Involving Anadromous Fish (16 U.S.C. 757a *et seq.*):** The Anadromous Fish Conservation Act authorizes the Secretary to enter into cooperative agreements with States and other non-federal interests for the conservation, development and enhancement of anadromous fish.

12. **Partnerships with States to Preserve Coastal Barriers (16 U.S.C. 3501 *et seq.*):** The Coastal Barrier Resources Act provides consultative role for States in the designation of coastal areas to be enrolled in program prohibiting federal permits from being issued for the development of such lands.
13. **Cooperation with States in Conserving Estuaries (16 U.S.C. 1221 *et seq.*):** The Estuary Protection Act requires the Secretary to encourage State and local governments to consider the importance of estuaries in their planning activities related to federal natural resources grants.
14. **Agreements Regarding Subsistence Management and Use of Public Lands in Alaska (31 U.S.C. § 3119):** The Alaska National Interest Lands Conservation Act authorizes the Secretary to enter into cooperative agreements and otherwise cooperate with other federal agencies, the State, native corporations, and other appropriate persons and organizations to effectuate the purpose and policies of subsistence management and use of public lands in Alaska.

C. **AUTHORITY FOR PARTNERSHIPS THROUGH GRANTS**

1. **Grants to States for Wildlife Restoration Projects (16 U.S.C. 669 *et seq.*):** The Federal Aid in Wildlife Restoration Act provides federal aid to States for projects which include land acquisition, improvements of wildlife habitat, the introduction of wildlife into suitable habitat, research into wildlife problems, surveys and inventories of wildlife, along with wildlife educational programs.
2. **Grants to States for Sport Fish Restoration Projects (16 U.S.C. 777 *et seq.*):** The Federal Aid in Sport Restoration Act provides federal aid to States for management and restoration of fish having “material value in connection with sport or recreation in the marine and/or fresh waters of the United States. In addition, amendments to the Act provide funds to States for aquatic education, wetlands restoration, boat safety, clean vessel sanitation programs, and recreational boating programs.
3. **Grants to States for Endangered and Threatened Species (16 U.S.C. 1531 *et seq.*):** Section 6 of the Endangered Species Act authorizes the establishment of cooperative agreements and grants-in-aid to States which establish and maintain active and adequate programs for threatened and endangered species of fish and wildlife and plants.
4. **Grants for Wetlands (16 U.S.C. 4401 *et seq.*):** The North American Wetlands Conservation Act provides funding through recommendations by the North American Wetlands Conservation Council, with the approval of the Migratory Bird Commission, for projects that acquire and or restore wetlands habitat.

5. **Grants for “Recreational” Land Programs (16 U.S.C. 460/ et seq.):** The Land and Water Conservation Act authorizes funding for grants out of the Land and Water Conservation fund to provide recreation activities. Funding has traditionally been appropriated through the FWS, for lands to be included in the National Wildlife Refuge System. But more recently, pursuant to specific statutory language, funding has been appropriated for specifically targeted fish and wildlife grant programs, to not only States, but private landowners.
6. **Grants for Research (42 U.S.C. 1900)** The Research Grants Act authorizes the Secretary of the Interior to enter into contracts with educational institutions, public or private agencies or organizations, or persons, to conduct scientific or technological research.
7. **Grants for Coastal Wetlands Planning, Protection and Restoration (16 U.S.C. 3951 et seq.):** The Coastal Wetlands Planning, Protection and Restoration Act designated the FWS as the lead agency in administration of the National Coastal Wetlands Grant Program, which authorizes the awarding of grants to States for coastal wetlands projects.
8. **Grants to Promote “Clean Vessels” (33 U.S.C. 1322):** The Clean Vessel Act, an amendment to the Wallop-Breaux Federal Aid in Sport Fish Restoration Act, gives authority for the Secretary to make grants to both inland and coastal states for pumpout stations and waste reception facilities to dispose of sewage associated with recreational boating.
9. **Grants for Neotropical Migratory Bird Conservation (Pub. L. No. 106-247):** The Neotropical Migratory Bird Conservation Act of 2000 authorizes the Secretary to make grants to countries in Latin America and the Caribbean, and entities within the United States for the conservation of neotropical migratory birds that winter south of the border and summer in North America.
10. **Grants for Asian Elephant Conservation (16 U.S.C. 4261):** The Asian Elephant Conservation Act authorizes the Secretary to make grants from the Asian Elephant Conservation Fund to provide financial assistance for projects for the conservation of Asian elephants.

D. AUTHORITY TO ACCEPT GIFTS, DONATIONS AND VOLUNTEER SERVICES

1. **Donations of Lands and Funds to Benefit Fish and Wildlife Species and Their Habitats (16 U.S.C. 661 et seq.):** The authorities conveyed under the Fish and Wildlife Coordination Act, described in more detail in paragraph A. 1., above, include specific authority for the Secretary to receive donations of lands and funds for the benefit of fish and wildlife species and their habitats.
2. **Acceptance of Gifts and Volunteer Services to Benefit the Mission of FWS (16 U.S.C. 742a. et seq.):** The authorities

conveyed under the Fish and Wildlife Act of 1956, described in more detail in paragraph A. 2., above, specifically includes the authority to accept gifts and the services of volunteers for programs and projects that benefit the mission of the U.S. Fish and Wildlife Service.

3. **Appropriated Funds and Donations for the Wildlife Program (16 U.S.C. 3741):** The Partnerships for Wildlife Act, described in more detail in paragraph A. 3., above, authorizes the Secretary to receive appropriated funds and donations from the National Fish and Wildlife Foundation and other private sources to assist the State fish and game agencies in carrying out their responsibilities for the conservation of non-game species. The donations are placed into the Wildlife Conservation and Appreciation Fund, for provision to designated State agencies.

FWS REGIONAL AND SITE-SPECIFIC AUTHORITIES

- A. **Northeast Region** (not including general land acquisition authority)
 1. **Partnerships to Benefit the New England River System (16 U.S.C. 777e et seq.):** The New England Fisheries Resources Restoration Act of 1990 assigns the FWS with responsibility for formulating, establishing, revising and implementing a cooperative program to restore and maintain nationally significant interjurisdictional fishery resources in the New England River System.
 2. **Tinicum National Environmental Center (Pub. L. No. 92-326; 86 Stat. 391):** Section 5 of this law authorizes the Secretary to enter into cooperative agreements with the Commonwealth of Pennsylvania, political subdivisions thereof, corporations, associations, or individuals to carry out the provisions of the Act.
 3. **Great Dismal Swamp NWR (Pub. L. No. 93-402; 88 Stat. 910):** Section 2 of this law authorizes the Secretary and the Chief of Engineers, U. S. Army Corps of Engineers to enter in consultations and take such cooperative actions as they deem necessary and appropriate to insure that any navigational or other uses made of the Dismal Swamp do not adversely effect the Refuge.
 4. **Sailors' Snug Harbor NWR (Pub. L. No. 96-315; 94 Stat. 957):** Section 2 of this law authorizes the Secretary to enter into cooperative agreements with the City of New York for the management of Sailors' Snug Harbor as a National Wildlife Refuge regarding the respective functions of each party if the 80 acre property is donated by the City of New York.
 5. **Silvio O. Conte National Fish and Wildlife Refuge (Pub. L. No. 102-212; 105 Stat. 1657):** Section 107(b) of this law authorizes the Secretary to provide technical assistance, community outreach and educational programs for or with, or enter into cooperative agreements with private landowners, State and local governments, agencies, and conservation organizations to further the purposes for which the refuge is established. **Section 109(b)** authorizes the

Secretary to enter agreements to share the construction of and land acquisition for the Silvio Conte National Fish and Wildlife Refuge Education Center with State and local governments and other public and private entities.

- 6. Detroit River International Wildlife Refuge (Pub. L. No. 107-91; 115 Stat. 894):** Section 4 of this law provides that one of the purposes for which the Refuge was established and must be managed is to facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the Detroit River. Section 6(c) of statute provides that the Secretary is authorized to enter into cooperative agreements with State and private parties for the management of lands owned by the State or private parties within the boundaries of the Refuge.
- 7. Partnerships to Benefit Great Lakes Fish and Wildlife Resources (16 U.S.C. 941):** The Great Lakes Fish and Wildlife Restoration Act establishes goals for the FWS in conducting fisheries programs in the Great Lakes region, including inviting the Secretary of the Army, affected State directors, Indian tribes, the Great Lakes Fishery Commission, Canadian government entities, and others to enter into an MOU regarding the scope and focus of studies of Great Lake fisheries issues.