

this Act [this chapter] may be cited as the “Sockeye Salmon or Pink Salmon Fishing Act of 1947”, was repealed by Pub. L. 99-5, § 13, Mar. 15, 1985, 99 Stat. 15.

#### SAVINGS PROVISION

Section 9 of act July 29, 1947, which provided that if any provision of this Act [this chapter] is held invalid for any cause, such invalidity shall not affect the other provisions hereof, was repealed by Pub. L. 99-5, § 13, Mar. 15, 1985, 99 Stat. 15.

### CHAPTER 10B—FISH RESTORATION AND MANAGEMENT PROJECTS

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#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1225, 2904, 2905, 3125 of this title; title 25 sections 1709, 1745; title 26 section 9504; title 46 section 13101.

### § 777. Federal-State relationships

#### (a) Cooperation between Federal Government and State fish and game departments; expenditure of funds

The Secretary of the Interior is authorized and directed to cooperate with the States through their respective State fish and game departments in fish restoration and management projects as hereinafter set forth: No money apportioned under this chapter to any State, except as hereinafter provided, shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of fish, shall have assented to the provisions of this chapter and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after passage of this chapter, the assent of the governor of the State shall be sufficient. The Secretary of the Interior and the State fish and game department of each State accepting the benefits of this chapter shall agree upon the fish restoration and management projects to be aided in such State under the terms of this chapter, and all projects shall conform to the standards fixed by the Secretary of the Interior.

#### (b) Allocation of amounts by coastal States between marine fish projects and freshwater fish projects

##### (1) In general

Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this chapter between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

##### (2) Preservation of freshwater project allocation at 1988 level

(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State under this chapter is less than the amount apportioned to the State under this chapter for fiscal year 1988.

##### (3) “Coastal State” defined

As used in this subsection, the term “coastal State” means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The

term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Aug. 9, 1950, ch. 658, §1, 64 Stat. 430; July 18, 1984, Pub. L. 98-369, div. A, title X, §1014(a)(1), 98 Stat. 1015; Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095; Sept. 28, 1988, Pub. L. 100-448, §6(c)(1), 102 Stat. 1840.)

#### AMENDMENTS

1988—Subsec. (b). Pub. L. 100-448 substituted "Allocation of amounts by coastal States between marine fish projects and freshwater fish projects" for "Allocation of funds by coastal States; formula; 'coastal State' defined" in heading and amended text generally. Prior to amendment, text read as follows: "Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

"(1) The additional sums apportioned to such State under this chapter as a result of the taxes imposed by the amendments made by section 1015 of the Tax Reform Act of 1984 on items not taxed under section 4161(a) of title 26 before October 1, 1984.

"(2) The sums apportioned to such State under this chapter that are not attributable to any tax imposed by such section 4161(a).

As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas."

1986—Subsec. (b)(1). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1984—Pub. L. 98-369 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 6(e) of Pub. L. 100-448 provided that: "This section [enacting section 777l of this title, amending this section, sections 9503 and 9504 of Title 26, Internal Revenue Code, and sections 13102 and 13106 of Title 46, Shipping, enacting provisions set out as a note under section 13101 of Title 46, and repealing provisions set out as a note under section 13103 of Title 46] shall take effect October 1, 1988."

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 1014(b) of Pub. L. 98-369 provided that: "The amendments made by subsection (a) [amending this section and sections 777b, 777c to 777e, 777g, and 777k of this title] shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984."

#### EFFECTIVE DATE

Section 13 of act Aug. 9, 1950, provided that: "The effective date of this Act [enacting this chapter] shall be July 1, 1950."

#### SHORT TITLE OF 1970 AMENDMENTS

Section 204 of title II of Pub. L. 91-503, Oct. 23, 1970, 84 Stat. 1104, provided that: "This title [amending sections 777c, 777e to 777g, and 777k of this title] may be cited as the 'Federal Aid in Fish Restoration Act Amendments of 1970'."

#### SHORT TITLE

Act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, which enacted this chapter, is popularly known as the "Federal Aid in Fish Restoration Act", the "Fish Restoration and Management Projects Act", and the "Dingell-Johnson Sport Fish Restoration Act".

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf-Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 777a. Definitions

For the purpose of this chapter the term "fish restoration and management projects" shall be construed to mean projects designed for the restoration and management of all species of fish which have material value in connection with sport or recreation in the marine and/or fresh waters of the United States and include—

(a) such research into problems of fish management and culture as may be necessary to efficient administration affecting fish resources;

(b) the acquisition of such facts as are necessary to guide and direct the regulation of fishing by law, including the extent of the fish population, the drain on the fish supply from fishing and/or natural causes, the necessity of legal regulation of fishing, and the effects of any measures of regulation that are applied;

(c) the formulation and adoption of plans of restocking waters with food and game fishes according to natural areas or districts to which such plans are applicable, together with the acquisition of such facts as are necessary to the formulation, execution, and testing the efficacy of such plans;

(d) the selection, restoration, rehabilitation, and improvement of areas of water or land adaptable as hatching, feeding, resting, or breeding places for fish, including acquisition by purchase, condemnation, lease, or gift 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 such preliminary or incidental costs and expenses as may be incurred in and about such works; the term "State fish and game department" shall be construed to mean and include 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.

(Aug. 9, 1950, ch. 658, §2, 64 Stat. 431; July 2, 1956, ch. 489, §3, 70 Stat. 473; July 12, 1960, Pub. L. 86-624, §12, 74 Stat. 413.)

#### AMENDMENTS

1960—Subsec. (d). Pub. L. 86-624 struck out provisions which defined “State” as including the several States and the Territory of Hawaii.

1956—Act July 2, 1956, included definition of “State”.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 2, 1956, as applicable only with respect to fiscal years beginning after July 2, 1956, see section 5 of act July 2, 1956, set out as a note under section 669a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777k of this title.

### § 777b. Authorization of appropriations

To carry out the provisions of this chapter for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9504(a) of title 26 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section. The appropriation made under the provisions of this section for each fiscal year shall continue available during the succeeding fiscal year. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this chapter which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation.

(Aug. 9, 1950, ch. 658, §3, 64 Stat. 431; July 18, 1984, Pub. L. 98-369, div. A, title X, §1014(a)(2), 98 Stat. 1015; Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095.)

#### REFERENCES IN TEXT

The provision of the Act of August 31, 1951, referred to in text, is set out as a note below.

#### AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1984—Pub. L. 98-369 substituted “To carry out the provisions of this chapter for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9504(a) of title 26 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section” for “To carry out the provisions of this chapter, there is hereby authorized to be appropriated an amount equal to the revenue accruing

from tax imposed by section 3406 of the Internal Revenue Code, as heretofore or hereafter extended and amended, on fishing rods, creels, reels, and artificial lures, baits, and flies during the fiscal year ending June 30, 1951, and each fiscal year thereafter”.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

#### AVAILABILITY OF FUNDS UNTIL EXPENDED

Section 101 of act Aug. 31, 1951, ch. 375, title I, 65 Stat. 262, provided that: “For carrying out the provisions of the Act of August 9, 1950 (Public Law 681) [this chapter], amounts equal to the revenues described in section 3 of said Act [this section] and credited during the next preceding fiscal year and each fiscal year thereafter, to remain available until expended.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777c of this title.

### § 777c. Division of annual appropriations

#### (a) Initial distribution

The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection,<sup>1</sup> and Restoration Act (title III, Public Law 101-646) [16 U.S.C. 3951 et seq.]. Notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 1999.

#### (b) Use of balance after distribution

Of the balance of each such annual appropriation remaining after making the distribution under subsection (a) of this section, an amount equal to \$10,000,000 for fiscal year 1993, \$15,000,000 for each of fiscal years 1994 and 1995, and \$20,000,000 for each of fiscal years 1996, and 1997 shall be used as follows:

(1) one-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46; and

(2) one-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46.

In fiscal year 1998, an amount equal to \$20,000,000 of the balance remaining after the distribution under subsection (a) of this section shall be

<sup>1</sup> So in original. The comma probably should not appear.

transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46.

**(c) Funds available for expenses of investigations and administration**

Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b) of this section, respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this chapter and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

**(d) Apportionment among States**

The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c) of this section, respectively, shall apportion the remainder of each such annual appropriation among the several States in the following manner: 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than \$4,500 annually, the Secretary of the Interior may allocate not more than \$4,500 of said appropriation to said State to carry out the purposes of this chapter when said State certifies to the Secretary of the Interior that it has set aside not less than \$1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount of said purposes.

**(e) Unallocated funds**

So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this chapter until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of per-

sons holding licenses to fish shall be a State's fiscal or license year.

(Aug. 9, 1950, ch. 658, § 4, 64 Stat. 432; Oct. 23, 1970, Pub. L. 91-503, title II, § 201, 84 Stat. 1101; Apr. 21, 1976, Pub. L. 94-273, § 4(2), 90 Stat. 377; July 18, 1984, Pub. L. 98-369, div. A, title X, § 1014(a)(3), 98 Stat. 1015; Nov. 29, 1990, Pub. L. 101-646, title III, § 308, 104 Stat. 4787; Nov. 4, 1992, Pub. L. 102-587, title V, § 5604(a), 106 Stat. 5087.)

REFERENCES IN TEXT

The Coastal Wetlands Planning, Protection and Restoration Act, referred to in subsec. (a), is title III of Pub. L. 101-646, Nov. 29, 1990, 104 Stat. 4778, which is classified generally to chapter 59A (§3951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3951 of this title and Tables.

Section 5604(c) of the Clean Vessel Act of 1992, referred to in subsec. (b)(2), is section 5604(c) of Pub. L. 102-587, which is set out as a note under section 1322 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

1992—Pub. L. 102-587 added subsecs. (a) to (c), inserted subsec. (d) designation and substituted “The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c) of this section, respectively, shall apportion the remainder of each such annual appropriation among the several States” for “So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 777b of this title as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this chapter and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year. The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided*, That, notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 1999. The Secretary of the Interior, after making the aforesaid deduction, shall apportion the remainder of the appropriation for each fiscal year among the several States”, and inserted subsec. (e) designation.

1990—Pub. L. 101-646 inserted after first sentence “The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided*, That, notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 1999.”

1984—Pub. L. 98-369 revised deductible amount from not to exceed 8 per centum to not to exceed 6 per centum.

1976—Pub. L. 94-273 substituted “September” for “June”, and “October” for “July”.

1970—Pub. L. 91-503 changed method of apportionment of funds by striking out reference to “to all the States” and inserted definition of “fiscal year”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970,

eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 777g, 2904, 2905 of this title.

**§ 777d. Certification of funds deducted for expenses and amounts apportioned to States**

For each fiscal year beginning with the fiscal year ending June 30, 1951, the Secretary of the Interior shall certify to the Secretary of the Treasury, and to each State fish and game department, the sum which he has estimated to be deducted for administering and executing this chapter and the sum which he has apportioned to each State for such fiscal year.

(Aug. 9, 1950, ch. 658, §5, 64 Stat. 432; July 18, 1984, Pub. L. 98-369, div. A, title X, §1014(a)(4), 98 Stat. 1015.)

AMENDMENTS

1984—Pub. L. 98-369 struck out provisions relating to notice by the State to the Secretary of intention to accept, and use of funds where the State fails to accept.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

**§ 777e. Submission and approval of plans and projects**

**(a) Apportionment of funds**

Any State desiring to avail itself of the benefits of this chapter shall, by its State fish and game department, submit programs or projects for fish restoration in either of the following two ways:

(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this chapter from funds apportioned under this chapter upon his approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this chapter by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any fish restoration and management project proposed

for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said appropriation as represents the share of the United States payable under this chapter on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive fishery plan or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this chapter. No payment of any money apportioned under this chapter shall be made on any comprehensive fishery plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

**(b) "Project" defined**

If the State elects to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term "project" may be defined for the purpose of this chapter as a fishery program, all other definitions notwithstanding.

**(c) Costs**

Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State fish and game department charged against programs or projects supported by funds made available under this chapter shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

**(d) Agreements to finance initial costs of acquisition of lands and construction of structures**

The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for<sup>1</sup> appropriations currently available for the purposes of this chapter; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this chapter.

(Aug. 9, 1950, ch. 658, §6, 64 Stat. 432; Oct. 23, 1970, Pub. L. 91-503, title II, §202, 84 Stat. 1102; July 18, 1984, Pub. L. 98-369, div. A, title X, §1014(a)(5), 98 Stat. 1016.)

AMENDMENTS

1984—Subsec. (d). Pub. L. 98-369 added subsec. (d).

<sup>1</sup> So in original. Probably should be "from".

1970—Subsec. (a). Pub. L. 91-503 added an alternative method of application for funds by submission of a comprehensive fish and wildlife resource management plan for a period of five years based on projections for fifteen years, to be updated every three years, laid down a maximum limit of assistance of 75 percent of the estimated cost of the implementation of plan, and in existing method of application struck out reference to Secretary of the Treasury and requirement that State pay 10 percent of costs.

Subsecs. (b), (c). Pub. L. 91-503 added subsecs. (b) and (c).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777f of this title.

### § 777e-1. New England Fishery Resources Restoration Act of 1990

#### (a) Short title

This section may be cited as the “New England Fishery Resources Restoration Act of 1990”.

#### (b) Purposes

The purposes of this section are to—

(1) ensure timely and effective implementation of restoration plans and programs for Atlantic salmon and other fishery resources of selected river systems in New England;

(2) complete a study of fish passage impediments and requirements on small streams and rivers in New England; and

(3) develop an inventory of important fish and wildlife habitat and other natural areas of river basins in New England.

#### (c) Implementation of fishery resource restoration plans

The Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall formulate, establish and implement programs to restore and maintain nationally significant, interjurisdictional fishery resources originating in New England river systems, including the Connecticut, Thames, Pawcatuck, Merrimack, Saco, Androscoggin, Kennebec, Sheepscot, Duck Trap, St. George, Penobscot, Union, Narraguagus, Pleasant, Machias, Dennys, St. Croix, Meduxnekeag and Aroostock and their tributaries. These programs shall be in accordance with the schedule and responsibilities established in comprehensive basin-wide restoration plans prepared by the Director in cooperation with State, local, and other entities involved and interested in the conservation and management of the affected fishery resources. Preparation and periodic revision of restoration plans, and their implementation, shall be based on a Memorandum of Agreement for each res-

toration program which shall be entered into by the Director and cooperating entities. The Director shall prepare and submit to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works an annual report documenting activities undertaken and accomplishments achieved in fulfillment of this section, including an assessment of the prognosis for restoration of each of the stocks and species involved.

#### (d) Fish passage study

The Director shall conduct a study to identify impediments to upstream and downstream passage of fish in rivers and streams in the New England States due to dams that are not licensed by the Federal Energy Regulatory Commission or other human-caused obstructions. In addition, the study shall identify actions needed to alleviate those impediments where desirable and feasible. The study shall include, but not be limited to, identifying—

(1) all dams not licensed by the Federal Energy Regulatory Commission and other human-caused obstructions on New England rivers and streams where construction of upstream or downstream fish passage facilities or their removal would benefit fishery resources, including an estimate of the degree of benefits expected; and

(2) the proposed nature and size and estimated cost of appropriate fish passage facilities or other actions determined to be necessary and feasible or each dam or other obstruction identified in response to paragraph (1).

The Director shall provide notice to the public of the extent and nature of the study by publication of such information in major newspapers in the region and by other appropriate means. Within three years of November 16, 1990, the Director shall submit a report containing the findings, conclusions and recommendations of the study to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

#### (e) New England rivers fish and wildlife inventory

The Director shall inventory the natural values of river basins in New England, including the Connecticut, Pawcatuck, Acushnet, North and South (in Plymouth County, Massachusetts), Charles, Merrimack, Saco, Androscoggin, Kennebec, Penobscot, Union, St. Croix, and Aroostock Rivers and their tributaries, and identify fish and wildlife habitat in most need of protection or where public access to the rivers should be provided. In addition, the Director shall, in cooperation with appropriate State agencies and local governments and after providing notice and opportunity for public comment, identify appropriate public or private measures for providing the necessary protection or access for each area included in the inventory. Within two years of November 16, 1990, the Director shall submit a report containing the findings, conclusions, and recommendations of the inventory and assessment to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

**(f) Authorization of appropriations**

There are authorized to be appropriated to the Director—

(1) \$5,000,000 per year for fiscal years 1991, 1992, 1993, 1994, and 1995 to implement fishery resource restoration plans and programs, except for activities related to the design and construction of fish passage facilities, as directed by subsection (c) of this section;

(2) \$500,000 per year for fiscal years 1991, 1992, and 1993 to conduct the study required under subsection (d) of this section; and

(3) \$500,000 to conduct the inventory and assessment required under section<sup>1</sup> (e) of this section.

(Pub. L. 101-593, title I, §111, Nov. 16, 1990, 104 Stat. 2960.)

## REFERENCES IN TEXT

This section, referred to in subsec. (b), was in the original "this Act", which probably was intended as a reference to New England Fishery Resources Restoration Act of 1990, section 111 of Pub. L. 101-593, title I, Nov. 16, 1990, 104 Stat. 2960, which is classified generally to this section.

## CODIFICATION

Section was enacted as the New England Fishery Resources Restoration Act of 1990, and not as part of the Fish Restoration and Management Projects Act which comprises this chapter.

## ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§ 777f. Payments by United States****(a) Payments and advances to States**

When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to fish, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States' pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 777e of this title, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and

regulations, as he may prescribe, advance funds to the State for financing the United States' pro rata share agreed upon between the State fish and game department and the Secretary.

**(b) Construction work; joint payments**

Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with the rules and regulations made pursuant to this chapter. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments shall be made under this chapter. Such payments shall be made against the said appropriation to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

(Aug. 9, 1950, ch. 658, §7, 64 Stat. 433; Oct. 23, 1970, Pub. L. 91-503, title II, §202, 84 Stat. 1103.)

## AMENDMENTS

1970—Pub. L. 91-503 divided existing provisions into subsecs. (a) and (b) and authorized advance payments by the Secretary to the States for financing the United States' pro rata share of the comprehensive fish and wildlife plan.

## TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

**§ 777g. Maintenance of projects****(a) Duty of States; status of projects; title to property**

To maintain fish-restoration and management projects established under the provisions of this chapter shall be the duty of the States according to their respective laws. Beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this chapter may be considered as projects under this chapter. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this chapter, shall be vested in such State.

**(b) Funding requirements**

(1) Each State shall allocate 12½ per centum of the funds apportioned to it for each fiscal year under section 777c of this title for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes. Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.

<sup>1</sup> So in original. Probably should be "subsection".

(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding four fiscal years, but any portion of such funds that remain unexpended or unobligated at the close of such period are authorized to be made available for expenditure by the Secretary of the Interior in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

**(c) Aquatic resource education program; funding, etc.**

Each State may use not to exceed 10 per centum of the funds apportioned to it under section 777c of this title to pay up to 75 per centum of the costs of an aquatic resource education and outreach program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.

**(d) Pumpout stations and waste reception facilities**

Amounts apportioned to States under section 777c of this title may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).

(Aug. 9, 1950, ch. 658, § 8, 64 Stat. 433; Oct. 23, 1970, Pub. L. 91-503, title II, § 202, 84 Stat. 1103; July 18, 1984, Pub. L. 98-369, div. A, title X, § 1014(a)(6), 98 Stat. 1016; Nov. 4, 1992, Pub. L. 102-587, title V, § 5604(b), 106 Stat. 5088.)

REFERENCES IN TEXT

For effective date of this subsection, referred to in subsec. (c), see Effective Date of 1984 Amendment note below.

The Clean Vessel Act of 1992, referred to in subsec. (d), is subtitle F of title V of Pub. L. 102-587, Nov. 4, 1992, 106 Stat. 5086, which amended this section and section 777c of this title and enacted provisions set out as a note under section 1322 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1322 of Title 33 and Tables.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-587, § 5604(b)(1), substituted “12½ per centum” for “10 per centum” after “allocate” and inserted at end “Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.”

Subsec. (b)(2). Pub. L. 102-587, § 5604(b)(2), substituted “four fiscal years” for “fiscal year” after first reference to “succeeding” and “period” for second reference to “succeeding fiscal year”.

Subsec. (c). Pub. L. 102-587, § 5604(b)(3), inserted “and outreach” after “education”.

Subsec. (d). Pub. L. 102-587, § 5604(b)(4), added subsec. (d).

1984—Pub. L. 98-369 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1970—Pub. L. 91-503 struck out restriction that not more than 25 percent of the Federal funds be set aside for maintenance projects.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

**§ 777h. Employment of personnel**

Out of the deductions set aside for administering and executing this chapter the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the civil service; to rent or construct buildings outside of the District of Columbia; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including publication of technical and administrative reports, purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the provisions of this chapter.

(Aug. 9, 1950, ch. 658, § 9, 64 Stat. 433.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

CROSS REFERENCES

Competitive service lists of eligibles, see section 3313 of Title 5, Government Organization and Employees.

**§ 777i. Rules and regulations**

The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this chapter.

(Aug. 9, 1950, ch. 658, § 10, 64 Stat. 434.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

**§ 777j. Repealed. Pub. L. 89-348, § 1(14), Nov. 8, 1965, 79 Stat. 1311**

Section, act Aug. 9, 1950, ch. 658, § 11, 64 Stat. 434, required the Secretary of the Interior to make an annual report to the Congress giving detailed information as to the projects established under this chapter and expenditures therefor.

**§ 777k. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Virgin Islands**

The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, the Governor of Guam, the Governor of American Samoa, the Governor of the Common-

wealth of the Northern Mariana Islands, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects, as defined in section 777a of this title, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, out of money available for apportionment under this chapter, such sums as he shall determine, not exceeding for Puerto Rico 1 per centum, for the District of Columbia one-third of 1 per centum, for Guam one-third of 1 per centum, for American Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum, and for the Virgin Islands one-third of 1 per centum of the total amount apportioned in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpected or unobligated balance of any apportionment made pursuant to this section shall be made available for expenditure in Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, as the case may be, in the succeeding year, on any approved projects, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

(Aug. 9, 1950, ch. 658, §12, 64 Stat. 434; July 2, 1956, ch. 489, §4, 70 Stat. 473; Aug. 1, 1956, ch. 852, §8, 70 Stat. 908; June 25, 1959, Pub. L. 86-70, §16, 73 Stat. 143; Oct. 23, 1970, Pub. L. 91-503, title II, §203, 84 Stat. 1103; Dec. 24, 1980, Pub. L. 96-597, title III, §302(a), 94 Stat. 3477; July 18, 1984, Pub. L. 98-369, div. A, title X, §1014(a)(7), 98 Stat. 1016.)

#### AMENDMENTS

1984—Pub. L. 98-369 inserted “the Mayor of the District of Columbia,” after “the Secretary of Agriculture of Puerto Rico,” “for the District of Columbia one-third of 1 per centum,” after “for Puerto Rico 1 per centum,” and “the District of Columbia,” after “Puerto Rico,” in two places.

1980—Pub. L. 96-597 inserted references to the Governor and the Commonwealth of the Northern Mariana Islands.

1970—Pub. L. 91-503 substituted “Secretary of Agriculture of Puerto Rico” for “Commissioner of Agriculture and Commerce of Puerto Rico”, added American Samoa to the list of recipients, and substituted maximum limits of apportionment of one percent for Puerto Rico, one-third of one percent for Guam, one-third of one percent for American Samoa and one-third of one percent for Virgin Islands for maximum limit of \$10,000 for Puerto Rico, Guam and Virgin Islands together.

1959—Pub. L. 86-70 struck out provisions which authorized cooperation with the Alaska Game Commission and permitted apportionment of not more than \$75,000 in any one year to the Territory of Alaska.

1956—Act Aug. 1, 1956, inserted “the Governor of Guam” after “Commissioner of Agriculture and Commerce of Puerto Rico,” and “Guam” after “Puerto Rico” in three remaining places those words appear.

Act July 2, 1956, struck out provisions which authorized the Secretary to cooperate with the Division of

Game and Fish of the Board of Commissioners of Agriculture and Forestry of Hawaii, struck out limitation of \$25,000 on the amount of funds which could be apportioned to Hawaii in any one year, and substituted “Territory of Alaska” for “Territories” in two places.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 2, 1956, as applicable only with respect to fiscal years beginning after July 2, 1956, see section 5 of act July 2, 1956, set out as a note under section 669a of this title.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

### § 777f. State use of contributions

A State may use contributions of funds, real property, materials, and services to carry out an activity under this chapter in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.

(Aug. 9, 1950, ch. 658, §13, as added Sept. 28, 1988, Pub. L. 100-448, §6(c)(2), 102 Stat. 1841.)

#### CODIFICATION

Another section 13 of act Aug. 9, 1950, ch. 658, is classified as a note under section 777 of this title.

#### EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 6(e) of Pub. L. 100-448, set out as an Effective Date of 1988 Amendment note under section 777 of this title.

## CHAPTER 10C—FISH RESEARCH AND EXPERIMENTATION PROGRAM

Sec.

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|---------------|--|
| 778.          | Establishment of experiment stations; purpose of research.   |
| 778a.         | Acquisition of lands; construction of buildings; employment of personnel; cooperation with other agencies; publication of results. |
| 778b.         | Cooperation with Department of Agriculture.  |
| 778c.         | Authorization of appropriations.   |
| 778d to 778h. | Omitted.   |

### § 778. Establishment of experiment stations; purpose of research

The Secretary of the Interior or the Secretary of Commerce, as appropriate, is authorized and directed to establish an experiment station or stations for the purpose of carrying on a program of research and experimentation—

(1) to determine species of fishes most suitable for culture on a commercial basis in shallow reservoirs and flooded rice lands;

(2) to determine methods for production of fingerling fishes for stocking in commercial reservoirs;

(3) to develop methods for the control of parasites and diseases of brood fishes and of fingerlings prior to stocking;

(4) to develop economical methods for raising the more desirable species of fishes to a marketable size;