

TITLE 16 CHAPTER 61

CHAPTER 61 - INTERJURISDICTIONAL FISHERIES

Sec. 4101. - Congressional statement of purposes

The purposes of this chapter are -

- (1) to promote and encourage State activities in support of the management of interjurisdictional fishery resources; and
- (2) to promote and encourage management of interjurisdictional fishery resources throughout their range

Sec. 4102. - Definitions

For the purposes of this chapter:

- (1) The term "Federal fishery management plan" means a plan developed under the Magnuson-Stevens Fishery Conservation and Management Act ([16 U.S.C. 1801](#) et seq.).
- (2) The term "fishery resource" means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.
- (3) The term "interjurisdictional fishery resource" means -
 - (A) a fishery resource for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;
 - (B) a fishery resource for which there exists an interstate fishery management plan; or
 - (C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section [4104\(a\)\(3\)](#) of this title during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

- (4) The term "interstate fishery management plan" means a plan for managing fisheries developed and adopted by an interstate commission.

- (5) The term "interstate commission" means a commission or other administrative body established by an interstate compact.
- (6) The term "interstate compact" means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.
- (7) The term "project" means a program for research in support of the management of an interjurisdictional fishery resource or an interstate cooperative fishery management agreement.
- (8) The term "Secretary" means the Secretary of Commerce.
- (9) The term "State" means any of the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.
- (10) The term "State agency" means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries or enforce laws relating to commercial fisheries

Sec. 4103. - Apportionment

(a) Time when apportionments made

Funds appropriated under section [4107\(a\)](#) of this title shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) Apportionment formula

The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) Limitations

- (1) No State may receive an apportionment under subsection (b) of this section for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.
- (2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b) of this section, has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) of this section is less than one-third of one percent, unless the State -

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources which are managed under an interstate fishery management plan;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

(4) No State that, under the apportionment formula in subsection (b) of this section, has a ratio of less than one-third of one percent and meets any of the requirements set forth in paragraph (1)(A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(5) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(d) Unused apportionments

Any part of an apportionment for any fiscal year to any State -

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State, may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section [4107\(a\)](#) of this title for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a) of this section. Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable

Sec. 4104. - State projects

(a) In general

(1)

Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2)

No part of any funds appropriated under any authorization contained in section [4107](#) of this title may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to -

(A)

the soundness of design;

(B)

the possibilities of securing productive results;

(C)

the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this chapter or under any other law or regulation;

(D)

the organization and management of the project;

(E)

the methods proposed for monitoring and evaluating the success or failure of the project;

(F)

the consistency of the project with the purposes of this chapter specified in section 4101 of this title; and

(G)

such other criteria as the Secretary may prescribe.

(3)

The Federal share of the cost of any project conducted under this chapter shall not exceed 75 percent of the total estimated cost of the project, unless -

(A)

the State has adopted an interstate fishery management plan for the resource to which the project applies; or

(B)

the State has adopted fishery regulations which the Secretary has determined are consistent with any Federal fishery management plan for the species to which the project

applies; in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)

(A)

If the Secretary approves or disapproves a proposal for a project, the Secretary shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B)

For the purposes of this chapter, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) Restriction

The expenditure of funds under this chapter shall be applied only to projects for which a proposal has been approved under subsection (a) of this section, except that up to \$25,000 each fiscal year may be obligated for a State to carry out an agreement with the Secretary or the Secretary of the Interior under which the personnel, services and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources. If otherwise applied, such funds shall be replaced by the State before the State may receive any additional funds under this chapter.

(c) Payment

When the Secretary determines that a project carried out under a proposal approved by the Secretary has been completed, or where the Secretary otherwise deems it appropriate, the Secretary shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned

Sec. 4105. - Property

(a) Application of Federal and State laws

All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) Title

Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) Disposal

If a State disposes of any real or personal property acquired under this chapter, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this chapter were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under

this section exceed the amount of funds provided by this chapter for the acquisition of the property involved

Sec. 4106. - Reports to Congress

After consultation with the States receiving funds under this chapter and with any interstate commission involved in carrying out a project under this chapter, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains -

- (1) a description of each project and law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted;
- (2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project and a law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted;
- (3) an assessment of each project and law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this chapter; and
- (4) a statement specifying all funds which have been apportioned pursuant to section [4104\(a\)](#) of this title and are available for obligation by a State or the Secretary but which have not been obligated

Sec. 4107. - Authorization of appropriations

(a) General appropriations

There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this chapter -

- (1) \$3,400,000 for fiscal year 1996;
- (2) \$3,900,000 for fiscal year 1997;
- (3) \$4,400,000 for each of the fiscal years 1998, 1999, and 2000.

(b) Additional appropriations

In addition to the amounts authorized in subsection (a) of this section, there are authorized to be appropriated to the Department of Commerce \$65,000,000 for each of the fiscal years 1994 and 1995, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this chapter; except that -

- (1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or

serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future;

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels; and

(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.

Amounts appropriated under this subsection shall remain available until expended.

(c) Development of management plans

In addition to the amounts authorized under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of Commerce \$700,000 for fiscal year 1997, and \$750,000 for each of the fiscal years 1998, 1999, and 2000, to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by [Public Law 80-232](#) (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81-66 (63 Stat. 70), approved May 19, 1949.

(d) Assistance to commercial fishermen

(1) In addition to the amounts authorized under subsections (a), (b), and (c) of this section, there are authorized to be appropriated to the Department of Commerce \$65,000,000 for fiscal year 1992 to enable the Secretary to help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through States and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

(3) Eligibility for direct assistance to a person under this subsection shall be limited to any person that has less than \$2,000,000 in net revenues annually from commercial fishing, as determined by the Secretary.

(4)

(A)

Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place in that fishery.

(B)

As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall -

(i)

prohibit the vessel from being used for fishing; and

(ii)

require that the vessel be -

(I)

scrapped or otherwise disposed of in a manner approved by the Secretary; or

(II)

donated to a nonprofit organization and thereafter used only for purposes of research, education, or training; or

(III)

used for another non-fishing purpose provided the Secretary determines that adequate measures are in place to ensure that the vessel cannot reenter any fishery.

(C)

A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section [12108](#)(a) of title [46](#) and any such endorsement for the vessel shall not be effective.

(5)

The Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for receiving assistance under this subsection.

(6)

As used in this subsection, the term "person" means any individual or any corporation, partnership, trust, association, or other non-governmental entity.

(7)

With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides -

(A)

the total number of Northeast multi-species permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

- (B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;
- (C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and
- (D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program