

antee that fish and wildlife will be taken.” was repealed by Pub. L. 105-83, §316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997
AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105-83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105-83 set out as a note under section 3102 of this title.

§ 3115. Local and regional participation

(a) Establishment of subsistence resources regions, local advisory committees, and regional advisory councils; membership, duties, and authority of regional advisory councils

Except as otherwise provided in subsection (d) of this section, the Secretary in consultation with the State shall establish—

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this subchapter in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) Assignment of staff and distribution of data

The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a) of this section.

(c) Consideration of reports and recommendations of regional advisory councils

The Secretary, in performing his monitoring responsibility pursuant to section 3116 of this title and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) Supersedure by enactment and implementation of State laws governing State responsibility; consideration of recommendations by State rulemaking authority

The Secretary shall not implement subsections (a), (b), and (c) of this section if the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 3113, 3114, and 3115 of this title, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this subchapter for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with this section shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings,

violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rule-making authority, such authority shall set forth the factual basis and the reasons for its decision.

(e) Reimbursement to State; limitation; report to Congress

(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) of this section and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a) of this section. Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of \$5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 3114 of this title.

(Pub. L. 96-487, title VIII, §805, Dec. 2, 1980, 94 Stat. 2424; Pub. L. 105-83, title III, §316(b)(6), (d), Nov. 14, 1997, 111 Stat. 1593, 1595; Pub. L. 105-277, div. A, §101(e) [title III, §339(c)], Oct. 21, 1998, 112 Stat. 2681-231, 2681-296.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277, §101(e) [title III, §339(c)(1)], struck out “one year after December 2, 1980,” before “the Secretary” in introductory provisions.

Subsec. (d). Pub. L. 105-277, §101(e) [title III, §339(c)(2)], struck out “within one year from December 2, 1980,” before “the State enacts” in first sentence.

1997—Subsec. (a). Pub. L. 105-83, §316(b)(6)(A), which directed the amendment of subsec. (a) by striking out “one year after December 2, 1980,” before “the Secretary” in introductory provisions, was repealed by Pub. L. 105-83, §316(d). See Effective and Termination Dates of 1997 Amendment note below.

Subsec. (d). Pub. L. 105-83, §316(b)(6)(B), which directed the amendment of subsec. (d) generally to provide for supersedure by enactment and implementation of State laws governing State responsibility, consideration of recommendations by State rulemaking authority, and for the creation of regional advisory councils, was repealed by Pub. L. 105-83, §316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997
AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105-83 was effective only for purpose of determining

whether State’s laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105-83 set out as a note under section 3102 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§3116. Federal monitoring; reports to State and Congressional committees

The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 3114 of this title and shall advise the State and the Committees on Natural Resources and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the implementation of this subchapter including the State’s provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

(Pub. L. 96-487, title VIII, §806, Dec. 2, 1980, 94 Stat. 2425; Pub. L. 103-437, §6(y), Nov. 2, 1994, 108 Stat. 4587.)

AMENDMENTS

1994—Pub. L. 103-437 substituted “the Committees on Natural Resources” for “Committee on Interior and Insular Affairs”.

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. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§3117. Judicial enforcement

(a) Exhaustion of administrative remedies; civil action; parties; preliminary injunctive relief; other relief; costs and attorney’s fees

Local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority