

(2) the general implementation of the program is ineffective;
the Secretary shall immediately discontinue any further funding under subchapter III.

(Pub. L. 96-561, title I, §141, Dec. 22, 1980, 94 Stat. 3286.)

§ 3343. Construction with fishery conservation and management provisions

(a) Consistency

Nothing in this chapter shall be construed as affecting the provisions of title III of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1851 et seq.] as it applies with respect to fishery management plans and their application to any fishery, except that the Pacific Fishery Management Council shall ensure that existing and future fishery management plans are consistent with any recommended program approved under section 3311 of this title and any enhancement plan under subchapter III.

(b) Fleet mobility

The Secretary of Commerce in coordination with the Pacific Fishery Management Council in its salmon management plan shall ensure that the fishing effort reduction that results from the fleet adjustment program of subchapter IV and the license moratorium of the State of Washington is not replaced by new fishing effort from outside such State.

(Pub. L. 96-561, title I, §142, title II, §238(b), Dec. 22, 1980, 94 Stat. 3286, 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended. Title III of the Act is classified generally to subchapter IV (§1851 et seq.) of chapter 38 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1980—Subsec. (a). Pub. L. 96-561, §238(b), substituted “Magnuson Fishery Conservation and Management Act” for “Fishery Conservation and Management Act of 1976”.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 3344. Construction with other laws

Nothing in this chapter shall be construed—

(1) to diminish Federal, State, or tribal jurisdiction, responsibility, or rights in the field of resource enhancement and management, or control of water resources, submerged lands,

or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law, except as provided for in this section.

(Pub. L. 96-561, title I, §143, Dec. 22, 1980, 94 Stat. 3286.)

§ 3345. Authorization of additional appropriations

In addition to other authorizations of appropriations contained in this chapter, there are authorized to be appropriated to the Secretary of Commerce beginning October 1, 1981, an amount not to exceed \$5,000,000 for the purpose of developing fisheries port facilities in the State of Oregon. The Secretary shall obligate such funds for projects proposed by units of State or local government, Indian tribes, or private nonprofit entities, and approved by the State of Oregon in consultation with the National Marine Fisheries Service and the Economic Development Administration. To the extent practicable, the Secretary shall assure that projects under this section are integrated with planning and assistance under the Public Works and Economic Development Act [42 U.S.C. 3121 et seq.] Funds available under this section shall not be used for any navigational improvement or other modification of the navigable waters of the United States. Funds appropriated pursuant to this section shall remain available until expended.

(Pub. L. 96-561, title I, §144, Dec. 22, 1980, 94 Stat. 3286.)

REFERENCES IN TEXT

The Public Works and Economic Development Act, referred to in text, probably means the Public Works and Economic Development Act of 1965, Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

CHAPTER 53—CONTROL OF ILLEGALLY TAKEN FISH AND WILDLIFE

Sec.	
3371.	Definitions.
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§ 3371. Definitions

For the purposes of this chapter:

(a) The term “fish or wildlife” means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.

(b) The term “import” means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not

such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(c) The term “Indian tribal law” means any regulation of, or other rule of conduct enforceable by, any Indian tribe, band, or group but only to the extent that the regulation or rule applies within Indian country as defined in section 1151 of title 18.

(d) The terms “law,” “treaty,” “regulation,” and “Indian tribal law” mean laws, treaties, regulations or Indian tribal laws which regulate the taking, possession, importation, exportation, transportation, or sale of fish or wildlife or plants.

(e) The term “person” includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the United States.

(f) PLANT.—

(1) IN GENERAL.—The terms “plant” and “plants” mean any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands.

(2) EXCLUSIONS.—The terms “plant” and “plants” exclude—

(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

(C) any plant that is to remain planted or to be planted or replanted.

(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

(g) PROHIBITED WILDLIFE SPECIES.—The term “prohibited wildlife species” means any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such species.

(h) The term “Secretary” means, except as otherwise provided in this chapter, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090); except that with respect to the provisions of this chapter which pertain to the importation or exportation of plants, the term also means the Secretary of Agriculture.

(i) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands,

Guam, Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(j) TAKEN AND TAKING.—

(1) TAKEN.—The term “taken” means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

(2) TAKING.—The term “taking” means the act by which fish, wildlife, or plants are taken.

(k) The term “transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

(Pub. L. 97–79, §2, Nov. 16, 1981, 95 Stat. 1073; Pub. L. 108–191, §2, Dec. 19, 2003, 117 Stat. 2871; Pub. L. 110–234, title VIII, §8204(a), May 22, 2008, 122 Stat. 1291; Pub. L. 110–246, §4(a), title VIII, §8204(a), June 18, 2008, 122 Stat. 1664, 2052.)

REFERENCES IN TEXT

This chapter, referred to in the provision preceding par. (a), and in par. (h), was in the original “this Act” and “the Act”, meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Endangered Species Act of 1973, referred to in subsec. (f)(3)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Reorganization Plan No. 4 of 1970 (84 Stat. 2090), referred to in par. (h), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246, §8204(a)(1), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The terms ‘plant’ and ‘plants’ mean any wild member of the plant kingdom, including roots, seeds, and other parts thereof (but excluding common food crops and cultivars) which is indigenous to any State and which is either (A) listed on an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (B) listed pursuant to any State law that provides for the conservation of species threatened with extinction.”

Subsec. (h). Pub. L. 110–246, §8204(a)(2), substituted “plants, the term also means” for “plants the term means”.

Subsec. (j). Pub. L. 110–246, §8204(a)(3), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “The term ‘taken’ means captured, killed, or collected.”

2003—Subsecs. (g) to (k). Pub. L. 108–191 added subsec. (g) and redesignated former subsecs. (g) to (j) as (h) to (k), respectively.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–191, §1, Dec. 19, 2003, 117 Stat. 2871, provided that: “This Act [amending this section and sec-

tion 3372 of this title and enacting provisions set out as a note under section 3372 of this title] may be cited as the 'Captive Wildlife Safety Act'."

SHORT TITLE

Pub. L. 97-79, §1, Nov. 16, 1981, 95 Stat. 1073, provided: "That this Act [enacting this chapter, amending section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealing sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacting provisions set out as a note under section 1540 of this title] may be cited as the 'Lacey Act Amendments of 1981'."

§ 3372. Prohibited acts

(a) Offenses other than marking offenses

It is unlawful for any person—

(1) to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law;

(B) any plant—

(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

(I) the theft of plants;

(II) the taking of plants from a park, forest reserve, or other officially protected area;

(III) the taking of plants from an officially designated area; or

(IV) the taking of plants without, or contrary to, required authorization;

(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or

(C) any prohibited wildlife species (subject to subsection (e));

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18)—

(A) to possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) to possess any plant—

(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

(I) the theft of plants;

(II) the taking of plants from a park, forest reserve, or other officially protected area;

(III) the taking of plants from an officially designated area; or

(IV) the taking of plants without, or contrary to, required authorization;

(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or

(4) to attempt to commit any act described in paragraphs (1) through (3).

(b) Marking offenses

It is unlawful for any person to import, export, or transport in interstate commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to paragraph (2) of section 3376(a) of this title.

(c) Sale and purchase of guiding and outfitting services and invalid licenses and permits

(1) Sale

It is deemed to be a sale of fish or wildlife in violation of this chapter for a person for money or other consideration to offer or provide—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(2) Purchase

It is deemed to be a purchase of fish or wildlife in violation of this chapter for a person to obtain for money or other consideration—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(d) False labeling offenses

It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be—

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

(2) transported in interstate or foreign commerce.

(e) Nonapplicability of prohibited wildlife species offense

(1) In general

Subsection (a)(2)(C) does not apply to importation, exportation, transportation, sale, receipt, acquisition, or purchase of an animal of a prohibited wildlife species, by a person that, under regulations prescribed under paragraph (3), is described in paragraph (2) with respect to that species.