

§ 3643. Savings provision

This chapter shall not be interpreted or applied so as to affect or modify rights established in existing Indian treaties and other existing Federal laws, including the Order entered in *Confederated Tribes and Bands of the Yakima Indian Nation v. Baldrige*, Civil No. 80-342 (WD WASH.). This section shall not be interpreted or applied so as to affect or modify any rights or obligations of the United States pursuant to the Treaty.

(Pub. L. 99-5, § 14, Mar. 15, 1985, 99 Stat. 15.)

§ 3644. Restriction on spending authority

New spending authority or authority to enter into contracts provided in this chapter shall be effective only to such extent, or in such amounts, as are provided in advance in appropriation Acts.

(Pub. L. 99-5, § 15, Mar. 15, 1985, 99 Stat. 15.)

§ 3645. Northern and Southern Funds; treaty implementation; additional authorization of appropriations**(a) Northern Fund and Southern Fund**

(1) As provided in the June 30, 1999, Agreement of the United States and Canada on the Treaty Between the Government of the United States and the Government of Canada Concerning Pacific Salmon, 1985 (hereafter referred to as the "1999 Pacific Salmon Treaty Agreement") there are hereby established a Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund (hereafter referred to as the "Northern Fund") and a Southern Boundary Restoration and Enhancement Fund (hereafter referred to as the "Southern Fund") to be held by the Pacific Salmon Commission. The Northern Fund and Southern Fund shall be invested in interest bearing accounts, bonds, securities, or other investments in order to achieve the highest annual yield consistent with protecting the principal of each Fund. Income from investments made pursuant to this paragraph shall be available until expended, without appropriation or fiscal year limitation, for programs and activities relating to salmon restoration and enhancement, salmon research, the conservation of salmon habitat, and implementation of the Pacific Salmon Treaty and related agreements. Amounts provided by grants under this subsection may be held in interest bearing accounts prior to the disbursement of such funds for program purposes, and any interest earned may be retained for program purposes without further appropriation. The Northern Fund and Southern Fund are subject to the laws governing Federal appropriations and funds and to unrestricted circulars of the Office of Management and Budget. Recipients of amounts from either Fund shall keep separate accounts and such records as are reasonably necessary to disclose the use of the funds as well as to facilitate effective audits.

(2) FUND MANAGEMENT.—

(A) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Northern Fund pursuant to paragraph (1) shall be administered by a Northern Fund Committee, which shall be comprised of

three representatives of the Government of Canada, and three representatives of the United States. The three United States representatives shall be the United States Commissioner and Alternate Commissioner appointed (or designated) from a list submitted by the Governor of Alaska for appointment to the Pacific Salmon Commission and the Regional Administrator of the National Marine Fisheries Service for the Alaska Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area from Cape Caution, Canada to Cape Suckling, Alaska may be approved for funding by the Northern Fund Committee.

(B) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Southern Fund pursuant to paragraph (1) shall be administered by a Southern Fund Committee, which shall be comprised of three representatives of Canada and three representatives of the United States. The United States representatives shall be appointed by the Secretary of Commerce: one shall be selected from a list of three qualified individuals submitted by the Governors of the States of Washington and Oregon; one shall be selected from a list of three qualified individuals submitted by the treaty Indian tribes (as defined by the Secretary of Commerce); and one shall be the Regional Administrator of the National Marine Fisheries Service for the Northwest Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area south of Cape Caution, Canada may be approved for funding by the Southern Fund Committee.

(b) Pacific Salmon Treaty implementation

(1) None of the funds authorized by this section for implementation of the 1999 Pacific Salmon Treaty Agreement shall be made available until each of the following conditions to the 1999 Pacific Salmon Treaty Agreement has been fulfilled—

(A) stipulations are revised and court orders requested as set forth in the letter of understanding of the United States negotiators dated June 22, 1999. If such orders are not requested by December 31, 1999, this condition shall be considered unfulfilled; and

(B) a determination is made that—

(i) the entry by the United States into the 1999 Pacific Salmon Treaty Agreement;

(ii) the conduct of the Alaskan fisheries pursuant to the 1999 Pacific Salmon Treaty Agreement, without further clarification or modification of the management regimes contained therein; and

(iii) the decision by the North Pacific Fisheries Management Council to continue to defer its management authority over salmon to the State of Alaska are not likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93-205, as amended [16 U.S.C. 1531 et seq.], in any fishery subject to the Pacific Salmon Treaty.

(2) If the requests for orders in subparagraph (1)(A) are withdrawn after December 31, 1999, or if such orders are not entered by March 1, 2000,

amounts in the Northern Fund and the Southern Fund shall be transferred to the general fund of the United States Treasury.

(3) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce shall determine whether Southern United States fisheries are likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93-205, as amended, before the Secretary of Commerce may initiate or reinstate consultation on Alaska fisheries under such Act.

(4) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce may not initiate or reinstate consultation on Alaska fisheries under section 7 of Public Law 93-205, as amended [16 U.S.C. 1536], until—

(A) the Pacific Salmon Commission has had a reasonable opportunity to implement the provisions of the 1999 Pacific Salmon Treaty Agreement, including the harvest responses pursuant to paragraph 9, chapter 3 of Annex IV to the Pacific Salmon Treaty; and

(B) he determines, in consultation with the United States Section of the Pacific Salmon Commission, that implementation actions under the 1999 Agreement will not return escapements as expeditiously as possible to maximum sustainable yield or other biologically-based escapement objectives agreed to by the Pacific Salmon Commission.

(5) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives of his intent to initiate or reinstate consultation on Alaska fisheries.

(6)(A) For purposes of this section, “Alaska fisheries” means all directed Pacific salmon fisheries off the coast of Alaska that are subject to the Pacific Salmon Treaty.

(B) For purposes of this section, “Southern United States fisheries” means all directed Pacific salmon fisheries in Washington, Oregon, and the Snake River basin of Idaho that are subject to the Pacific Salmon Treaty.

(c) Omitted

(d) Authorization of appropriations

(1) Pacific Salmon Treaty

(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$75,000,000.

(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$65,000,000.

(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of \$30,000,000.

(2) Pacific coastal salmon recovery

(A) For salmon habitat restoration, salmon stock enhancement, sustainable salmon fisheries, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, and¹

2003, 2005, 2006, 2007, 2008, and 2009, \$90,000,000 to the States of Alaska, Washington, Oregon, Idaho, Nevada, and California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

(B) For salmon habitat restoration, salmon stock enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, \$10,000,000 to be divided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).

(Pub. L. 99-5, §16, formerly Pub. L. 106-113, div. B, §1000(a)(1) [title VI, §623], Nov. 29, 1999, 113 Stat. 1535, 1501A-56; Pub. L. 106-553, §1(a)(2) [title VI, §628], Dec. 21, 2000, 114 Stat. 2762, 2762A-108; Pub. L. 108-447, div. B, title II, Dec. 8, 2004, 118 Stat. 2881; renumbered Pub. L. 99-5, §16, and amended Pub. L. 109-479, title III, §302(d), Jan. 12, 2007, 120 Stat. 3623; Pub. L. 111-8, div. B, title I, §110, Mar. 11, 2009, 123 Stat. 569.)

REFERENCES IN TEXT

Public Law 93-205, referred to in subsec. (b)(1)(B)(iii), (3), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, known as the Endangered Species Act of 1973, which is classified generally 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.

CODIFICATION

Section is comprised of section 16 of Pub. L. 99-5. Section 16(c) of Pub. L. 99-5 amended section 3632 of this title.

Pub. L. 109-479, §302(d)(1), which directed that the text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A-56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of Pub. L. 106-113 and amended by Pub. L. 106-533, 114 Stat. 2762A-108, be transferred to and renumbered as section 16 of the Pacific Salmon Treaty Act, was executed by transferring Pub. L. 106-113, div. B, §1000(a)(1) [title VI, §623], as amended by Pub. L. 106-553, §1(a)(2) [title VI, §628], to and renumbering it as section 16 of Pub. L. 99-5, which is the Pacific Salmon Treaty Act of 1985, to reflect the probable intent of Congress. See source credit above.

AMENDMENTS

2009—Subsec. (d)(2)(A). Pub. L. 111-8, which directed amendment of “Section (d)(2)(A) of title 16 U.S.C. 3645” by inserting “Nevada,” after “Idaho,” was executed by making the amendment to section 16 of Pub. L. 99-5, which is classified to this section, to reflect the probable intent of Congress.

2007—Pub. L. 109-479, §302(d)(1)(B)(ii), inserted section catchline.

Subsec. (d)(2)(A). Pub. L. 109-479, §302(d)(2), inserted “sustainable salmon fisheries,” after “enhancement,” “2005, 2006, 2007, 2008, and 2009,” after “2003,” and “Idaho,” after “Oregon.”

2004—Pub. L. 108-447, which directed the amendment of section 628(2)(A) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, Pub. L. 106-553, by substituting “2005” for “2000, 2001, 2002, and 2003” and inserting “Idaho,” after “Oregon,” was not executed, because this section was enacted by Pub. L. 106-113, and section 628 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropria-

¹ So in original. The word “and” probably should not appear.

tions Act, 2001, was an amendatory provision. See 2007 Amendment note above and 2000 Amendment note below.

2000—Subsec. (a)(1). Pub. L. 106-553, §1(a)(2) [title VI, §628(a)], which directed the amendment of par. (1) by striking out “The Northern Fund and Southern Fund shall each receive \$10,000,000 of the amounts authorized by this section.”, was executed by striking out “The Northern Fund and Southern Fund shall each receive \$10,000,000, of the amounts authorized by this section.” after the second sentence, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 106-553, §1(a)(2) [title VI, §628(b)], added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows:

“(1) For capitalizing the Northern Fund and the Southern Fund, there is authorized to be appropriated in fiscal year 2000, \$20,000,000.

“(2) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated in fiscal year 2000, \$50,000,000 to the States of California, Oregon, Washington, and Alaska. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

“(3) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated \$6,000,000 in fiscal year 2000 to the Pacific Coastal tribes (as defined by the Secretary of Commerce) and \$2,000,000 in fiscal year 2000 to the Columbia River tribes (as defined by the Secretary of Commerce).

Funds appropriated to the States under the authority of this section shall be subject to a 25 percent non-Federal match requirement. In addition, not more than 3 percent of such funds shall be available for administrative expenses, with the exception of funds used in the Washington State for the Forest and Fish Agreement.”

CHANGE OF NAME

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.

CHAPTER 57—NATIONAL FISH AND WILDLIFE FOUNDATION

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§ 3701. Establishment and purposes of Foundation

(a) Establishment

There is established the National Fish and Wildlife Foundation (hereinafter in this chapter referred to as the “Foundation”). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) Purposes

The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, to further the conservation and management of fish, wildlife, plants, and other natural resources;

(2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans; and

(3) to participate with, and otherwise assist, foreign governments, entities, and individuals in undertaking and conducting activities that will further the conservation and management of the fish, wildlife, and plant resources of other countries.

(Pub. L. 98-244, §2, Mar. 26, 1984, 98 Stat. 107; Pub. L. 100-240, §1(a), Jan. 11, 1988, 101 Stat. 1785; Pub. L. 103-232, title I, §102, Apr. 11, 1994, 108 Stat. 336; Pub. L. 106-408, title II, §202, Nov. 1, 2000, 114 Stat. 1777.)

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106-408 added par. (1) and struck out former par. (1) which read as follows: “to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration;”.

1994—Subsec. (b)(1). Pub. L. 103-232 inserted before semicolon at end “and the National Oceanic and Atmospheric Administration”.

1988—Subsec. (b)(3). Pub. L. 100-240 added par. (3).

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-281, §1, July 21, 2008, 122 Stat. 2617, provided that: “This Act [amending section 3702 of this title] may be cited as the ‘National Fish and Wildlife Foundation Establishment Act Amendment of 2008’.”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-363, title II, §201, Oct. 17, 2006, 120 Stat. 2075, provided that: “This title [amending sections 3703 and 3709 of this title] may be cited as the ‘National Fish and Wildlife Foundation Reauthorization Act of 2006’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-408, title II, §201, Nov. 1, 2000, 114 Stat. 1777, provided that: “This title [enacting section 3710 of this title, amending this section and sections 3702, 3703, 3705, 3706, and 3709 of this title, and repealing provisions set out as a note under section 3703 of this title] may be cited as the ‘National Fish and Wildlife Foundation Establishment Act Amendments of 2000’.”

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(b) [title IX, §901], Oct. 21, 1998, 112 Stat. 2681-50, 2681-119, provided that: “This title [amending section 3703 of this title and enacting provisions set out as a note under section 3703 of this title] may be cited as the ‘National Whale Conservation Fund Act of 1998’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-232, title I, §101, Apr. 11, 1994, 108 Stat. 336, provided that: “This title [amending this section and sections 3702 and 3709 of this title and enacting provisions listed in a table of National Environmental Centers set out under section 668dd of this title and provi-