

**§ 3334. Review of State program by Secretary****(a) In general**

The Secretary shall conduct a continuing review of the State program to determine whether the program remains consistent with this chapter or other applicable law. Such review shall include a biennial audit of the records of the State program.

**(b) Action upon finding of noncompliance**

If the Secretary finds that the program or the administration thereof is no longer in compliance with this subchapter, he shall reduce or discontinue distribution of funds under this subchapter, or take other appropriate action.

**(c) Disposition of certain moneys**

If the Secretary finds that any money provided to the State or obtained by the State from the resale of any fishing or charter vessel purchased under the program is not being used in accordance with the provisions of this subchapter, the Secretary shall recover from the fund, and place in the United States Treasury, such moneys.

(Pub. L. 96-561, title I, § 133, Dec. 22, 1980, 94 Stat. 3285.)

**§ 3335. Authorization of appropriations**

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this subchapter, \$37,500,000 for the 5-year period beginning October 1, 1981.

(Pub. L. 96-561, title I, § 134, Dec. 22, 1980, 94 Stat. 3285.)

**§ 3336. Special provision**

On the date the Secretary approves the program under section 3333 of this title, the State shall be treated as having expended such portion of \$32,000,000 as the State deems appropriate for purposes of implementing the program.

(Pub. L. 96-561, title I, § 135, Dec. 22, 1980, 94 Stat. 3285.)

## SUBCHAPTER V—MISCELLANEOUS

**§ 3341. Regulations**

The Secretary of Commerce and the Secretary of the Interior may each promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out his functions under this chapter.

(Pub. L. 96-561, title I, § 140, Dec. 22, 1980, 94 Stat. 3286.)

**§ 3342. Annual status reports on programs; monitoring****(a) Reports**

The State of Washington, the State of Oregon, and the appropriate tribal coordinating bodies shall submit to the appropriate Secretary an annual report on the status of the programs authorized by this chapter or any other relevant report requested by such Secretary.

**(b) Monitoring**

After the 18-month period after approval of the report of the Salmon and Steelhead Advi-

sory Commission under subchapter II, the Secretary of Commerce shall establish a system to monitor and evaluate on a continuing basis whether the management program set forth in the report is being effectively implemented. If at any time after the monitoring system is established, the Secretary finds that—

(1) the number of parties referred to in section 3314 of this title has been reduced to the extent that such program cannot be implemented effectively; or

(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**

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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 Sec-