

eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777e. Submission and approval of plans and projects

(a) Apportionment of funds

Any State desiring to avail itself of the benefits of this chapter shall, by its State fish and game department, submit programs or projects for fish restoration in either of the following two ways:

(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this chapter from funds apportioned under this chapter upon his approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this chapter by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any fish restoration and management project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said appropriation as represents the share of the United States payable under this chapter on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive fishery plan or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this chapter. No payment of any money apportioned under this chapter shall be made on any comprehensive fishery plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

(b) "Project" defined

If the State elects to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term

"project" may be defined for the purpose of this chapter as a fishery program, all other definitions notwithstanding.

(c) Costs

Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State fish and game department charged against programs or projects supported by funds made available under this chapter shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

(d) Agreements to finance initial costs of acquisition of lands and construction of structures

The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities from appropriations currently available for the purposes of this chapter; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this chapter.

(Aug. 9, 1950, ch. 658, § 6, 64 Stat. 432; Pub. L. 91-503, title II, § 202, Oct. 23, 1970, 84 Stat. 1102; Pub. L. 98-369, div. A, title X, § 1014(a)(5), July 18, 1984, 98 Stat. 1016; Pub. L. 114-94, div. A, title X, § 10001(c), Dec. 4, 2015, 129 Stat. 1621.)

AMENDMENTS

2015—Subsec. (d). Pub. L. 114-94 substituted "from appropriations" for "for appropriations".

1984—Subsec. (d). Pub. L. 98-369 added subsec. (d).

1970—Subsec. (a). Pub. L. 91-503 added an alternative method of application for funds by submission of a comprehensive fish and wildlife resource management plan for a period of five years based on projections for fifteen years, to be updated every three years, laid down a maximum limit of assistance of 75 percent of the estimated cost of the implementation of plan, and in existing method of application struck out reference to Secretary of the Treasury and requirement that State pay 10 percent of costs.

Subsecs. (b), (c). Pub. L. 91-503 added subsecs. (b) and (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98-369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777e-1. New England Fishery Resources Restoration Act of 1990

(a) Short title

This section may be cited as the "New England Fishery Resources Restoration Act of 1990".

(b) Purposes

The purposes of this section are to—

(1) ensure timely and effective implementation of restoration plans and programs for Atlantic salmon and other fishery resources of selected river systems in New England;

(2) complete a study of fish passage impediments and requirements on small streams and rivers in New England; and

(3) develop an inventory of important fish and wildlife habitat and other natural areas of river basins in New England.

(c) Implementation of fishery resource restoration plans

The Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall formulate, establish and implement programs to restore and maintain nationally significant, interjurisdictional fishery resources originating in New England river systems, including the Connecticut, Thames, Pawcatuck, Merrimack, Saco, Androscoggin, Kennebec, Sheepscot, Duck Trap, St. George, Penobscot, Union, Narraguagus, Pleasant, Machias, Dennys, St. Croix, Meduxnekeag and Aroostock and their tributaries. These programs shall be in accordance with the schedule and responsibilities established in comprehensive basin-wide restoration plans prepared by the Director in cooperation with State, local, and other entities involved and interested in the conservation and management of the affected fishery resources. Preparation and periodic revision of restoration plans, and their implementation, shall be based on a Memorandum of Agreement for each restoration program which shall be entered into by the Director and cooperating entities. The Director shall prepare and submit to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works an annual report documenting activities undertaken and accomplishments achieved in fulfillment of this section, including an assessment of the prognosis for restoration of each of the stocks and species involved.

(d) Fish passage study

The Director shall conduct a study to identify impediments to upstream and downstream passage of fish in rivers and streams in the New England States due to dams that are not licensed by the Federal Energy Regulatory Commission or other human-caused obstructions. In addition, the study shall identify actions needed to alleviate those impediments where desirable and feasible. The study shall include, but not be limited to, identifying—

(1) all dams not licensed by the Federal Energy Regulatory Commission and other human-caused obstructions on New England rivers and streams where construction of upstream or downstream fish passage facilities or their removal would benefit fishery resources, including an estimate of the degree of benefits expected; and

(2) the proposed nature and size and estimated cost of appropriate fish passage facilities

or other actions determined to be necessary and feasible or each dam or other obstruction identified in response to paragraph (1).

The Director shall provide notice to the public of the extent and nature of the study by publication of such information in major newspapers in the region and by other appropriate means. Within three years of November 16, 1990, the Director shall submit a report containing the findings, conclusions and recommendations of the study to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

(e) New England rivers fish and wildlife inventory

The Director shall inventory the natural values of river basins in New England, including the Connecticut, Pawcatuck, Acushnet, North and South (in Plymouth County, Massachusetts), Charles, Merrimack, Saco, Androscoggin, Kennebec, Penobscot, Union, St. Croix, and Aroostock Rivers and their tributaries, and identify fish and wildlife habitat in most need of protection or where public access to the rivers should be provided. In addition, the Director shall, in cooperation with appropriate State agencies and local governments and after providing notice and opportunity for public comment, identify appropriate public or private measures for providing the necessary protection or access for each area included in the inventory. Within two years of November 16, 1990, the Director shall submit a report containing the findings, conclusions, and recommendations of the inventory and assessment to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

(f) Authorization of appropriations

There are authorized to be appropriated to the Director—

(1) \$5,000,000 per year for fiscal years 1991, 1992, 1993, 1994, and 1995 to implement fishery resource restoration plans and programs, except for activities related to the design and construction of fish passage facilities, as directed by subsection (c);

(2) \$500,000 per year for fiscal years 1991, 1992, and 1993 to conduct the study required under subsection (d); and

(3) \$500,000 to conduct the inventory and assessment required under section¹ (e).

(Pub. L. 101-593, title I, §111, Nov. 16, 1990, 104 Stat. 2960.)

REFERENCES IN TEXT

This section, referred to in subsec. (b), was in the original "this Act", which probably was intended as a reference to New England Fishery Resources Restoration Act of 1990, section 111 of Pub. L. 101-593, title I, Nov. 16, 1990, 104 Stat. 2960, which is classified generally to this section.

CODIFICATION

Section was enacted as the New England Fishery Resources Restoration Act of 1990, and not as part of the Fish Restoration and Management Projects Act which comprises this chapter.

¹ So in original. Probably should be "subsection".

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.

§ 777f. Payments by United States

(a) Payments and advances to States

When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to fish, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States' pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 777e of this title, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and regulations, as he may prescribe, advance funds to the State for financing the United States' pro rata share agreed upon between the State fish and game department and the Secretary.

(b) Construction work; joint payments

Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with the rules and regulations made pursuant to this chapter. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments shall be made under this chapter. Such payments shall be made against the said appropriation to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

(Aug. 9, 1950, ch. 658, § 7, 64 Stat. 433; Pub. L. 91-503, title II, § 202, Oct. 23, 1970, 84 Stat. 1103.)

AMENDMENTS

1970—Pub. L. 91-503 divided existing provisions into subsecs. (a) and (b) and authorized advance payments by the Secretary to the States for financing the United

States' pro rata share of the comprehensive fish and wildlife plan.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777g. Maintenance of projects

(a) Duty of States; status of projects; title to property

To maintain fish-restoration and management projects established under the provisions of this chapter shall be the duty of the States according to their respective laws. Beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this chapter may be considered as projects under this chapter. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this chapter, shall be vested in such State.

(b) Funding requirements

(1) Each State shall allocate 15 percent of the funds apportioned to it for each fiscal year under section 777c of this title for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes. Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 15 percent in a fiscal year, provided that the total regional allocation averages 15 percent over a 5 year period.

(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding four fiscal years, but any portion of such funds that remain unexpended or unobligated at the close of such period are authorized to be made available for expenditure by the Secretary of the Interior to supplement the 58.012 percent of the balance of each annual appropriation to be apportioned among the States under section 777c(c) of this title.

(c) Aquatic resource education program; funding, etc.

Each State may use not to exceed 15 percent of the funds apportioned to it under section 777c of this title to pay up to 75 per centum of the costs of an aquatic resource education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.