DINGELL-JOHNSON SPORT FISH RESTORATION ACT

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[Chapter 658, Approved Aug. 9, 1950, 64 Stat. 430]

[As Amended Through P.L. 109–304, Enacted October 6, 2006]

AN ACT To provide that the United States shall aid the States in fish restoration and management projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [16 U.S.C. 777] That (a) the Secretary of the Interior[1] is authorized and directed to cooperate with the States through their respective State fish and game departments in fish restoration and management projects as hereinafter set forth: No money apportioned under this Act to any State, except as hereinafter provided, shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of fish, shall have assented to the provisions of this Act and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after passage of this Act, the assent of the governor of the State shall be sufficient. The Secretary of the interior and the State fish and game department of each State accepting the benefits of this Act shall agree upon the fish restoration and management projects to be aided in such State under the terms of this Act, and all projects shall conform to the standards fixed by the Secretary of the Interior.

(b) ALLOCATION OF AMOUNTS BY COASTAL STATES BETWEEN MARINE FISH PROJECTS AND FRESHWATER FISH PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this Act between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

[1] Transfer of functions to Secretary of Commerce from Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf-Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

(2) PRESERVATION OF FRESHWATER PROJECT ALLOCATION AT 1988 LEVEL.—(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State under this Act is less than the amount apportioned to the State under this Act for fiscal year 1988.

(3) COASTAL STATE DEFINED.—As used in this subsection, the term "coastal State" means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 2. [16 U.S.C. 777a] For purposes of this Act—

(1) the term "fish restoration and management projects" shall be construed to mean projects designed for the restoration and management of all species of fish which have material value in connection with sport or recreation in the marine and/or fresh waters of the United States and include—

(A) such research into problems of fish management and culture as may be necessary to efficient administration affecting fish resources;

(B) the acquisition of such facts as are necessary to guide and direct the regulation of fishing by law, including the extent of the fish population, the drain on the fish supply from fishing and/or natural causes, the necessity of legal regulation of fishing, and the effects of any measures of regulation that are applied;

(C) the formulation and adoption of plans of restocking waters with food and game fishes according to natural areas or districts to which such plans are applicable, together with the acquisition of such facts as are necessary to the formulation, execution, and testing the efficacy of such plans;

(D) the selection, restoration, rehabilitation, and improvement of areas of water or land adaptable as hatching, feeding, resting, or breeding places for fish, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes, and such preliminary or incidental costs and expenses as may be incurred in and about such works; the term "State fish and game department" shall be construed to mean and include any department or division of department of another name, or commission, or official or officials, of a State empowered

under its laws to exercise the functions ordinarily exercised by a State fish and game department;

(2) the term "outreach and communications program" means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the Nation's aquatic resources, and to further safety in fishing and boating; and

(3) the term "aquatic resource education program" means a program designed to enhance the public's understanding of aquatic resources and sportfishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.

SEC. 3. [16 U.S.C. 777b] To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration and Boating Trust Fund established by section 9504(a) of the Internal Revenue Code of 1986 the amounts paid, transferred, or otherwise credited to that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986.[1] For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section. The appropriation made under the provisions of this section for each fiscal year shall continue available during succeeding fiscal years. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this Act which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).

SEC. 4. [16 U.S.C. 777c] (a) IN GENERAL.—For each of fiscal years 2006 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

(1) COASTAL WETLANDS.—An amount equal to 18.5 percent to the Secretary of the Interior for distribution as provided in

[1] The Act of August 31, 1951 (Chapter 375; 65 Stat. 261) in title I under the heading FISH AND WILDLIFE SERVICE, provides:

FEDERAL AID IN RESTORTATION AND MANAGEMENT

For carrying out the provisions of the Act of August 9, 1950 (Public Law 681), amounts equal to the revenues described in section 3 of said Act and credited during the next preceding fiscal year and each fiscal year thereafter, to remain available until expended.

the Coastal Wetlands Planning,[2] Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

(2) BOATING SAFETY.—An amount equal to 18.5 percent to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13107 of title 46, United States Code.

(3) CLEAN VESSEL ACT.—An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

(4) BOATING INFRASTRUCTURE.—An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

(5) NATIONAL OUTREACH AND COMMUNICATIONS.—An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.

(b) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THE DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—

(1) IN GENERAL.—

(A) SET-ASIDE FOR ADMINISTRATION.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2009, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.

(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

(i) for each of fiscal years 2001 and 2002, $9,000,000;

(ii) for fiscal year 2003, $8,212,000; and

(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

(I) the available amount for the preceding fiscal year; and

(II) the amount determined by multiplying—

(aa) the available amount for the preceding fiscal year; and

(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(2) PERIOD OF AVAILABILITY; APPORTIONMENT OF UNOBLIGATED AMOUNTS.—

[2] 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.

(A) PERIOD OF AVAILABILITY.—For each fiscal year, the available amount under paragraph (1) shall remain available for obligation for use under that paragraph until the end of the fiscal year.

(B) APPORTIONMENT OF UNOBLIGATED AMOUNTS.—Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts made available under this Act are apportioned among the States under subsection (e) for the fiscal year.

(c) The Secretary after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14 of this title, shall apportion 57 percent of the balance of each such annual appropriation among the several States in the following manner: 40 percent in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 percent in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 percent nor more than 5 percent of the total amount apportioned. Where the apportionment to any State under this section is less than $4,500 annually, the Secretary of the Interior may allocate not more than $4,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes.

(d) So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

(e) EXPENSES FOR ADMINISTRATION OF CERTAIN PROGRAMS.—

(1) IN GENERAL.—For each fiscal year, of the amounts appropriated under section 3, the Secretary of the Interior shall use only funds authorized for use under paragraphs (1), (3), (4), and (5) of subsection (a) to pay the expenses for administration incurred in carrying out the provisions of law referred to in those subsections, respectively.

(2) MAXIMUM AMOUNT.—For each fiscal year, the Secretary of the Interior may use not more than $900,000 in accordance with paragraph (1).

(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the

Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13107(a) of title 46, United States Code.

SEC. 5. [16 U.S.C. 777d] For each fiscal year beginning with the fiscal year ending June 30, 1951, the Secretary of the Interior shall certify, at the time at which a deduction or apportionment is made, to the Secretary of the Treasury, and to each State fish and game department, the sum which he has estimated to be deducted for administering this Act and the sum which he has apportioned to each State for such fiscal year.

SEC. 6. [16 U.S.C. 777e] (a) Any State desiring to avail itself of the benefits of this Act 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 Act from funds apportioned under this Act upon this approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this Act 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 Act 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 Act. No payment of any money apportioned under this Act 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) If the State elects to avail itself of the benefits of this Act 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 Act as a fishery program, all other definitions notwithstanding.

(c) 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 Act shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

(d) 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 for[1] appropriations currently available for the purposes of this Act; 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 Act.

SEC. 7. **[**16 U.S.C. 777f**]** (a) 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 Act by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 6 of this Act, 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) 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 Act. 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 Act. 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.

[1] So in original. Probably should be "from".

SEC. 8. [16 U.S.C. 777g] (a) To maintain fish-restoration and management projects established under the provisions of this Act 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 Act may be considered as projects under this Act. 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 Act, shall be vested in such State.

(b)(1) Each State shall allocate 15 percent of the funds apportioned to it for each fiscal year under section 4 of this Act 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 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c).

(c) Each State may use not to exceed 15 percent of the funds apportioned to it under section 4 of this Act 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.

(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

(2) CONTENT.—The plan shall provide—

(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

(B) for the establishment of a national program.

(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (a)(5) or subsection (b) of section 4 of this Act—

(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach and communications program under the plan; or

(B) to fund contracts with States or private entities to carry out such a program.

(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

(1) review the national plan developed under subsection (d);

(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

(3) establish priorities for the State outreach and communications program proposed for implementation.

(f) PUMPOUT STATIONS AND WASTE RECEPTION FACILITIES.—Amounts apportioned to States under section 4 of this Act may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).

(g) SURVEYS.—

(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.

SEC. 9. [16 U.S.C. 777h] REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

(a) AUTHORIZED EXPENSES FOR ADMINISTRATION.—Except as provided in subsection (b), the Secretary of the Interior may use available amounts under section 4(b) only for expenses for administration that directly support the implementation of this Act that consist of—

(1) personnel costs of employees who directly administer this Act on a full-time basis;

(2) personnel costs of employees who directly administer this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of those costs incurred with respect to the work hours of the employee during which the employee directly administers this Act, as those hours are certified by the supervisor of the employee;

(3) support costs directly associated with personnel costs authorized under paragraphs (1) and (2), excluding costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior other than for the purposes of this Act;

(4) costs of determining under section 6(a) whether State comprehensive plans and projects are substantial in character and design;

(5) overhead costs, including the costs of general administrative services, that are directly attributable to administration of this Act and are based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

(B) in the case of costs that are not determinable under subparagraph (A), an amount per full-time equivalent employee authorized under paragraphs (1) and (2) that does not exceed the amount charged or assessed for costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service;

(6) costs incurred in auditing, every 5 years, the wildlife and sport fish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department;

(7) costs of audits under subsection (d);

(8) costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act;

(9) costs of travel to States, territories, and Canada by personnel who—

(A) administer this Act on a full-time basis for purposes directly related to administration of State programs or projects; or

(B) administer grants under section 6 or 14;

(10) costs of travel outside the United States (except travel to Canada), by personnel who administer this Act on a full-time basis, for purposes that directly relate to administration

of this Act and that are approved directly by the Assistant Secretary for Fish and Wildlife and Parks;

(11) relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time at which the relocation expenses are incurred; and

(12) costs to audit, evaluate, approve, disapprove, and advise concerning grants under sections 6 and 14.

(b) REPORTING OF OTHER USES.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary of the Interior determines that available amounts under section 4(b) should be used for an expense for administration other than an expense for administration described in subsection (a), the Secretary—

(A) shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the expense for administration and stating the amount of the expense; and

(B) may use any such available amounts for the expense for administration only after the end of the 30-day period beginning on the date of submission of the report under subparagraph (A).

(2) MAXIMUM AMOUNT.—For any fiscal year, the Secretary of the Interior may use under paragraph (1) not more than $25,000.

(c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary of the Interior shall not use available amounts under subsection (b) to supplement the funding of any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) AUDIT REQUIREMENT.—

(1) IN GENERAL.—The Inspector General of the Department of the Interior shall procure the performance of biennial audits, in accordance with generally accepted accounting principles, of expenditures and obligations of amounts used by the Secretary of the Interior for expenses for administration incurred in implementation of this Act.

(2) AUDITOR.—

(A) IN GENERAL.—An audit under this subsection shall be performed under a contract that is awarded under competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) by a person or entity that is not associated in any way with the Department of the Interior (except by way of a contract for the performance of an audit or other review).

(B) SUPERVISION OF AUDITOR.—The auditor selected under subparagraph (A) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the Interior at the

time at which the findings are submitted to the Inspector General of the Department of the Interior.

(3) REPORT TO CONGRESS.—The Inspector General of the Department of the Interior shall promptly submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) a report on the results of each audit under this subsection; and

(B) a copy of each audit under this subsection.

SEC. 10. [16 U.S.C. 777i] The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this Act.

[Sec. 11. Repealed, Public Law 89–348 (79 Stat. 1311).]

SEC. 12. [16 U.S.C. 777k] The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, the Governor of Guam, the Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, out of money available for apportionment under this Act, such sums as he shall determine, not exceeding for Puerto Rico 1 per centum, for the District of Columbia one-third of 1 per centum, for Guam one-third of 1 per centum, for American Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum, and for the Virgin Islands one-third of 1 per centum of the total amount apportioned in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be made available for expenditure in Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, as the case may be, in the succeeding year, on any approved projects, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this Act.

SEC. 13. [16 U.S.C. 777l] STATE USE OF CONTRIBUTIONS.

A State may use contributions of funds, real property, materials, and services to carry out an activity under this Act in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.

SEC. 14. [16 U.S.C. 777m] MULTISTATE CONSERVATION GRANT PROGRAM.

(a) IN GENERAL.—

(2) SECTION 14.—Section 14(a)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m(a)(1)) is amended by striking "For each of the fiscal years 2006 through 2009, not more than" and inserting "Not more than".For each of fiscal years 2006 through 2009, not more than

(1) AMOUNT FOR GRANTS.—Not more than[1] $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.

(2) PERIOD OF AVAILABILITY; APPORTIONMENT.—

(A) PERIOD OF AVAILABILITY.—Amounts made available under paragraph (1) shall remain available for making grants only for the first fiscal year for which the amount is made available and the following fiscal year.

(B) APPORTIONMENT.—At the end of the period of availability under subparagraph (A), the Secretary of the Interior shall apportion any amounts that remain available among the States in the manner specified in section 4(c) for use by the States in the same manner as funds apportioned under section 4(c).

(b) SELECTION OF PROJECTS.—

(1) STATES OR ENTITIES TO BE BENEFITED.—A project shall not be eligible for a grant under this section unless the project will benefit—

(A) at least 26 States;

(B) a majority of the States in a region of the United States Fish and Wildlife Service; or

(C) a regional association of State fish and game departments.

(2) USE OF SUBMITTED PRIORITY LIST OF PROJECTS.—The Secretary of the Interior may make grants under this section only for projects identified on a priority list of sport fish restoration projects described in paragraph (3).

(3) PRIORITY LIST OF PROJECTS.—A priority list referred to in paragraph (2) is a priority list of sport fish restoration projects that the International Association of Fish and Wildlife Agencies—

(A) prepares through a committee comprised of the heads of State fish and game departments (or their designees), in consultation with—

(i) nongovernmental organizations that represent conservation organizations;

(ii) sportsmen organizations; and

[1] Paragraph (2) of section 901(r) of Public Law 109–241 (120 Stat. 566) provides:

(2) SECTION 14.—Section 14(a)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m(a)(1)) is amended by striking "For each of the fiscal years 2006 through 2009, not more than" and inserting "Not more than".

The amendment was executed to reflect the probable intent of Congress by striking "For each of fiscal years 2006 through 2009, not more than" and inserting the new text.

(iii) industries that fund the sport fish restoration programs under this Act;

(B) approves by vote of a majority of the heads of State fish and game departments (or their designees); and

(C) not later than October 1 of each fiscal year, submits to the Assistant Director for Wildlife and Sport Fish Restoration Programs.

(4) PUBLICATION.—The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under paragraph (3)(C).

(c) ELIGIBLE GRANTEES.—

(1) IN GENERAL.—The Secretary of the Interior may make a grant under this section only to—

(A) a State or group of States;

(B) the United States Fish and Wildlife Service, or a State or group of States, for the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; and

(C) subject to paragraph (2), a nongovernmental organization.

(2) NONGOVERNMENTAL ORGANIZATIONS.—

(A) IN GENERAL.—Any nongovernmental organization that applies for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization—

(i) will not use the grant funds to fund, in whole or in part, any activity of the organization that promotes or encourages opposition to the regulated taking of fish; and

(ii) will use the grant funds in compliance with subsection (d).

(B) PENALTIES FOR CERTAIN ACTIVITIES.—Any nongovernmental organization that is found to use grant funds in violation of subparagraph (A) shall return all funds received under this section and be subject to any other applicable penalties under law.

(d) USE OF GRANTS.—A grant under this section shall not be used, in whole or in part, for an activity, project, or program that promotes or encourages opposition to the regulated taking of fish.

(e) FUNDING FOR OTHER ACTIVITIES.—Of amounts made available under section 4(b) for each fiscal year—

(1) $200,000 shall be made available for each of—

(A) the Atlantic States Marine Fisheries Commission;

(B) the Gulf States Marine Fisheries Commission;

(C) the Pacific States Marine Fisheries Commission; and

(D) the Great Lakes Fisheries Commission; and

(2) $400,000 shall be made available for the Sport Fishing and Boating Partnership Council established by the United States Fish and Wildlife Service.

(f) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activity carried out under this section.

SEC. 15. [16 U.S.C. 777n] EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b) of the Internal Revenue Code of 1986, shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of this section and shall be distributed as follows:

(1) In fiscal year 2006, $28,155,000 shall be distributed—

(A) under section 4 of this Act in the following manner:

(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $12,800,000 to be added to funds available under subsection (c) of that section; and

(B) under section 14 of this Act, $420,000, to be added to funds available under subsection (a)(1) of that section.

(2) In fiscal year 2007, $22,419,000 shall be distributed—

(A) under section 4 of this Act in the following manner:

(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $11,925,000 to be added to funds available under subsection (c) of that section; and

(B) under section 14 of this Act, $280,000 to be added to funds available under subsection (a)(1) of that section.

(3) In fiscal year 2008, $17,139,000 shall be distributed—

(A) under section 4 of this Act in the following manner:

(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $9,200,000 to be added to funds available under subsection (c) of that section; and

(B) under section 14 of this Act, $140,000, to be added to funds available under subsection (a)(1) of that section.

(4) In fiscal year 2009, $12,287,000 shall be distributed—

(A) under section 4 of this Act in the following manner:

(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $6,900,000 to be added to funds available under subsection (c) of that section; and

(B) under section 14 of this Act, $143,000, to be added to funds available under subsection (a)(1) of that section.

(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:

(A) one-third to be added to funds available under subsection (a)(2) of that section; and

(B) two-thirds to be added to funds available under subsection (c) of that section.

SEC. 16. [16 U.S.C. 777 note] SHORT TITLE.

This Act may be cited as the "Dingell-Johnson Sport Fish Restoration Act".