

SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT ACT OF 1980

Acronym: Salmon and Steelhead Act

Citation: 16 U.S.C. §§ 3301-3345 (2002).

Legislative Purpose:

The act seeks to increase the supply of salmon and steelhead through planned enhancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks.

Summary:

The act, a legislative response to the court cases *United States v. Washington* (9th Cir. 1975) and *Sohappy v. Smith* (9th Cir. 1976), establishes the Salmon and Steelhead Advisory Commission, under the direction of the Secretary of Commerce, which consists of individuals nominated by the governors of the northwestern states, a representative of appropriate tribal coordinating bodies, a representative of the Pacific Fishery Management Council, and the Northwest Regional director of the National Marine Fisheries Service. The Commission was to report to the Secretary within 15 months of March 22, 1981. The Salmon and Steelhead Conservation and Enhancement Act resulted in the development of recommendations for a new management structure for anadromous salmon and steelhead produced in the Washington and Columbia River Conservation areas.

The Act also calls for the establishment of a 'fleet adjustment program' in which the federal government grants to the State of Washington money designated for the purpose of purchasing commercial fishing and charter vessel licenses. With this money, Washington is to provide for the reduction of its fishing fleet through a series of early retirement of licenses and the purchase of gear. Washington must get Federal approval for their fleet reduction plan.

The act was one of many statutes aimed at the development of common principles to govern and coordinate effective management and enhancement activities for salmon fisheries in the northwest, to prevent overfishing and to promote harvest strategies and regulations. Similarly, the Pacific Northwest Electric Power Planning and Conservation Act of 1980 produced a program to protect, mitigate, and enhance fish and wildlife on the Columbia River and its tributaries.

TITLE 16. CONSERVATION

CHAPTER 52. SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT

16 U.S.C. §§ 3301 - 3345 (2002).

§ 3301. Congressional findings and declaration of purpose

(a) Findings. The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and the Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States, and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat and historical problems relating to conservation measures, the regulation of harvest and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent a further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) Due in principal part to the Federal court decisions in the United States against Washington and Sohappay against Smith, the fishing capacity of nontreaty fishermen in the conservation areas established by this title exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The supply of salmon and steelhead can be increased through carefully planned enhancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks. By careful choice of species, areas, and stocking procedures, enhancement programs can be used to--

- (A) improve the distribution of fish among different groups of treaty and nontreaty fishermen; and
- (B) add stability to the treaty and nontreaty fisheries by reducing variations in fish availability.

(b) Purposes. In order to assist the harvesters of the salmon and steelhead resources within the Columbia River conservation area and the Washington conservation area established by this title to overcome temporary dislocations arising from the decisions in the cases of United States against Washington and Sohappay against Smith and from other causes, this title authorizes the establishment of a cooperative program involving the United States, the States of Washington and Oregon, the treaty tribes acting through the appropriate tribal coordinating bodies, and other parties, to--

(1) encourage stability in and promote the economic well being of the treaty and nontreaty commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through--

- (A) the purchase of nontreaty commercial and charter fishing vessels, gear, and licenses; and

(B) coordinated research, enhancement, and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

§ 3302. Definitions

As used in this title--

(1) The term "appropriate tribal coordinating body" means the Columbia River tribal coordinating body or the Washington tribal coordinating body, as the context requires.

(2) The term "charter vessel" means any vessel licensed by the State to carry passengers for hire for the purpose of recreational salmon fishing.

(3) The term "charter fishing" means fishing undertaken aboard charter vessels.

(4) The term "Columbia River conservation area" means--

(A) all habitat within the Columbia River drainage basin; and

(B) those areas in--

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial seas of Oregon and Washington,

in which one or more stocks that originate in the habitat describe [described] in subparagraph (A) migrate.

(5) The term "Columbia River tribal coordinating body" means the organization duly authorized by those treaty tribes of the Columbia River drainage basin to coordinate activities for them for purposes of this title.

(6) The term "commercial fishing" means fishing for the purpose of sale or barter.

(7) The term "commercial fishing vessel" or "fishing vessel" means any vessel, boat, ship, or other craft which is licensed for, and used for, equipped to be used for, or of a type which is normally used for, commercial salmon fishing.

(8) The term "enhancement" means projects undertaken to increase the production of naturally spawning or artificially propagated stocks of salmon or steelhead, or to protect, conserve, or improve the habitat of such stocks.

(9) The term "habitat" means those portions of the land or water, including the constituent elements thereof, (A) which salmon or steelhead occupy at any time during their life cycle, or (B) which affect the salmon or steelhead resources.

(10) The term "recreational fishing" means fishing for personal use and enjoyment using conventional angling gear, and not for sale or barter.

(11) The term "salmon" means any anadromous species of the family Salmonidae and Genus *Oncorhynchus*, commonly known as Pacific salmon.

(12) The term "salmon or steelhead resource" means any stock of salmon or steelhead.

(13) The term "steelhead" means the anadromous rainbow trout species *Salmo gairdneri*, commonly known as steelhead.

(14) The term "stock" means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.

(15) The term "treaty" means any treaty between the United States and any treaty tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the Washington or Columbia River

conservation areas.

(16) The term "treaty tribe" means any Indian tribe recognized by the United States Government, with usual and accustomed fishing grounds in the Washington or Columbia River conservation areas, whose fishing right under a treaty has been recognized by a Federal court.

(17) The term "Washington conservation area" means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin, and in the fishery conservation zone adjacent to the State of Washington which is subject to the jurisdiction of the United States.

(18) The term "Washington tribal coordinating body" means the organization duly authorized by the treaty tribes of the Washington conservation area to coordinate their activities for them for the purposes of this title.

§ 3311. Salmon and Steelhead Advisory Commission

(a) Establishment. Within 90 days after the date of the enactment of this Act [enacted Dec. 22, 1980], the Secretary of Commerce (hereinafter in this part [16 USC §§ 3311 et seq.] referred to as the "Secretary") shall establish the Salmon and Steelhead Advisory Commission (hereinafter referred to in this title as the "Commission"), which shall consist of one voting member from each of the following:

- (1) The State of Washington.
- (2) The State of Oregon.
- (3) The Washington tribal coordinating body.
- (4) The Columbia River tribal coordinating body.
- (5) The Pacific Fishery Management Council.
- (6) The National Marine Fisheries Service.

(b) Membership.

(1) The voting representatives shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable State, by each appropriate tribal coordinating body, and by the Pacific Fishery Management Council. The representative for the National Marine Fisheries Service shall be the Northwest regional director of the Service or his designee.

(2) The Commission shall have 6 nonvoting members, 5 of which shall be qualified individuals appointed by the Secretary. The sixth nonvoting member shall be the regional director of the United States Fish and Wildlife Service or his designee.

(3) For the purposes of this subsection, the term "qualified individual" means an individual who is knowledgeable with regard to the management, conservation, or harvesting of the salmon and steelhead resources of the conservation areas.

(c) Report by Commission. Within 15 months after the date of the establishment of the Commission, it shall prepare, and submit to the Secretary and Congress, a comprehensive report containing conclusions, comments, and recommendations for the development of a management structure (including effective procedures, mechanisms, and institutional arrangements) for the effective coordination of research, enhancement, management, and enforcement policies for the salmon and steelhead resources of the Columbia River and Washington conservation areas, and for the resolution of disputes between management entities that are concerned with stocks of common interest. The principal objectives of, and

the standards for, the management structure shall include, but not be limited to--

- (1) the development of common principles to govern and coordinate effectively management and enhancement activities;
- (2) the prevention of overfishing;
- (3) the use of the best scientific information available;
- (4) the consideration of, and allowance for, variations among, and contingencies in, fisheries and catches;
- (5) the promotion of harvest strategies and regulations which will encourage continued and increased investment by the salmon and steelhead producing jurisdictions;
- (6) the optimization of the use of resources for enforcement;
- (7) the consideration of harvest activities as they relate to existing and future international commitments;
- (8) the minimization of costs and the avoidance of unnecessary duplication; and
- (9) the harvest of fish by treaty tribes, in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(d) Unanimous vote required. No report or revision thereto may be submitted by the Commission to the Secretary for approval under this section unless the report or revision is approved by all of the voting members of the Commission.

(e) Secretarial action on report. Within 4 months after the date of the submission of the comprehensive report, or any revision thereto, under subsection (c), the Secretary, in consultation with the Secretary of the Interior, shall review the report and, if he finds that the management structure recommended in the report would, if implemented, meet the objectives and standards specified in this section and be consistent with this title, approve the report. If the Secretary, in consultation with the Secretary of the Interior, finds that such structure is not in conformity with the standards and objectives set forth in this section, the provisions of this title, or other applicable law, he shall return the report to the Commission together with a written statement of the reasons for not approving the report. If the Commission submits a revised report to the Secretary within 2 months after the date of return, the Secretary shall approve the report if he finds that the objections on which the prior disapproval was based are overcome.

(f) Per diem and travel allowances. The members of the Commission (other than those who are full-time employees of the Federal or a State government), while away from their homes or regular places of business for purposes of carrying out their duties as members, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons intermittently employed in Government service.

(g) Administrative support. The Secretary shall provide such clerical and technical support as may be necessary to enable the Commission to carry out its functions.

(h) Termination of Commission. Unless otherwise agreed to by the voting members of the Commission and approved by the Secretary, the Commission shall terminate upon the Secretary's approval of the Commission's report pursuant to subsection (e).



§ 3301. Congressional findings and declaration of purpose

(a) Findings. The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and the Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States, and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat and historical problems relating to conservation measures, the regulation of harvest and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent a further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) Due in principal part to the Federal court decisions in the United States against Washington and Sohappay against Smith, the fishing capacity of nontreaty fishermen in the conservation areas established by this title exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The supply of salmon and steelhead can be increased through carefully planned enhancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks. By careful choice of species, areas, and stocking procedures, enhancement programs can be used to--

- (A) improve the distribution of fish among different groups of treaty and nontreaty fishermen; and
- (B) add stability to the treaty and nontreaty fisheries by reducing variations in fish availability.

(b) Purposes. In order to assist the harvesters of the salmon and steelhead resources within the Columbia River conservation area and the Washington conservation area established by this title to overcome temporary dislocations arising from the decisions in the cases of United States against Washington and Sohappay against Smith and from other causes, this title authorizes the establishment of a cooperative program involving the United States, the States of Washington and Oregon, the treaty tribes acting through the appropriate tribal coordinating bodies, and other parties, to--

(1) encourage stability in and promote the economic well being of the treaty and nontreaty commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through--

- (A) the purchase of nontreaty commercial and charter fishing vessels, gear, and licenses; and
- (B) coordinated research, enhancement, and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

§ 3313. Grants for reports and plans for coordinated research, enforcement, etc.

The Secretary, in consultation with the Secretary of the Interior, is authorized to establish a program to provide grants to prepare reports and plans provided for in parts B and C [*16 USC §§ 3311 et seq., 3321 et seq.*] in order to promote coordinated research, enforcement, enhancement, and management of the salmon and steelhead resources within the Washington and Columbia River conservation areas consistent with the purposes of this title. Such grants shall be available for use by the State of Washington, the State of Oregon, appropriate tribal coordinating bodies, or any joint governmental entity established for undertaking research, or providing advice on or mechanisms for coordinating management or enforcement, or preparing the reports and plans described in parts B and C [*16 USC §§ 3311 et seq., 3321 et seq.*].

§ 3314. Discontinuance of funding

If the Secretary finds that as of the close of the 18th month after secretarial approval of the Commission report under section 110(e) [*16 USC § 3311(e)*], the number of parties which have adopted and implemented the Commission's management program in accordance with the provisions of this title and the report is insufficient to ensure that the management structure is effective and consistent with the standards and objectives in section 110(c) [*16 USC § 3311(c)*], he shall discontinue any further funding under part B or C of this title [*16 USC §§ 3311 et seq., 3321 et seq.*].

§ 3312. Eligibility for financial assistance under approved enhancement plans

Upon approval by the Secretary of the Commission's report under section 110 [*16 USC § 3311*], a State represented by a voting member on the Commission and any treaty tribe represented by a tribal coordinating body shall be eligible for financial assistance under part C [*16 USC §§ 3321 et seq.*] if the State or treaty tribe enters into an agreement with the Secretary under which that State or treaty tribe obligates itself--

(1) to implement and enforce the provisions of the report and revisions thereto, through laws, regulations, ordinances, or other appropriate means, within such geographical areas and with respect to such persons as may be subject to its jurisdiction and to the extent of its enforcement power; and

(2) to engage in such coordination and consultation as may be necessary or appropriate to ensure, to the maximum extent practicable, that the report and revisions thereto are fully and effectively implemented.

§ 3315. Authorization of appropriations

There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this part [*16 USC §§ 3311 et seq.*] in fiscal years commencing after September 30, 1981, an aggregate amount of \$3,000,000. Funds appropriated pursuant to this section remain available to the Secretary until expended.

§ 3321. Grants for projects under approved enhancement plans

(a) Authority. The Secretary of the Interior (hereinafter referred to in this part [*16 USC §§ 3321 et seq.*] as the "Secretary"), in consultation with the Secretary of Commerce, is authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the Washington

conservation area and the Columbia River conservation area.

(b) Plans. Any such project in the Washington conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington and the Washington tribal coordinating body within 18 months after the date of enactment of this title [enacted Dec. 22, 1980]. Any enhancement project in the Columbia River conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington, the State of Oregon, and the Columbia River tribal coordinating body within 18 months after the date of enactment of this title [enacted Dec. 22, 1980]. Such plans must be approved by the Secretary, in consultation with the Secretary of Commerce, as provided in this part [16 USC §§ 3321 et seq.]. The States shall solicit and consider the comments and views of interested commercial and recreational fishermen, and other interested parties, in developing the comprehensive enhancement plan.

(c) Scope. Each comprehensive enhancement plan, and any revisions, or modifications of such plan, shall describe all enhancement projects in the conservation area, and associated stocking policies (when relevant), including any related research necessary to such enhancement anticipated by the States and the treaty tribes (acting through the appropriate tribal coordinating body) for a period of at least 5 years.

(d) Standards. Each comprehensive enhancement plan shall include such standards, restrictions, or conditions as are necessary, to assure that any project included in the plans contributes to the balanced and integrated development of the salmon and steelhead resources of the area. Such standards shall include, but not be limited to, provisions designed to--

(1) assure that all commercial and recreational fishermen and the treaty tribes shall have a reasonable opportunity to participate in the benefits, considered as a whole, of the salmon and steelhead resources development;

(2) minimize, to the extent practicable, significant adverse interaction between naturally spawning and artificially [artificially] propagated stocks;

(3) ensure that all projects included within the plan are designed to complement the contribution of sound State, Federal, and tribal enhancement activities;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific research;

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project;

(6) consider the effect of enhancement activities as they relate to existing and future international commitments; and

(7) notwithstanding any of the above measures, provide for the harvest of fish by treaty tribes in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(e) Approval.

(1) The Secretary, in consultation with the Secretary of Commerce, shall review each comprehensive enhancement plan and approve such plan within 120 days of the date of its receipt, if found to be consistent with this title and other applicable law. If the Secretary, in consultation with the Secretary of Commerce, finds that a plan is not in conformity with the provisions of this title or other applicable law, he shall return such plan to the State of Washington or the State of Oregon, or both, as appropriate, and the appropriate tribal coordinating body with recommendations.

(2) Upon receiving such a plan, the Secretary, in consultation with the Secretary of Commerce, shall--

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Pacific Fishery Management Council and, upon request, to any other interested person or group, and solicit and consider the comments and views of such persons or groups with respect to the plan;

(C) undertake a biological and technical review of the plan, in consultation with individuals who are knowledgeable with regard to the management, conservation, enhancement, and harvest of the salmon and steelhead resources of the area;

(D) provide a copy of the plan to and consult with the Secretary of State and the Secretary of Commerce, with respect to the effect of such plan on any international fisheries; and

(E) determine whether the State of Washington or the State of Oregon, as appropriate, and the treaty tribes, acting through their chosen agency or agencies, have the authority to carry out the plan in accordance with this title, and in accordance with standards included within the plan.

(3) The Secretary, in consultation with the Secretary of Commerce, shall not approve a comprehensive enhancement plan unless the State of Washington or the State of Oregon, or both, as appropriate, and the treaty tribes, acting through the appropriate tribal coordinating body, agree not to undertake any salmon or steelhead enhancement project, using funds provided pursuant to this part [16 USC §§ 3321 et seq.] or otherwise, that would be inconsistent with the plan.

(4) The Secretary may not approve a comprehensive plan unless the Secretary of Commerce concurs that such plan satisfactorily complies with standards (1), (6), and (7) of subsection (d) of this section.

(f) Review, modification, or revisions. Each comprehensive enhancement plan shall be reviewed periodically. The Secretary, the Secretary of Commerce, the State of Washington, the State of Oregon, or the appropriate tribal coordinating body may request a review, modification, or revision of a plan at any time. Any revision or modification of a plan, developed and agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body, shall be approved by the Secretary, in consultation with the Secretary of Commerce, within 45 days of receipt of the proposed revision or modification, if such revision or modification is in conformity with this title and other applicable law. The Secretary, in consultation with the Secretary of Commerce, may withdraw approval of a plan if he finds that (1) the plan or its implementation is not consistent with this title, and (2) no modification or revision has been agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body to correct any such inconsistencies.

§ 3323. Approval and funding of projects

(a) In general. The Secretary, in consultation with the Secretary of Commerce, may approve any project that is consistent with an approved enhancement plan and the provisions of this title, and shall promptly notify the States, the treaty tribes and, upon request, any other interested party of the approval of a project and the amount of funding made available under this title for such project.

(b) Limitations on Federal share. The total Federal share of all enhancement projects funded annually by this section shall not exceed 50 percent of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by treaty tribes acting through the appropriate tribal

coordinating body. A State share may include both real and personal property. Title to, or other interest in, such property shall remain within the State. The State of Washington shall be treated on the date of the enactment of this title [enacted Dec. 22, 1980] as having expended \$32,000,000 (reduced by the amount treated as expended by the State under section 135 of this title [*16 USC § 3336*]) on enhancement projects set forth in the plan which are eligible for assistance under this title. The Federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this title and the goals of the comprehensive plan.

§ 3324. Monitoring and evaluation of enhancement projects

The Secretary, in cooperation with the Secretary of Commerce, shall establish, in consultation with the State of Washington, the State of Oregon, and the appropriate tribal coordinating body, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this part [*16 USC §§ 3321 et seq.*], and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan concerned and this title. Each recipient of a grant under this part [*16 USC §§ 3321 et seq.*] shall make available to the Secretary and to the Comptroller General of the United States for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under the grant.

§ 3322. Enhancement project proposals

After the approval of a comprehensive enhancement plan, the State of Washington, the State of Oregon, or a treaty tribe acting through the appropriate tribal coordinating body may submit project proposals to the Secretary in such manner and form as the Secretary shall prescribe. Such application shall include, but not be limited to--

(1) plans, specifications, and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to--

(A) a description of the affected stock;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial, recreational and treaty Indian fishing;

(3) evidence that the State of Washington, the State of Oregon, or the treaty tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project;

(5) such other information as the Secretary, in consultation with the Secretary of Commerce, determines is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this title; and

(6) after approval of the Commission's report pursuant to section 110 of this title [16 USC § 3311], documentation that the appropriate State or treaty tribe submitting or undertaking the project proposal has adopted and begun all necessary implementation of the Commission's management program.

§ 3325. Authorization of appropriations

(a) Salmon enhancement. For purposes of carrying out the provisions of this part [16 USC §§ 3321 et seq.] for salmon enhancement (including, but not limited to, the operation and maintenance of enhancement facilities) there are authorized to be appropriated not to exceed \$45,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area, and not to exceed \$25,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(b) Steelhead enhancement. In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to carry out steelhead enhancement projects under this part [16 USC §§ 3321 et seq.] (including, but not limited to, operation and maintenance of enhancement facilities) not to exceed \$7,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area; and not to exceed \$7,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(c) Limitation. No moneys appropriated pursuant to subsection (a) or (b) may be used for the operation and maintenance of enhancement programs and related facilities as they existed on or before the date of the approval by the Secretary under section 120 [16 USC § 3321] of the enhancement plan for the conservation area concerned.

§ 3331. Fleet adjustment program

(a) In general. The Secretary of Commerce (hereinafter referred to in this part [16 USC §§ 3331 et seq.] as the "Secretary"), upon approval of a program submitted pursuant to section 132 of this part [16 USC § 3333], is authorized to distribute Federal funds to the State of Washington (hereinafter in this part [16 USC §§ 3331 et seq.] referred to as the "State"), subject to the standards, conditions, and restrictions set forth in this part [16 USC §§ 3331 et seq.], for the purchase of commercial fishing and charter vessels (including the associated fishing gear) and licenses by the State in accordance with the provisions of this part [16 USC §§ 3331 et seq.]. The Federal share payable under this part [16 USC §§ 3331 et seq.] shall not exceed 75 percent of the total cost of the program.

(b) Legal title. Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this part [16 USC §§ 3331 et seq.] shall vest upon purchase in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

§ 3332. State program for reduction of overall fishing capacity

The State shall submit to the Secretary a program within three months of the date of enactment of this title [enacted Dec. 22, 1980] designed to--

- (1) provide incentives for early retirement of licenses, or early sale of vessels;
- (2) set aside specific allocations of funds for each gear type to achieve the specific fleet reductions provided for in the program;
- (3) obtain an effective and expeditious reduction in the overall fishing capacity of and the number of vessels and licenses in the non-Indian commercial and charter salmon fishing fleets in the Washington conservation area; and
- (4) provide State funding for 25 per centum of the total cost of the program.

§ 3333. Program approval

(a) Submission for approval. The State shall submit its program and submit revisions, modifications, or amendments to the Secretary in accordance with standards established pursuant to section 131 [16 USC § 3332] and in such manner and form as the Secretary shall prescribe.

(b) Requirements for approval. Prior to approving such program or any revision, modification, or amendment, and authorizing Federal funds to be distributed in accordance with this part [16 USC §§ 3331 et seq.], the Secretary must find that--

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this part [16 USC §§ 3331 et seq.];

(2) the State program provides that a fishing or charter vessel may not be purchased by the State from other than the person who owned the vessel on the date of the enactment of this title [enacted Dec. 22, 1980];

(3) the State program prevents the expenditure of a disproportionate amount of funds available for vessel acquisition on vessels owned by any one person;

(4) the State program prohibits the purchase of any fishing or charter vessel unless all State commercial and charter salmon fishing licenses attached to the vessel are also sold to the State;

(5) the State program provides that no person may purchase from the State any vessel which that person or a member of that person's immediate family had previously sold to the State;

(6) the State program provides that no person may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the Washington conservation area, unless State law provides that the use of such vessel could not result in any additional fishing effort in the non-Indian fishing fleet;

(7) the State program provides for purchase of vessels at their fair market value;

(8) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses at their fair market value, and the use of bonuses and schedules, to--

(A) secure an early retirement from the salmon fishery;

(B) recognize productiveness if the commercial harvesters using a gear type wish [with] that gear type's specific allocation of funds to recognize productiveness; and

(C) recognize passenger-carrying capacity for charter fishing licenses;

(9) the State program provides, with respect to marginally productive commercial salmon fishermen, for the purchase of their salmon fishing licenses, but not their fishing vessels;

(10) the State maintains a moratorium, or similar program, to preclude the issuance of new commercial

or charter salmon fishing licenses; and

(11) the State has established a revolving fund for the operation of the fleet reduction program that includes an individual account for each category of fishing license (based on type of fishing gear used) and that any moneys received by the State or its agents from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least 2 years from the date of the program's inception, be placed in the appropriate individual account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels and licenses in accordance with the provisions of this part [16 USC §§ 3331 et seq.].

(c) Secretarial action. The Secretary shall approve such program within ninety days of the date of receipt of the program if found to be consistent with this title and other applicable law. If the Secretary finds that such program is not in conformity with the provisions of this title or other applicable law, he shall return such program to the State with recommendations. Any revision, modification, or amendment to the program shall be approved within thirty days of receipt unless found to be inconsistent with this title or other applicable law.

§ 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 title 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 part [16 USC § 3331], he shall reduce or discontinue distribution of funds under this part [16 USC § 3331], 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 part [16 USC §§ 3331 et seq.], the Secretary shall recover from the fund, and place in the United States Treasury, such moneys.

§ 3335. Authorization of appropriations

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this part [16 USC §§ 3331 et seq.], \$37,500,000 for the 5-year period beginning October 1, 1981.

§ 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, United States Code [5 USC § 553], as may be necessary to carry out his functions under this title.

§ 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 title 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 Advisory Commission under Part B [16 USC § 3311 et seq.], 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 113 [16 USC § 3314] 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 part C [16 USC § 3321]

§ 3336. Special provision

On the date the Secretary approves the program under section 132 [16 USC § 3333], 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.

§ 3343. Construction with fishery conservation and management provisions

(a) Consistency. Nothing in this title shall be construed as affecting the provisions of title III of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 [16 USC §§ 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 110 [16 USC § 3311] and any enhancement plan under part C [16 USC §§ 3321 et seq.].

(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 part D [16 USC § 3331 et seq.] and the license moratorium of the State of Washington is not replaced by new fishing effort from outside such State.

§ 3344. Construction with other laws

Nothing in this title 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 section 143 of this title [this section].

§ 3345. Authorization of additional appropriations

In addition to other authorizations of appropriations contained in this title, 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. 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.