

# FEDERAL AID IN SPORT FISH RESTORATION ACT (DINGELL-JOHNSON ACT)

16 U.S.C. §§ 777-777I, August 9, 1950, as amended 1956, 1959, 1960, 1970, 1976, 1980, 1984, 1986, 1988, 1990 and 1992.

**Overview.** This Act, commonly called the Dingell-Johnson Sport Fish Restoration Act, authorizes the Secretary of the Interior to provide financial assistance for state fish restoration and management plans and projects.

**Selected Definitions.** Coastal state: 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, Washington, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Fish restoration and management projects: 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 U.S., including research into fish management and culture; the necessity and effects of fishing regulation; plans for restocking food and game fishes; and the acquisition, restoration, rehabilitation and improvement of land and water for fish hatching, feeding, resting or breeding. §§ 777 and 777a.

**Federal-State Relationships.** The Act directs the Secretary of the Interior (Secretary) to cooperate with state fish and game departments in fish restoration and management projects. No money apportioned under the Act to a state can be expended until its legislature assents to the provisions of the Act and passes laws for the conservation of fish, including a prohibition against the diversion of fishing license fees for purposes other than administration of the state fish and game department. According to the Wallop-Breaux amendments passed in 1984, coastal states must allocate amounts apportioned to them under the Act between marine and freshwater fish projects in the same proportion as the estimated number of resident marine and freshwater anglers. § 777.

**Sport Fish Restoration Account.** The provisions of this Act are funded through the Sport Fish Restoration Account, which is part of the Aquatic Resources Trust Fund created by the Wallop-Breaux amendments in 1984 and described in 26 U.S.C. § 9504. As explained in 26 U.S.C. §§ 9504 and 4161, the Account consists of sales tax on sport fishing equipment (including fishing rods, reels, lines, hooks; artificial lures, baits and flies; and fishing supplies and accessories), electric outboard motors and sonar fish-finding devices, and import duties on fishing tackle and yachts and pleasure craft. Congress authorized the amounts received by the Sport Fish Restoration Account to be appropriated for carrying out the Act. § 777b.

**Apportionment of Funds Among States.** The Secretary must distribute 18 percent of each annual appropriation in the manner provided in the 1990 Coastal Wetlands Planning, Protection, and Restoration Act. Of the remaining balance, the Act requires that \$10,000,000 for fiscal year 1993, \$15,000,000 for each fiscal year 1994 and 1995, and \$20,000,000 for each fiscal year 1996 and 1997 be used as follows: one-half must be transferred to the Secretary of Transportation for state recreational boating safety programs; one-half must be available for two years for obligation under the Clean Vessel Act of 1992 for project grants made by the Secretary (see the

Editor's Note below). Amounts unobligated after two years must be transferred to the Secretary of Transportation for state recreational boating safety programs. In fiscal year 1998, \$20,000,000 must be transferred to the Secretary of Transportation for these programs. The Secretary may use six percent of the remaining appropriated funds for administering the Act.

After these distributions the funds must be apportioned among the states as follows: 40 percent in the ratio which the area of each state, including coastal and Great Lakes waters, bears to the total area of all the states; 60 percent in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the state bears to the number of license holders in all the states. Sums unexpended or unobligated at the end of the succeeding fiscal year may be spent by the Secretary for the Fish and Wildlife Service's research program on fish of material value for sport or recreation. § 777c.

**Fish Restoration Plans and Projects.** To receive funding under the Act, states must submit to the Secretary either a five-year comprehensive fish and wildlife resource management plan that perpetuates these resources for the economic, scientific and recreational enrichment of the people or proposed fish restoration and management projects. The Secretary may finance out of a state's apportioned funds up to 75 percent of the cost of implementing plans or projects, and 75 percent of the initial costs of land acquisition and construction. Any construction work and labor must be performed under the direct supervision of the state fish and game department, subject to inspection and approval of the Secretary and in accordance with the Act's regulations.

States are required to maintain fish restoration and management projects established under the Act. Title to real or personal property or improvements acquired by a state with funds paid under the Act belongs to the state. States may use contributions of funds, real property and services in lieu of payment of the state share of the project costs. §§ 777e, 777f and 777l.

**Use of Apportioned Funds.** The Act requires states to allocate 12-1/2 percent of their apportioned funds for the payment of up to 75 percent of the costs of acquiring, developing, renovating or improving facilities for public access to U.S. waters for recreational boating purposes. States within a Fish and Wildlife Service Administrative Region may allocate more or less in a fiscal year, provided that the total regional allocation averages 12-1/2 percent over a five-year period. Additionally, states may use 10 percent of apportioned funds to pay up to 75 percent of the costs of an aquatic resource education and outreach program to increase public understanding of the nation's water resources and associated aquatic life forms. Apportioned funds also may be used to pay up to 75 percent of the costs of constructing, renovating, operating or maintaining pumpout stations and waste reception facilities. § 777g.

**Payments of Funds to and Cooperation with U.S. Territories.** The Secretary is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, and the Governors of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands in the conduct of fish restoration and management projects. The Act also authorizes the Secretary to apportion out of each year's apportioned funds up to one percent for Puerto Rico, and one-third of one percent each for the District of Columbia, Guam,

American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands. Cooperating agencies are not required to pay more than 25 percent of the cost of a project. § 777k.

**New England Fishery Resources.** The Act contains the text of the New England Fishery Resources Restoration Act of 1990, 16 U.S.C. § 777e-1, which is summarized separately in this Handbook.

**Editor's Note.** The Clean Vessel Act of 1992, 33 U.S.C. § 1322 note, authorizes funds to states for the construction, renovation, operation and maintenance of pumpout stations and waste reception facilities, to reduce the sewage discharged by recreational vessels. The Act requires coastal states to survey the number and location of pumpout stations and waste reception facilities within their coastal zone, along with the number of recreational vessels with on-board toilets, and develop a plan to construct or renovate stations and facilities to meet the needs of these vessels. The Secretary of the Interior may make grants for up to 75 percent of costs, using the funds designated under the Federal Aid in Sport Fish Restoration Act, to: coastal states for conducting the survey, developing the plan, constructing and renovating pumpout stations and waste reception facilities, and educating recreational boaters about waste discharge; inland states with a demonstrated need for educating recreational boaters and constructing and renovating pumpout stations and waste reception facilities.