

Idaho. Any sums appropriated for the purpose of establishing such stations may be expended, and such stations shall be established, operated and maintained, in accordance with the provisions of the Act entitled "An Act to provide for a five-year construction and maintenance program for the United States Bureau of Fisheries", approved May 21, 1930, ch. 306, 46 Stat. 371, insofar as the provisions of such Act are not inconsistent with the provisions of this section and sections 756 and 757 of this title.

(May 11, 1938, ch. 193, §1, 52 Stat. 345; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### REFERENCES IN TEXT

Act May 21, 1930, ch. 306, 46 Stat. 371, referred to in text, was not classified to the Code.

#### TRANSFER OF FUNCTIONS

Secretary of Commerce substituted for 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.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as Fish and Wildlife Service, and provided that functions of consolidated agency shall be administered under direction and supervision of Secretary of the Interior.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

#### § 756. Investigations, surveys, and experiments; construction and installation of conservation devices, etc.

The Secretary of Commerce is further authorized and directed (1) to conduct such investigations, and such engineering and biological surveys and experiments, as may be necessary to direct and facilitate conservation of the fishery resources of the Columbia River and its tributaries; (2) to construct and install devices in the Columbia River Basin for the improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects, and for facilitating free migration of fish over obstructions; and (3) to perform all

other activities necessary for the conservation of fish in the Columbia River Basin in accordance with law.

(May 11, 1938, ch. 193, §2, 52 Stat. 345; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 8, 1946, ch. 883, §1, 60 Stat. 932; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### AMENDMENTS

1946—Act Aug. 8, 1946, struck out requirement to maintain conservation devices, etc.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior and prior transfers, see note set out under section 755 of this title.

#### § 757. Utilization of State services; expenditure of funds

In carrying out the authorizations and duties imposed by section 756 of this title, the Secretary of Commerce is authorized to utilize the facilities and services of the agencies of the States of Oregon, Washington, and Idaho responsible for the conservation of the fish and wildlife resources in such States, under the terms of agreements entered into between the United States and these States, without regard to the provisions of section 6101 of title 41, and funds appropriated to carry out the purposes of sections 755 to 757 of this title may be expended for the construction of facilities on and the improvement of lands not owned or controlled by the United States: *Provided*, That the appropriate agency of the State wherein such construction or improvement is to be carried on first shall have obtained without cost to the United States the necessary title to, interest therein, rights-of-way over, or licenses covering the use of such lands.

(May 11, 1938, ch. 193, §3, 52 Stat. 345; Aug. 8, 1946, ch. 883, §2, 60 Stat. 932; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

1946—Act Aug. 8, 1946, amended section generally to provide for utilization of State services, and for expenditure of funds for construction of facilities and improvements on lands not owned by the United States.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior, by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

#### § 757a. Anadromous, Great Lakes, and Lake Champlain fisheries

##### (a) Conservation, development, and enhancement; cooperative agreements; costs

For the purpose of conserving, developing, and enhancing within the several States the anadromous fishery resources of the Nation that are subject to depletion from water resources developments and other causes, or with respect to

which the United States has made conservation commitments by international agreements, and for the purpose of conserving, developing, and enhancing the fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Secretary of the Interior is authorized to enter into cooperative agreements with one or more States, acting jointly or severally, that are concerned with the development, conservation, and enhancement of such fish, and, whenever he deems it appropriate, with other non-Federal interests. Such agreements shall describe (1) the actions to be taken by the Secretary and the cooperating parties, (2) the benefits that are expected to be derived by the States and other non-Federal interests, (3) the estimated cost of these actions, (4) the share of such costs to be borne by the Federal Government and by the States and other non-Federal interests: *Provided*, That, except as provided in subsection (c) of this section, the Federal share, including the operation and maintenance costs of any facilities constructed by the Secretary pursuant to sections 757a to 757f of this title, which he annually determines to be a proper Federal cost, shall not exceed 50 per centum of such costs exclusive of the value of any Federal land involved: *Provided further*, That the non-Federal share may be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money, (5) the term of the agreement, (6) the terms and conditions for disposing of any real or personal property acquired by the Secretary during or at the end of the term of the agreement, and (7) such other terms and conditions as he deems desirable.

**(b) Operation, management, and administration of property; research**

(1) The Secretary may also enter into agreements with the States for the operation of any facilities and management and administration of any lands or interests therein acquired or facilities constructed pursuant to sections 757a to 757f of this title.

(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.

**(c) Increase of Federal share**

(1) Whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary under subsection (a) of this section to carry out a research and development program to conserve, develop, and enhance anadromous fishery resources of the Nation, or fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Federal share of the program costs shall be increased to a maximum of 66 $\frac{2}{3}$  per centum. For the purpose of this subsection, the term "basin" includes rivers and their tributaries, lakes, and other bodies of water or portions thereof.

(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, prepared by an interstate commission, the Federal share of

any grant made under this section to carry out activities required by such plan shall be up to 90 percent. For purposes of this paragraph, the term "interstate commission" means—

(A) the commission established by the Atlantic States Marine Fisheries Compact (as consented to and approved by Public Law 80-77<sup>1</sup>), approved May 4, 1942 (56 Stat. 267);

(B) the commission established by the Pacific Marine Fisheries Compact (as consented to and approved by Public Law 80-232<sup>1</sup>), approved July 24, 1947 (16 Stat. 419); and

(C) the commission established by the Gulf States Marine Fisheries Compact (as consented to and approved by Public Law 81-66), approved May 19, 1949 (63 Stat. 70).

(Pub. L. 89-304, §1, Oct. 30, 1965, 79 Stat. 1125; Pub. L. 91-249, §1, May 14, 1970, 84 Stat. 214; Pub. L. 93-362, §3(a), July 30, 1974, 88 Stat. 398; Pub. L. 95-464, Oct. 17, 1978, 92 Stat. 1278; Pub. L. 96-118, §1, Nov. 16, 1979, 93 Stat. 859; Pub. L. 97-453, §14(b)(1), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 98-44, title I, §104, July 12, 1983, 97 Stat. 216; Pub. L. 107-372, title III, §303(b), Dec. 19, 2002, 116 Stat. 3095.)

REFERENCES IN TEXT

Public Law 80-77, May 4, 1942, 56 Stat. 267, referred to in subsec. (c)(2)(A), probably means act May 4, 1942, ch. 283 [Public Law 539, 77th Cong.], 56 Stat. 267, which is not classified to the Code.

Public Law 80-232, July 24, 1947, 16 Stat. 419, referred to in subsec. (c)(2)(B), probably means act July 24, 1947, ch. 316 [Public Law 232, 80th Cong.], 61 Stat. 419, which is not classified to the Code.

Public Law 81-66, May 19, 1949, 63 Stat. 70, referred to in subsec. (c)(2)(C), is act May 19, 1949, ch. 128 [Public Law 66, 81st Cong.], 63 Stat. 70, which is not classified to the Code.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-372 designated existing provisions as par. (1) and added par. (2).

1983—Subsec. (c)(2). Pub. L. 98-44 substituted "resources, prepared by an interstate commission" for "resources", substituted "up to 90 percent" for "90 percent", and inserted provision defining interstate commission for purposes of this paragraph.

Subsec. (c). Pub. L. 97-453 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (c). Pub. L. 96-118 struck out provisions respecting cost to Federal government of operation and maintenance of structures, devices, etc., constructed by States under cooperative agreements.

1978—Subsecs. (a), (c). Pub. L. 95-464 inserted "and Lake Champlain" after "Great Lakes".

1974—Subsec. (c). Pub. L. 93-362 substituted "66 $\frac{2}{3}$  per centum" for "60 per centum".

1970—Subsec. (a). Pub. L. 91-249, §1(a), made the Federal share of the cost of conservation, development and enhancement of the anadromous fishery resources subject to the provisions of subsec. (c) of this section.

Subsec. (c). Pub. L. 91-249, §1(b), added subsec. (c).

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-372, title III, §301, Dec. 19, 2002, 116 Stat. 3094, provided that: "This title [amending this section, sections 757d, 971h, 4101, 4107, and 5610 of this title, and provisions set out as a note under section 857-19 of Title 33, Navigation and Navigable Waters] may be cited as the 'Fisheries Conservation Act of 2002'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-130, §1, Oct. 17, 1991, 105 Stat. 626, provided that: "This Act [amending section 757g of this title and

<sup>1</sup> See References in Text note below.

provisions set out as notes under section 1851 of this title] may be cited as the ‘Striped Bass Act of 1991.’”

#### SHORT TITLE

Section 8, formerly section 7, of Pub. L. 89-304, as added by Pub. L. 91-249, §3, May 14, 1970, 84 Stat. 214, and renumbered by Pub. L. 96-118, §4, Nov. 16, 1979, 93 Stat. 859, provided that: “This Act [enacting this section and sections 757b to 757g of this title] may be cited as the ‘Anadromous Fish Conservation Act.’”

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior, by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

#### § 757b. Authority of the Secretary with regards to Anadromous and Great Lakes fisheries; development and management

The Secretary, in accordance with any agreements entered into pursuant to section 757a(a) of this title, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance activities; (3) to construct, install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish, and for the control of the sea lamprey; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of sections 757a to 757f of this title; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes and Lake Champlain that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That sections 757a to 757f of this title shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Secretary<sup>1</sup> to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under sections 757a to 757f of this title and subject to the cost-sharing and appropriations provisions of sections 757a to 757f of this title; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an ex-

change in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of sections 757a to 757f of this title. Title to lands or interests therein acquired pursuant to sections 757a to 757f of this title shall be in the cooperating States or other non-Federal interests.

(Pub. L. 89-304, §2, Oct. 30, 1965, 79 Stat. 1125; Pub. L. 93-362, §1, July 30, 1974, 88 Stat. 398; Pub. L. 95-464, Oct. 17, 1978, 92 Stat. 1278; Pub. L. 96-118, §2, Nov. 16, 1979, 93 Stat. 859.)

#### AMENDMENTS

1979—Pub. L. 96-118 substituted “cooperating States or other non-Federal interests” for “United States”.

1978—Cl. (5). Pub. L. 95-464 inserted “and Lake Champlain” after “Great Lakes”.

1974—Cl. (3). Pub. L. 93-362 inserted reference to the control of the sea lamprey.

#### § 757c. Approval for activities on land administered by other Federal departments or agencies

Activities authorized by sections 757a to 757f of this title to be performed on lands administered by other Federal departments or agencies shall be carried out only with the prior approval of such departments or agencies.

(Pub. L. 89-304, §3, Oct. 30, 1965, 79 Stat. 1126.)

#### § 757d. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of sections 757a to 757f of this title not to exceed \$4,500,000 for each of fiscal years 2007 through 2012.

(Pub. L. 89-304, §4, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 91-249, §2, May 14, 1970, 84 Stat. 214; Pub. L. 93-362, §§2, 3(b), July 30, 1974, 88 Stat. 398; Pub. L. 96-118, §3, Nov. 16, 1979, 93 Stat. 859; Pub. L. 97-453, §14(b)(2), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 99-659, title IV, §402, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101-627, title IV, §401, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104-297, title IV, §403, Oct. 11, 1996, 110 Stat. 3619; Pub. L. 107-372, title III, §303(a), Dec. 19, 2002, 116 Stat. 3095; Pub. L. 109-479, title III, §302(h), Jan. 12, 2007, 120 Stat. 3625.)

#### AMENDMENTS

2007—Pub. L. 109-479 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757f of this title for fiscal years 2003 to 2006 and limited the obligation of funds in any one State to not more than \$625,000.

2002—Pub. L. 107-372 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757f of this title of not to exceed \$4,000,000 for fiscal year 1997 and \$4,250,000 for each of fiscal years 1998, 1999, and 2000, and limited the obligation of funds in any one State to not more than \$625,000.

1996—Pub. L. 104-297 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757g of this title of not to exceed \$8,152,500 for fiscal year 1989 and \$8,000,000 for each of fiscal years 1990 to 1995, and limited the obligation of funds in any one State to not more than \$1,250,000.

1990—Subsec. (a)(1). Pub. L. 101-627, §401(1), (2), redesignated par. (7) as (1) and struck out former par. (1)

<sup>1</sup> So in original. Probably should be “Secretary”.

which authorized appropriations of \$11,000,000 for fiscal year 1980.

Subsec. (a)(2). Pub. L. 101-627, § 401(1), (3), added par. (2) and struck out former par. (2) which authorized appropriations of \$13,000,000 for fiscal year 1981.

Subsec. (a)(3) to (6). Pub. L. 101-627, § 401(1), struck out pars. (3) to (6) which authorized appropriations of \$15,000,000 for fiscal year 1982, \$7,500,000 for fiscal years 1983, 1984, 1985, and 1986, \$7,702,500 for fiscal year 1987, and \$7,920,000 for fiscal year 1988, respectively.

Subsec. (a)(7). Pub. L. 101-627, § 401(2), redesignated par. (7) as (1).

1986—Subsec. (a)(4) to (7). Pub. L. 99-659 inserted reference to fiscal year 1986 in par. (4) and added pars. (5) to (7).

1983—Subsec. (a)(4). Pub. L. 97-453 added par. (4).

1979—Subsec. (a). Pub. L. 96-118, § 3(a), substituted provisions authorizing appropriations of not to exceed \$11,000,000, \$13,000,000, and \$15,000,000 for fiscal years 1980 through 1982, respectively, for provisions authorizing appropriations of not to exceed \$25,000,000, \$6,000,000, \$7,500,000, \$8,500,000, \$20,000,000, \$20,000,000, \$20,000,000, \$20,000,000, and \$20,000,000 for fiscal years ending June 30, 1970, through June 30, 1979, respectively.

Subsec. (b). Pub. L. 96-118, § 3(b), substituted “\$1,250,000” for “\$1,000,000”.

1974—Subsec. (a). Pub. L. 93-362 substituted “\$20,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979” for “\$10,000,000 for the fiscal year ending June 30, 1974”.

1970—Subsec. (a). Pub. L. 91-249 authorized appropriation of not to exceed \$6,000,000, \$7,500,000, \$8,500,000 and \$10,000,000 for fiscal years ending June 30, 1971, June 30, 1972, June 30, 1973, and June 30, 1974, respectively, to be available until expended.

#### § 757e. Application to Columbia River basin

Sections 757a to 757f of this title shall not be construed to affect, modify, or apply to the same area as the provisions of sections 755 to 757 of this title. The State of Idaho shall be eligible on an equal standing with other States for Federal funding for purposes authorized by sections 757a to 757f of this title.

(Pub. L. 89-304, § 5, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 98-146, title I, Nov. 4, 1983, 97 Stat. 922.)

#### CODIFICATION

Although the intent of Congress to amend this section is clear from the directory language of Pub. L. 98-146 which states that the sentence relating to the eligibility of the State of Idaho be added to “16 U.S.C. 757e”, that directory language has been editorially interpreted as directing the addition of that sentence to section 5 of Pub. L. 89-304, because Title 16 of the United States Code [this title] has never been enacted into positive law and its sections are therefore not susceptible of amendment as sections of “16 U.S.C.—” and because section 5 of Pub. L. 89-304 is the statute which was classified to, and serves as the source for 16 U.S.C. 757e [this section].

#### AMENDMENTS

1983—Pub. L. 98-146 inserted provision that the State of Idaho shall be eligible on an equal standing with other States for Federal funding for purposes authorized by sections 757a to 757f of this title.

#### § 757f. Studies on pollution; recommendations to Secretary of Health and Human Services

The Secretary of the Interior shall, on the basis of studies carried out pursuant to sections 757a to 757f of this title and section 665 of this title, make recommendations to the Secretary

of Health and Human Services concerning the elimination or reduction of polluting substances detrimental to fish and wildlife in interstate or navigable waters or the tributaries thereof. Such recommendations and any enforcement measures initiated pursuant thereto by the Secretary of Health and Human Services shall be designed to enhance the quality of such waters, and shall take into consideration all other legitimate uses of such waters.

(Pub. L. 89-304, § 6, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

#### CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 755 of this title.

#### § 757g. Repealed. Pub. L. 105-146, § 3(a), Dec. 16, 1997, 111 Stat. 2677

Section, Pub. L. 89-304, § 7, as added Pub. L. 96-118, § 4, Nov. 16, 1979, 93 Stat. 859; amended Pub. L. 97-453, § 14(b)(3), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 98-613, § 10(a), Oct. 31, 1984, 98 Stat. 3190; Pub. L. 99-432, § 6, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100-589, § 3, Nov. 3, 1988, 102 Stat. 2984; Pub. L. 102-130, § 3, Oct. 17, 1991, 105 Stat. 626, related to striped bass population studies.

#### § 758. Exploration, investigation, development, and maintenance of fishing resources and industry of Pacific Ocean

It is the policy of the United States to provide for the exploration, investigation, development, and maintenance of the fishing resources and development of the high seas fishing industry of the United States and its island possessions in the tropical and subtropical Pacific Ocean and intervening seas, for the benefit of the residents of the Pacific island possessions and of the people of the United States.

(Aug. 4, 1947, ch. 451, § 1, 61 Stat. 726; Pub. L. 86-624, § 11(a), (b), July 12, 1960, 74 Stat. 412.)

#### AMENDMENTS

1960—Pub. L. 86-624 substituted “the United States and its island possessions” for “the Territories and island possessions of the United States”, and struck out “Territory of Hawaii and” before “Pacific island possessions”.

#### § 758a. Conduct of explorations and related work in Pacific Ocean

The Secretary of Commerce is authorized and directed to conduct such fishing explorations and such necessary related work as oceanographical, biological, technological, statistical, and economic studies to insure maximum development and utilization of the high seas fishery resources of the United States and its island possessions in the tropical and subtropical Pacific Ocean and intervening areas as may be consistent with developing and sustain-