

§ 4103. Apportionment**(a) Time when apportionments made**

Funds appropriated under section 4107(a) of this title shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) Apportionment formula

The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) Limitations

(1) No State may receive an apportionment under subsection (b) of this section for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.

(2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b) of this section, has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) of this section is less than one-third of one percent, unless the State—

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources which are managed under an interstate fishery management plan;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

(4) No State that, under the apportionment formula in subsection (b) of this section, has a ratio of less than one-third of one percent and meets any of the requirements set forth in paragraph (1)(A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(5) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(d) Unused apportionments

Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State,

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 4107(a) of this title for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a) of this section. Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable.

(Pub. L. 99-659, title III, §304, Nov. 14, 1986, 100 Stat. 3733; Pub. L. 101-627, title V, §501, Nov. 28, 1990, 104 Stat. 4462.)

AMENDMENTS

1990—Subsec. (c)(3)(B). Pub. L. 101-627 inserted “which are managed under an interstate fishery management plan” before semicolon at end.

§ 4104. State projects**(a) In general**

(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 4107 of this title may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this chapter or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this chapter specified in section 4101 of this title; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this chapter shall not exceed 75