

**Act of August 11, 1939 (Saltonstall-Kennedy Act)**

[COMMONLY KNOWN AS THE “SALTONSTALL-KENNEDY ACT”]

[Chap. 696, Approved Aug. 11, 1939, 53 Stat. 1411]

[Amended through Public Law 117–121, May 12, 2022]

【Currency: This publication is a compilation of the text of Chapter 696 of the 76th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize the Federal Surplus Commodities Corporation to purchase and distribute surplus products of the fishing industry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [15 U.S.C. 713c–2]* That any part of the funds not to exceed \$1,500,000 per year, transferred by the Secretary of Agriculture to the Federal Surplus Commodities Corporation<sup>1</sup> created under and to carry out the provisions of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may also be used by such Corporation for the purpose of diverting surplus fishery products (including fish, shellfish, mollusks, and crustacea) from the normal channels of trade and commerce by acquiring them and providing for their distribution through Federal, State, and private relief channels: *Provided*, That none of the funds made available to the Federal Surplus Commodities Corporation<sup>1</sup> under this Act shall be used to purchase any of the commodities designated in this Act which may have been produced in any foreign country. The provisions of law relating to the acquisition of materials or supplies for the United States shall not apply to the acquisition of commodities under this Act.

SEC. 2. [15 U.S.C. 713c–3] (a) DEFINITIONS.—As used in this section—

- (1) The term “person” means—
  - (A) any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands;

<sup>1</sup> The Federal Surplus Commodities Corporation and its functions were consolidated into the Surplus Marketing Administration by section 5 of Reorganization Plan No. III of 1940. The functions of the Surplus Marketing Administration were transferred to the Secretary of Agriculture by section 501 of Reorganization Plan No. 3 of 1946. [15 U.S.C. 712a note]

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(B) any fishery development foundation or other private nonprofit corporation in Alaska; and

(C) any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation or other private nonprofit corporation not located in Alaska), nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

(i) the term “State” as used therein includes any State referred to in paragraph (3),

(ii) citizens of the United States must own not less than 75 percent of the interest in the entity or, in the case of a nonprofit entity, exercise control in the entity that is determined by the Secretary to be the equivalent of such ownership, and

(iii) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting the ownership and control requirements referred to in clause (ii).

(2) The term “Secretary” means the Secretary of Commerce.

(3) The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(4) The term “United States fishery” means any fishery, including any tuna fishery, that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

(5) The term “citizen of the Northern Mariana Islands” means—

(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which “owned” is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

(b) FUND.—(1) The Secretary of Agriculture shall transfer to the Secretary each fiscal year, beginning with the fiscal year commencing July 1, 1954, and ending on June 30, 1957<sup>2</sup>, from moneys made available to carry out the provisions of section 32 of such Act of August 24, 1935, an amount equal to 30 per centum of the gross

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<sup>2</sup> Section 12(a) of the Act of August 8, 1956 (70 Stat. 1124, U.S.C. 713c-3, note) provides:

“The authorization for the transfer of certain funds from the Secretary of Agriculture to the Secretary of the Interior and their maintenance in a separate fund as contained in section 2(a) of the Act of August 11, 1939, as amended July 1, 1954 (68 Stat. 376) shall be continued for the year ending June 30, 1957, and each year thereafter.”

receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund only for—

(A) use by the Secretary—

- (i) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c),
- (ii) to implement the national fisheries research and development program provided for under subsection (d);
- (iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 314 of the Magnuson Fishery Conservation and Management Act<sup>3</sup>; and
- (iv)<sup>4</sup> to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act<sup>3</sup>; and

(B) the provision of moneys, subject to paragraph (2), to carry out the purposes of the Fisheries Promotion Fund established under section 208(a)<sup>5</sup> of the Fish and Seafood Promotion Act of 1986.

(2) There are transferred from the fund established under paragraph (1) to the Fisheries Promotion Fund referred to in paragraph (1)(B) \$750,000 in fiscal year 1987, \$3,000,000 in each of fiscal years 1988 and 1989, and \$2,000,000 in each of fiscal years 1990 and 1991.

(c) FISHERIES RESEARCH AND DEVELOPMENT PROJECTS.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, fisheries science, recreational fishing, harvesting, processing, marketing, and associated infrastructures.

(2) The Secretary shall—

(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period

<sup>3</sup>Section 211 of the Department of Commerce and Related Agencies Appropriations Act, 1997 (Division A, title II of P.L. 104-208; 110 Stat. 3009-41) changed (by amendment) the short title of such Act to the Magnuson-Stevens Fishery and Conservation and Management Act and provided that “all references to the Magnuson Fishery Conservation and Management Act shall be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act”. Since such section did not actually amend each occurrence of the short title in law, the former short title appears here.

<sup>4</sup>Indentation so in law.

<sup>5</sup>So in original. Probably should be “209(a)”.

(specified under subparagraph (A)) in which the application was received.

(3)(A) No application for a grant under this subsection may be approved unless the Secretary—

(i) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

(ii) based on the recommendations of the American Fisheries Advisory Committee established in subsection (e), evaluates the proposed project as to—

- (I) soundness of design;
- (II) the possibilities of securing productive results;
- (III) minimization of duplication with other fisheries research and development projects;

research and development projects;

(IV) the organization and management of the project;

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

the success or failure of the project; and  
(VI) such other criteria as the Secretary may require. If the Secretary fails to provide funds to a grant selected

(B) If the Secretary fails to provide funds to a grant selected by the American Fisheries Advisory Committee, the Secretary shall provide a written document to the Committee justifying the decision.

(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

(C) The recipient of the grant must submit to the Secretary periodic project status reports.

(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part of all of that share, the value of in-kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project. The Secretary shall establish (i) the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

(6)<sup>6</sup> Any person awarded a grant under this subsection shall make publicly available a title and abstract of the project to be carried out by the grant funds that serves as the public justification for funding the project that includes a statement describing how the project serves to enhance United States fisheries, including harvesting, processing, marketing, and associated infrastructures, if applicable.

(d) NATIONAL FISHERIES RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c), as the Secretary deems appropriate.

(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries<sup>7</sup> of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing—

(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

(B) a description of all pending projects assisted under subsection (c) or carried out under paragraph (1), in addition to—

(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year, and

(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year; and

(C) an assessment of each project assisted under subsection (c) or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

(e) AMERICAN FISHERIES ADVISORY COMMITTEE.—

(1) DEFINITIONS.—In this subsection:

(A) COMMITTEE.—The term “Committee” means the American Fisheries Advisory Committee established under paragraph (2).

(B) FISHING COMMUNITY.—The term “fishing community” means harvesters, marketers, growers, processors, recreational fishermen, charter fishermen, and persons providing them with goods and services.

(C) MARKETING AND PROMOTION.—The term “marketing and promotion” means an activity aimed at encour-

<sup>6</sup>The margin for paragraph (6) is so in law.

<sup>7</sup>The Committee on Merchant Marine and Fisheries of the House of Representatives was abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. The former jurisdiction of such committee is divided among the Committee on Resources, the Committee on Transportation and Infrastructure, and the Committee on Armed Services of the House of Representatives.

aging the consumption of seafood or expanding or maintaining commercial markets for seafood.

(D) PROCESSOR.—The term “processor” means any person in the business of preparing or packaging seafood (including seafood of the processor’s own harvesting) for sale.

(E) SEAFOOD.—The term “seafood” means farm-raised and wild-caught fish, shellfish, or marine algae harvested in the United States or by a United States flagged vessel for human consumption.

(2) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the American Fisheries Advisory Committee Act, the Secretary shall establish 6 regions within the American Fisheries Advisory Committee as follows:

(A) Region 1 shall consist of Alaska, Hawaii, the Commonwealth of the Northern Mariana Islands, and the Territories of Guam and American Samoa.

(B) Region 2 shall consist of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

(C) Region 3 shall consist of Texas, Alabama, Louisiana, Mississippi, Florida, Arkansas, Puerto Rico, and the Territory of the Virgin Islands of the United States.

(D) Region 4 shall consist of California, Washington, Oregon, and Idaho.

(E) Region 5 shall consist of New Jersey, New York, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

(F) Region 6 shall consist of Michigan, Minnesota, Wisconsin, Illinois, Indiana, Ohio, and Pennsylvania.

(3) MEMBERSHIP.—The Committee shall be composed of the following members:

(A) REGIONAL REPRESENTATION.—Each of the regions listed in subparagraphs (A) through (F) of paragraph (2) shall be represented on the Committee by 3 members—

(i) who are appointed by the Secretary;

(ii) who reside in a State or territory in the region that the member will represent;

(iii) of which—

(I) one shall have experience as a seafood harvester or processor;

(II) one shall have experience as recreational or commercial fisher or have experience growing seafood; and

(III) one shall be an individual who represents the fisheries science community or the relevant Regional Fishery Management Council; and

(iv) that are selected so that the members of the Committee have experience or expertise with as many seafood species as practicable.

(B) AT-LARGE MEMBERS.—The Secretary shall appoint to the Committee at-large members as follows:

(i) One individual with experience in food distribution, marketing, retail, or food service.

(ii) One individual with experience in the recreational fishing industry supply chain, such as fishermen, manufacturers, retailers, and distributors.

(iii) One individual with experience in the commercial fishing industry supply chain, such as fishermen, manufacturers, retailers, and distributors.

(iv) One individual who is an employee of the National Marine Fisheries Service with expertise in fisheries research.

(C) BALANCED REPRESENTATION.—In selecting the members described in subparagraphs (A) and (B), the Secretary shall seek to maximize on the Committee, to the extent practicable, a balanced representation of expertise in United States fisheries, seafood production, and science.

(4) MEMBER TERMS.—The term for a member of the Committee shall be 3 years, except that the Secretary shall designate staggered terms for the members initially appointed to the Committee.

(5) RESPONSIBILITIES.—The Committee shall be responsible for—

(A) identifying needs of the fishing community that may be addressed by a project funded with a grant under subsection (c);

(B) developing the request for proposals for such grants;

(C) reviewing applications for such grants; and

(D) selecting applications for approval under subsection (c)(2)(B).

(6) CHAIR.—The Committee shall elect a chair by a majority of those voting, if a quorum is present.

(7) QUORUM.—A simple majority of members of the Committee shall constitute a quorum, but a lesser number may hold hearings.

(8) MEETINGS.—

(A) FREQUENCY.—The Committee shall meet not more than 2 times each year.

(B) LOCATION.—The meetings of the Committee shall rotate between the geographic regions described under paragraph (2).

(C) MINIMIZING COSTS.—The Committee shall seek to minimize the operational costs associated with meetings, hearings, or other business of the Committee, including through the use of video or teleconference.

(9) DESIGNATION OF STAFF MEMBER.—The Secretary shall designate a staff member to coordinate the activities of the Committee and to assist with administrative and other functions as requested by the Committee.

(10) PER DIEM AND EXPENSES AND FUNDING.—

(A) IN GENERAL.—A member of the Committee shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing duties as a member of the Committee.

(B) FUNDING.—The costs of reimbursements under subparagraph (A) and the other costs associated with the Committee shall be paid from funds made available to carry out this section (which may include funds described in subsection (f)(1)(B)), except that no funds allocated for grants under subsection (f)(1)(A) shall be expended for any purpose under this subsection.

(11) CONFLICT OF INTEREST.—The conflict of interest and recusal provisions set out in section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(j)) shall apply to any decision by the Committee and to all members of the Committee as if each member of the Committee is an affected individual within the meaning of such section 302(j), except that in addition to the disclosure requirements of section 302(j)(2)(C) of such Act (16 U.S.C. 1852(j)(2)(C)), each member of the Committee shall disclose any financial interest or relationship in an organization or with an individual that is applying for a grant under subsection (c) held by the member of the Committee, including an interest as an officer, director, trustee, partner, employee, contractor, agent, or other representative.

(12) TECHNICAL REVIEW OF APPLICATIONS.—

(A) IN GENERAL.—Prior to review of an application for a grant under subsection (c) by the Committee, the Secretary shall obtain an independent written technical evaluation from 3 or more appropriate Federal, private, or public sector experts (such as industry, academia, or governmental experts) who—

(i) have subject matter expertise to determine the technical merit of the proposal in the application;

(ii) shall independently evaluate each such proposal; and

(iii) shall certify that the expert does not have a conflict of interest concerning the application that the expert is reviewing.

(B) GUIDANCE.—Not later than 180 days after the date of enactment of the American Fisheries Advisory Committee Act, the Secretary shall issue guidance related to carrying out the technical evaluations under subparagraph (A). Such guidance shall include criteria for the elimination by the National Oceanic and Atmospheric Administration of applications that fail to meet a minimum level of technical merit as determined by the review described in subparagraph (A).

(f) ALLOCATION OF FUND MONEYS.—(1) Notwithstanding any other provisions of law, all moneys in the fund shall be used exclusively for the purpose of promoting United States fisheries in accordance with the provisions of this section, and no such moneys shall be transferred from the fund for any other purpose. With respect to any fiscal year, all moneys in the fund, including the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year, shall be allocated as follows:

(A) the Secretary shall use no less than 60 per centum of such moneys to make direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of this section; and

(B) the Secretary shall use the balance of the moneys in the fund to finance those activities of the National Marine Fisheries Service which are directly related to development of the United States fisheries pursuant to subsection (d) of this section.

(2) The Secretary shall, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the moneys in the fund described in paragraph (1). Any such moneys which are not expended in a given fiscal year shall remain available for expenditure in accordance with this section without fiscal year limitation, except that the Secretary shall not obligate such moneys at a rate less than that necessary to prevent the balance of moneys in the fund from exceeding \$3,000,000 at the end of any fiscal year.