

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION AUTHORIZATION ACT OF 1995

SEPTEMBER 29, 1995.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

REPORT

[To accompany H.R. 1815]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1815) to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1996, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1995".

**SEC. 2. DEFINITIONS.**

For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653);

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.); and

(3) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

## **TITLE I—NATIONAL OCEAN SERVICE**

### **SEC. 101. NATIONAL OCEAN SERVICE.**

#### **(a) MAPPING, CHARTING, AND GEODESY.—**

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Ocean and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, \$58,500,000 for fiscal year 1996 and \$63,000,000 for fiscal year 1997.

(2) **ENGINEERING SERVICES CONTRACTS.**—The Secretary, subject to the availability of appropriations, may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

(b) **OBSERVATION AND ASSESSMENT.**—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities, \$50,500,000 for each of fiscal years 1996 and 1997.

(2) Of the sums authorized under paragraph (1), \$5,000,000 for each of fiscal years 1996 and 1997 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration, and shall include efforts to improve predictions of fish stocks to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation, and to improve predictions of coastal hazards to protect human life and personal property.

### **SEC. 102. OCEAN AND GREAT LAKES RESEARCH.**

There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, \$13,000,000 for each of fiscal years 1996 and 1997.

### **SEC. 103. NATIONAL UNDERSEA RESEARCH PROGRAM.**

#### **(a) ESTABLISHMENT.**—The Secretary of Commerce shall—

(1) establish and maintain within the Administration a program to be known as the National Undersea Research Program (in this section referred to as the "Program"); and

(2) under the Program, establish and maintain regional National Undersea Research Centers.

(b) **PURPOSE.**—The purpose of the Program shall be to increase knowledge essential for the wise use and preservation of oceanic, coastal, and large lake resources through advanced undersea exploration, sampling observation, and experimentation addressing issues of regional, national, and global importance.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Commerce—

(1) to administer the Program, \$1,800,000 for each of fiscal years 1996 and 1997; and

(2) for grants and contracts to regional National Undersea Research Centers, \$16,200,000 for each of fiscal years 1996 and 1997.

## **TITLE II—NOAA MARINE FISHERY PROGRAMS**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", \$45,000,000 for each of fiscal years 1996 and 1997";

(2) in section 3(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", \$27,000,000 for each of fiscal years 1996 and 1997";

(3) in section 4(a)—

- (A) by striking “and” after “1992” and inserting a comma; and
- (B) by inserting before the period at the end the following: “, \$18,000,000 for each of fiscal years 1996 and 1997”; and
- (4) in section 2(e)—
  - (A) by striking “1992 and 1993” and inserting “1996 and 1997”;
  - (B) by striking “establish” and inserting “operate”;
  - (C) by striking “306” and inserting “307”; and
  - (D) by striking “1991” and inserting “1992”.

## TITLE III—MISCELLANEOUS PROVISIONS

### SEC. 301. PROGRAM SUPPORT.

(a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled “An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes”, approved December 31, 1970 (33 U.S.C. 857–1 et seq.), and any other law involving those activities, \$60,000,000 for each of fiscal years 1996 and 1997.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, \$43,000,000 for fiscal year 1996, and such sums as may be necessary for fiscal year 1997.

(c) MARINE SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, \$60,000,000 for each of fiscal years 1996 and 1997.

### SEC. 302. CONVEYANCE OF NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.

#### (a) CONVEYANCE REQUIRED.—

(1) IN GENERAL.—The Secretary of Commerce shall convey to the Commonwealth of Massachusetts all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

- (2) TERMS.—A conveyance of property under paragraph (1) shall be made—
  - (A) without payment of consideration; and
  - (B) subject to the terms and conditions specified under subsections (b) and (c).

#### (b) CONDITIONS FOR TRANSFER.—

(1) IN GENERAL.—As a condition of any conveyance of property under this section, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the right and title to that property.

(2) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Massachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this section, if—

- (A) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and
- (B) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property conveyed under this section shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

**SEC. 303. CLEANUP OF NOAA FACILITIES.**

(a) **IN GENERAL.**—The Secretary of Commerce shall cleanup landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants (including, without limitation, petroleum products and their derivatives), on lands which the National Oceanic and Atmospheric Administration and its predecessor agencies abandoned, quitclaimed, or otherwise transferred, or is obligated to transfer, to local entities or landowners on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.).

(b) **SPECIFIC REQUIREMENTS.**—To carry out subsection (a), the Secretary shall—

(1) by December 31, 1995, executive agreements with the State of Alaska, affected local entities and landowners, and in the case of new landfills, the Indian Health Service;

(2) manage the cleanup required in subsection (a) with the minimum possible Federal overhead, delay, and duplication of State and local planning and design work;

(3) receive approval of the State of Alaska for the cleanup plans prepared as a result of the agreements described in subsection (b)(1) where said cleanup is required by State law;

(4) receive approval of affected local entities and landowners before conducting cleanup work on their property, if such approval is not obtained by agreement in accordance with paragraph (5);

(5) to the maximum extent possible, and notwithstanding any other law, carry out duties under this Act and under other Federal laws on the Pribilof Islands through contracts, grants, or cooperative agreements, including agreements on a reimbursable basis, with the local entities and landowners and with residents of the Pribilof Islands; and

(6) not require financial contributions by or from local entities or landowners.

(c) **CONTENTS OF AGREEMENTS.**—The agreements described in subsection (b)(1) shall—

(1) require the Secretary to clean up all sites referred to in subsection (a), as soon as possible;

(2) specify the Secretary's responsibility to—

(A) contribute to the planning and construction of new or redeveloped landfills;

(B) provide technical and financial assistance and training to the local entities and landowners and residents of the Pribilof Islands; and

(C) to the greatest extent possible, secure their participation in carrying out this section.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "cleanup" means, without limitation, planning and execution of remediation actions for lands described in subsection (a) and redevelopment of landfills to meet regulatory requirements; and

(2) the term "local entities and landowners" means those local political subdivisions and entities that have received or are eligible to receive lands under the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.)

**SEC. 304. NOAA FLEET MODERNIZATION.**

(a) **SERVICE CONTRACTS.**—Notwithstanding any other provision of law and subject to the availability of appropriations, the Administrator shall enter into contracts, including multiyear contracts, subject to subsection (d), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and for the use of vessels to acquire mapping and charting data necessary to carry out the missions of the Administration. The Administrator shall enter into these contracts unless—

(1) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the Administration of obtaining those services on vessels of the Administration;

(2) the contract is for more than 7 years;

(3) the Administrator finds that it is not in the public interest to do so; or

(4) the data is acquired through a vessel agreement pursuant to subsection

(e).

(b) **REPORT.**—The Administrator shall report to Congress by February 1, 1996, on the need to own, lease, or charter vessels to acquire data.

(c) **VESSELS.**—After the date of the enactment of this Act, the Administrator may not enter into any contract for the construction, lease-purchase, or service life extension of any vessel unless specifically authorized by Congress.

(d) **MULTIYEAR CONTRACTS.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31 and section 11 of title 41, the Administrator may acquire data under multiyear contracts.

(2) **REQUIRED FINDINGS.**—The Administrator may not enter into a contract pursuant to this subsection unless the Administrator finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request from Congress funding for the contract at the level required to avoid contract termination.

(3) **REQUIRED PROVISIONS.**—The Administrator may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

(e) **VESSEL AGREEMENTS.**—The Administrator shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(f) **TRANSFER OF EXCESS VESSELS.**—The Administrator shall transfer any vessels found excess to the needs of the Administration to the National Defense Reserve Fleet. Notwithstanding any other provision of law, these vessels may be scrapped in accordance with section 1160(i) of title 46 App. United States Code.

(g) **VESSEL RETIREMENT FUND.**—There shall be established in the Treasury a National Marine Resources Administration Vessel Retirement Fund. Notwithstanding any other provision of law, 95 percent of amounts received by the United States—

(1) from the scrapping of Administration vessels transferred to the National Defense Reserve Fleet; and

(2) in settlement of, or judgment for, damage claims arising from the October 9, 1992, collision of the vessel ZACHARY into the National Oceanic and Atmospheric Administration research vessel DISCOVERER,

shall be deposited in such Fund. Expenditures from such Fund shall cover the Maritime Administration's costs of laying up and selling the vessels. Any additional monies in such Fund shall be used by the Administration to make separation payments to commissioned officers of the National Oceanic and Atmospheric Administration.

**SEC. 305. TERMINATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS OF COMMISSIONED OFFICERS.**

(a) **NUMBER OF OFFICERS.**—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration shall not exceed 358 for fiscal year 1996 and 50 for fiscal year 1997. No commissioned officers are authorized for any fiscal year after fiscal year 1997.

(b) **SEPARATION PAY.**—The Secretary of Commerce may separate commissioned officers from the active list of the National Oceanic and Atmospheric Administration, and may do so without providing separation pay.

(c) **TRANSFER.**—

(1) **TRANSFER TO ARMED SERVICES.**—Subject to the approval of the Secretary of Defense and under terms and conditions specified by the Secretary, commissioned officers subject to subsection (a) may transfer to the armed services under section 716 of title 10, United States Code.

(2) **TRANSFER TO COAST GUARD.**—Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to subsection (a) may transfer to the Coast Guard under section 716 of title 10, United States Code.

(3) **TRANSFER TO ADMINISTRATION AS MEMBER OF CIVIL SERVICE.**—Subject to the approval of the Administrator and under terms and conditions specified by the Administrator, commissioned officers subject to subsection (a) who on the date of enactment of this Act have been assigned for a period of one year or more to the programs transferred to the Administration by this Act (other than

those associated with the modernization of the National Oceanic and Atmospheric Administration fleet or the operations of the National Oceanic and Atmospheric Administration Corps of Commissioned Officers) may transfer to the Administration as members of the civil service.

(d) **REPEALS.**—

(1) **IN GENERAL.**—The following provisions of law are repealed:

(A) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(B) Section 5 of the Act of February 16, 1929 (Chapter 221; 45 Stat. 1187).

(C) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(D) Section 9 of Public Law 87–649 (76 Stat. 495).

(E) Section 16 of the Act of May 22, 1917 (Chapter 20; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(F) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038).

(G) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857–1 et seq.).

(H) Section 3 of the Act of August 10, 1956 (Chapter 1041; 70A Stat. 619; 33 U.S.C. 857a).

(I) Section 11 of the Act of May 18, 1920 (Chapter 190; 41 Stat. 603; 33 U.S.C. 864).

(J) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(K) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(L) All other Acts inconsistent with this subsection.

(2) **EFFECTIVE DATE.**—The effective date of the repeals under paragraph (1) shall be September 30, 1997.

(e) **UNEXPENDED BALANCES.**—Unexpended balances of appropriations, allocations, and other funds available or made available in connection with the National Oceanic and Atmospheric Administration Corps of Commissioned officers may be used by the Administrator for payments under section 8 of the Act of June 3, 1948 (33 U.S.C. 853g).

(f) **ABOLITION.**—The Office of the National Oceanic and Atmospheric Administration Corps of Operations and the Commissioned Personnel Center are abolished effective September 30, 1997.

**SEC. 306. OTHER TERMINATIONS.**

The following programs of the National Oceanic and Atmospheric Administration are terminated:

(1) The National Oceanic and Atmospheric Administration Fleet Modernization Program.

(2) The Global Learning and Observations to Benefit the Environment Program.

(3) The Sea Grant oyster disease account.

(4) The Sea Grant zebra mussel account.

(5) VENTS.

(6) The Charleston, South Carolina Special Management Plan.

(7) The Lake Champlain study.

(8) The South Carolina cooperative geodetic survey.

(9) The Chesapeake Bay data buoys (as of September 30, 1996).

(10) Great Lakes nearshore research.

(11) Mussel watch.

Any unobligated balances appropriated to carry out any program referred to in this subsection shall be transferred to the general fund of the Treasury.

**SEC. 307. REPEALS.**

The following are repealed:

(1) The National Advisory Committee on Oceans and Atmosphere Act of 1977, Public Law 95–63, 91 Stat. 265 (33 U.S.C. 857–13 through 857–18).

(2) The Ocean Thermal Conversion Act of 1980 (42 U.S.C. 9101 et seq.).

(3) Title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.).

(4) Title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.).

(5) The Great Lakes Shoreline Mapping Act of 1987 (33 U.S.C. 883a note).

(6) The Great Lakes Fish and Wildlife Tissue Bank Act (16 U.S.C. 943 et seq.).

(7) The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

(8) Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a).

(9) Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is repealed effective October 1, 1998.

(10) The NOAA Fleet Modernization Act (33 U.S.C. 891 et seq.).

(11) Public Law 85-342 (72 Stat. 35; 16 U.S.C. 778 et seq.), relating to fish research and experimentation.

(12) The first section of the Act of August 8, 1956 (70 Stat. 1126; 16 U.S.C. 760d), relating to grants for commercial fishing education.

(13) Public Law 86-359 (16 U.S.C. 760e et seq.), relating to the study of migratory marine gamefish.

(14) The Act of August 15, 1914 (Chapter 253; 38 Stat. 692; 16 U.S.C. 781 et seq.), prohibiting the taking of sponges in the Gulf of Mexico and the Straits of Florida.

#### **SEC. 308. BUDGET PRESENTATION.**

The Administrator shall develop a revised budget structure that displays the amounts requested under a true program office and activity structure. This budget structure shall identify and segregate amounts requested for headquarters and field office components of various activities as well as indicate the amounts intended for external grants or contracts. The Administrator shall develop this budget structure in consultation with the Committee on Appropriations and the Committee on Resources of the House of Representatives, and shall use this revised budget structure in the submission of the fiscal year 1997 budget request of the Administrator.

#### **SEC. 309. SOUTH FLORIDA COASTAL OCEAN STUDIES.**

(a) **IN GENERAL.**—The Administrator may implement an integrated program to study the role of ocean circulation in coastal ocean processes affecting the health of South Florida's coastal ecosystems and fisheries, including the effects of pollutants on living marine resources.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator to carry out this section \$1,350,000 for each of fiscal years 1996 and 1997.

#### **SEC. 310. OCEAN APPLICATIONS BRANCH.**

(a) **ESTABLISHMENT.**—The Secretary of Commerce shall establish and maintain within the Administration a program to be known as the Ocean Application Branch (in this section referred to as the "Branch").

(b) **PURPOSE.**—The purpose of the Branch shall be to make meteorological and other weather information developed by the Department of Defense Fleet Numerical Meteorology and Oceanography Center available for private, educational, and government use pursuant to agreement between the Secretary of Defense and the Secretary of Commerce. It shall be the goal of the Secretary of Commerce to support the activities of the Ocean Applications Branch through user fees.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated up to \$450,000 to support the operation of the Branch not supported by user fees.

(d) **LIMITATION ON CLOSURE.**—The Secretary of Commerce shall not terminate operation of the Branch, before the Branch fully funds its operations through user fees or fiscal year 2000, whichever comes first.

### **PURPOSE OF THE BILL**

The purpose of H.R. 1815 is to authorize certain programs within the National Oceanic and Atmospheric Administration for Fiscal Years (FY) 1996 and 1997.

### **BACKGROUND AND NEED FOR LEGISLATION**

H.R. 1815 was referred to the Resources Committee because the committee has jurisdiction over the fish, coastal and ocean programs within the National Oceanic and Atmospheric Administration (NOAA). The Rules of the House give the Resources Committee jurisdiction over "Fisheries and wildlife, including research, res-

toration, refuges and conservation”, “Marine affairs (including coastal zone management) \* \* \*”, and “Oceanography”.

#### *NOAA*

NOAA consists of five line offices: the National Weather Service, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), the Office of Oceanic and Atmospheric Research (OAR), and the National Environmental Satellite Data and Information System. The agency was created by Executive Order in 1970.

The NOAA budget consists of three major accounts: Operations, Research, and Facilities; Construction; and Fleet Modernization, Shipbuilding, and Conversion. The agency budget also contains several small single-purpose funds related to fisheries. The Operations Research, and Facilities account includes more than 90 percent of the funding for NOAA programs.

#### *National Ocean Service (NOS)*

NOS manages ocean and coastal resources; provides ocean observations; produces nautical aeronautical navigation charts and related products; and performs geodetic survey. NOS programs include nautical mapping and charting, coastal zone management, marine sanctuaries, and the Coastal Ocean Program.

#### *Mapping and charting*

Under current NOS nautical mapping and charting operations, it will take 40 years to complete surveys of ocean and coastal areas that are critical for resource management, U.S. commerce and protection of the coastal environment.

Currently, hydrographic surveys and chart creation and production are done primarily by government workers. NOAA is investing in new digital map production technology, and experimenting with contracting for hydrographic survey work. Given the capital cost involved in replacing the rapidly aging government-owned hydrographic fleet, it is likely that there will be greater use of contracting for private survey work in the future. Efforts are currently underway to establish uniform standards for survey work performed by contractors.

#### *Observation and assessment*

Observation and prediction work includes the National Water Levels Program, the Coastal Circulation Program and the Observation, Analysis and Prediction Program. These programs gather tidal and water level data necessary for accurate charts and tide prediction tables and for baseline figures for use in sea level change research.

The Estuarine and Coastal Assessment work is done through the Office of Ocean Resources Conservation and Assessment. The Office maintains the National Estuarine, Coastal Wetlands and Coastal Pollution Discharge Inventories, and systems for accessing the data contained in these inventories. The National Status and Trends Program, which monitors concentrations of toxic organic compounds in marine species, is also carried out by this office.

The Coastal Ocean Program is a multi-disciplinary effort by various NOAA line offices aimed at improving the scientific basis for policy and management decisions.

*Ocean and coastal management*

The Office of Ocean and Coastal Resources Management oversees the Coastal Zone Management Act (CZMA) and the National Marine Sanctuaries Act. Twenty-nine States have approved coastal zone management plans. The Office also oversees the 22 national estuarine research reserve programs, and 14 national marine sanctuaries.

The coastal zone management program provides States with incentives to develop coastal zone management plans that meet broad Federal guidelines. States with approved Federal plans are eligible for Federal grants and more importantly, are given the right to review proposed Federal actions for "consistency" with State plans.

The State coastal zone management programs and the national estuarine research reserve programs are authorized under CZMA, which expires this year. The Act was originally passed in 1972. The marine sanctuaries program is up for reauthorization next year.

*National Marine Fisheries Service (NMFS)*

The National Marine Fisheries Service (NMFS) is responsible for the management of marine and anadromous fisheries in the United States Exclusive Economic Zone (EEZ). Fisheries in the EEZ are managed under the Magnuson Fishery Conservation and Management Act, which provides authority for Federal fishery management plans and the Regional Fishery Management Councils that prepare those plans. The agency also implements portions of the Endangered Species and the Marine Mammal Protection Acts.

NMFS assists States in conducting multi-state management efforts under the Anadromous Fish Conservation Act, the Interjurisdictional Fisheries Act, and the Atlantic States Cooperative Fisheries Management Act. NMFS also implements NOAA's Marine Fisheries Program Authorization Act. The Act authorizes NMFS' general marine fisheries activities including research, hatchery operations, fishery management plans, habitat conservation, protected species management, product quality and grants to States for improving management of interstate fisheries.

*Oceanic and Atmospheric Research (OAR)*

OAR programs provide the research and technology development necessary to improve NOAA services and provide the scientific basis for national policy decisions. Research is conducted by NOAA and university scientists through a network of 11 Environmental Research Laboratories, 29 Sea Grant programs, 6 Undersea Research Centers, and 8 cooperative laboratories with universities.

In FY 1995, roughly \$167 million of the OAR budget went to Climate and Air Quality Research and Atmospheric Programs, and \$97 million went to marine prediction research, Sea Grant, and the National Undersea Research Program.

In providing authority for a coastal ocean studies program on the role of ocean circulation in coastal ocean processes affecting South

Florida's ecosystems and fisheries, it is the Committee's intent to enable NOAA to advance the integration of two vital and continuing NOAA initiatives—the Southeast United States and Caribbean Fisheries Oceanographic, Collaborative Investigation and the South Florida Pollution Prevention Research Center. The Committee intends that these two initiatives be implemented as an integrated program through the Rosenstiel School of Marine and Atmospheric Science.

*The NOAA Commissioned Officer Corps and the NOAA Fleet*

*The corps*

The 350-plus member NOAA Commissioned Officers Corps is responsible for the agency's fleet and airplane operations. The Corps was established as part of the U.S. Navy in 1917, but soon operated as an independent agency, the Coast and Geodetic Survey. The Survey was transferred to the Department of Commerce and then in 1970 to NOAA, when that agency was created. Corps officers (there are no enlisted Corps members) get military rather than civilian personnel benefits. The officers rotate through shoreside posts between sea and air operational assignments.

Programs of the Corps argue that their personnel costs are equivalent to the cost of civilian employees, and that their service throughout NOAA's line offices provides the agency with much needed program integration. Opponents of the Corps believe that military benefits are not justified by their job requirements, and that Corps members run up NOAA's personnel costs unnecessarily. In fact, in 1990 the Department of Commerce Inspector General concluded that NOAA Corps personnel assigned to shore-based management and technical support duties were "far more costly than the use of equivalent civilian personnel"—59 percent more.

In addition, the Department of Commerce General Counsel recently stated that the Department plans to eliminate the Corps as part of its effort to streamline and reinvent services under the National Performance Review.

*NOAA fleet*

NOAA maintains an active fleet of 18 oceanographic, fishery research and hydrographic vessels which provide NOAA with 3,500 days at sea. Most of these vessels are reaching the end of their useful life, and NOAA has been studying the fleet's future for several years. In 1993, NOAA submitted to Congress an ambitious 15-year fleet replacement and modernization plan with an estimated cost of \$1.9 billion. The Administration has not requested or received adequate funds to implement that plan.

Under the terms of the plan, NOAA should have completed three vessel conversions, two ship-life extensions, and begun construction on two new vessels by the end of FY 1996. At current spending levels, NOAA will have finished one conversion and one ship-life extension by the end of FY 1996, and will have built one vessel by the end of FY 1997.

Funding realities have led NOAA to revise the 1993 plan and look seriously at chartering alternatives to meet their research days-at-sea needs. The new plan is now under review at the Com-

merce Department, and is expected to be significantly different from the 1993 plan. It is expected to call for fewer days at sea, significantly more contracting for services, and a much lower overall price tag than the current plan.

The Federal Government also contributes to a second oceanographic fleet which is run by the University-National Oceanographic Laboratory System (UNOLS). This consortium of 56 universities and research institutions coordinates the activities of the Nation's academic research fleet. UNOLS operates 25 vessels ranging in length from a 60-foot coastal research ship to vessels nearly 300 feet in length, capable of high latitude, open ocean research. Most of these vessels were originally purchased by the Navy or the National Science Foundation, and are operated by individual institutions with funding provided through research grants, mainly from the National Science Foundation.

The Navy is currently building two new general purpose oceanographic research vessels over 200 feet in length, which will be turned over to UNOLS institutions for operation. Although one or more UNOLS vessels may be retired when the new vessels are operational, the UNOLS fleet's open ocean research capacity may still exceed demand for ship time in the coming years, particularly if ocean research funding decreases.

#### COMMITTEE ACTION

H.R. 1815 was introduced on June 13, 1995, by Congressman Rohrabacher. The bill was referred to the Committee on Science, and in addition to the Committee on Resources. Within the Resources Committee, the bill was referred to the Subcommittee on Fisheries, Wildlife and Oceans.

On February 16, 1995, the Subcommittee held a hearing on the National Oceanic and Atmospheric Administration FY 1996 budget request. Testimony was received from the Honorable D. James Baker, Under Secretary for Oceans and Atmosphere, Department of Commerce.

On June 15, 1995, the Subcommittee held an oversight hearing on the National Oceanic and Atmospheric Administration in anticipation of action on NOAA authorizing legislation. Testimony was received from NOAA, the Consortium for Oceanographic Research and Education, the Ocean Studies Board of the National Research Council, the National Fisheries Institute, the Center for Marine Conservation, and the American Pilots' Association.

On September 13, 1995, the Resources Committee met to mark up H.R. 1815. The Subcommittee on Fisheries, Wildlife and Oceans was discharged from consideration of the bill by voice vote. Chairman Don Young offered a substitute amendment authorizing fishery, coastal and ocean programs within NOAA that are not otherwise authorized for FY's 1996 and 1997 and making other changes to NOAA operations.

Mr. Farr offered an amendment to the Young amendment to prevent the closing of the Ocean Applications Branch before FY 2000, or the date at which it fully funds its operations through user fees, whichever comes first. The amendment was adopted by voice vote.

The Young amendment, as amended, was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives.

#### SECTION-BY-SECTION ANALYSIS

Section 1 lists the short title as the National Oceanic and Atmospheric Authorization Act of 1995.

Section 2 defines terms used in the Act.

Title I authorizes selected programs in the National Ocean Service.

Section 101 authorizes the mapping, charting and geodesy functions at \$58.5 million for FY 1996, the level in the House-passed Department of Commerce appropriation bill, and at \$63 million for FY 1997. The section also authorizes \$50.5 million for observation and assessment functions for FYs 1996 and 1997. Of that amount, \$5 million is authorized for the Coastal Ocean Program. These levels also reflect House-passed appropriations levels.

Section 102 authorizes Ocean and Great Lakes Research at the House-passed appropriations level of \$13 million for FY 1996 and 1997.

Section 103 authorizes the National Undersea Research Program at a total of \$18 million for FY 1996 and 1997. This is the FY 1995 appropriated level.

Title II authorizes NOAA marine fishery programs that are not otherwise authorized. Programs authorized under the Marine Fisheries Program Authorization Act are authorized for FYs 1996 and 1997 at the total House-passed FY 1996 appropriations level of \$90 million. NOAA's Chesapeake Bay Office is also reauthorized for FYs 1996 and 1997.

Title III contains several miscellaneous provisions.

Section 301 authorizes program support at \$60 million for FYs 1996 and 1997, construction for \$43 million in FY 1996 and such sums as may be necessary in FY 1997, and Marine Services at \$60 million for FYs 1996 and 1997. The FY 1996 funding amounts all reflect the House-passed FY 1996 appropriated level.

Section 302 conveys a National Marine Fisheries Laboratory at Gloucester, Massachusetts, to the Commonwealth of Massachusetts.

Section 303 directs the Secretary of Commerce to clean up lands transferred to non-Federal owners under the Fur Seal Act.

Section 304 requires that any additional ships brought into the NOAA fleet must have specific Congressional authorization. The Administrator is to acquire data to carry out NOAA functions through contracts for services and use of University National Oceanographic Laboratory System vessels, rather than through NOAA-owned vessels, unless he can prove that the NOAA-owned vessels are more cost effective. Excess NOAA vessels are to be transferred to the Maritime Administration and scrapped.

Section 305 terminates the National Oceanic and Atmospheric Administration Corps of Commissioned Officers by the end of FY 1997. The Committee does not intend by abolishing the NOAA Corps to also affect the wage mariners who currently operate the NOAA ships, but expects NOAA to continue to utilize these mariners for those vessels retained and operated by the agency. It is

also not the Committee's intent to abrogate any existing retirement benefits or privileges to which Corps officers are entitled under current law and will seek clarifying language to that effect before H.R. 1815 is considered by the full House of Representatives.

Section 306 terminates low priority, duplicative or superseded programs.

Section 307 repeals laws which are duplicative, have received little or no funding, have been superseded, or are not national priorities.

Section 308 directs the Administrator to develop a revised budget structure which gives Congress budget information in a more useful form.

Section 309 authorizes South Florida Coastal Ocean Studies at \$1.35 million for each of FYs 1996 and 1997.

Section 310 prohibits the closure of the Oceans Applications Branch before FY 2000, or the date at which the Branch is able to fully fund its operations through user fees, whichever comes first.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1815 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1815. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1815 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1815.

3. With respect to the requirement of clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1815 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 27, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has not yet completed our review of H.R. 1815, the National Oceanic and Atmospheric Administration Authorization Act of 1995, as ordered reported by the House Committee on Resources on September 13, 1995. On a preliminary basis, we estimate that enacting H.R. 1815 would increase direct spending; therefore, pay-as-you-go procedures would apply to the bill. However, the increase in direct spending would be less than \$500,000 and would be a one-time event in either 1996 or 1997.

The bill specifies authorizations of appropriations of about \$395 million for fiscal year 1996, about \$400 million for fiscal year 1997, and about \$450,000 for fiscal years 1998 through 2000. In addition, CBO estimates that the bill authorizes spending for additional activities that would cost up to \$50 million over the 1996–2000 period. Assuming appropriations of all amounts authorized, we estimate—on a preliminary basis—that NOAA spending authorized by H.R. 1815 would total about \$810 million over the 1996–2000 period.

CBO will provide a final cost estimate for H.R. 1815 as soon as our review of the bill is complete. If you wish further details on this preliminary estimate, we will be pleased to provide them. The CBO staff contact is Gary Brown.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill).

DEPARTMENTAL REPORTS

The Committee received a report on H.R. 1815 from the Department of Commerce on September 8, 1995. No other reports have been received on H.R. 1815.

GENERAL COUNSEL OF THE UNITED STATES  
DEPARTMENT OF COMMERCE,  
*Washington, DC, September 8, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: This letter responds to your request for views on H.R. 1815 as reported by the House Science Committee. H.R. 1815 would authorize appropriations for the National Oceanic

and Atmospheric Administration (NOAA) for fiscal year 1996. Our views concerning the programs within the jurisdiction of the Resources Committee, primarily fisheries and oceanic issues, are included in an enclosure. The Department's views regarding programs within the Science Committee's jurisdiction are contained in a June 19th letter, also enclosed.

The Department is seriously concerned that the authorization levels are inconsistent with the President's FY 1996 budget request and will cripple NOAA's principal missions to predict, observe, measure, assess and chart the oceans and their resources, and to protect lives, property and the economy associated with ocean resources. For example, H.R. 1815 would authorize appropriations of no more than \$1,692,470,000 for activities associated with Operations, Research and Facilities, whereas the President's FY 1996 budget request was for \$2,097,835,000.

Congress faces difficult decisions in reducing the Federal budget deficit. Reductions should not sacrifice our ability to provide decisionmakers with sufficient, sound, technical information to formulate national and regional policy concerning ocean and climate issues. At risk are important services that directly affect the Nation: managing marine fisheries to maximize economic benefits; protecting citizens and their property from storm surge and coastal erosion; predicting the consequences of climate phenomena such as El Nino; and reducing by one-third the approximately \$1 billion in losses annually resulting from navigation mishaps.

The Department looks forward to working with you and your staff to improve this legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

KATHLEEN AMBROSE  
(For Ginger Lew).

DEPARTMENT OF COMMERCE COMMENTS—NOAA AUTHORIZATION ACT  
OF 1995

*National Marine Fisheries Service (NMFS)*

*Marine fisheries programs*

We recommend that H.R. 1815 be amended to reflect the priorities and funding levels in the President's FY 1996 budget concerning marine fishery programs.

H.R. 1815, as reported by the House Science Committee, does not provide for adequate authorizations for NMFS programs. While the Science Committee does not have jurisdiction over NMFS programs, the bill reported by the Committee contains authorizations for NMFS that would be below the FY 1993 level and \$105 million less than the level requested for FY 1996. Separate authorizations for NMFS programs included in the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act would also be impacted by H.R. 1815.

Authorization levels for NMFS programs consistent with the President's budget request are critical to ensure adequate management of the Nation's \$3.5 billion commercial fishing industry, en-

force fisheries regulations to prevent overfishing, and rebuild depleted stocks to healthy levels. The authorization levels described below are particularly important to protecting and restoring marine and coastal habitats, managing of anadromous and interjurisdictional fisheries, and improving the quality and safety of fishery products for human consumption. Finally, the authorization levels resulting from H.R. 1815 would require the closure of a number of fisheries labs and science centers around the country as well as Columbia River hatcheries important to the Northwest salmon fishery.

We suggest that the Resources Committee amend H.R. 1815 to authorize appropriations for NMFS programs described below. Specific draft language is provided at Tab A.

1. The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (97 Stat. 1409; Public Law No. 98-210, as amended).

This Act authorized NMFS fisheries programs not otherwise authorized by other laws, such as the Magnuson Act, Endangered Species Act, and Marine Mammal Protection Act. It provides appropriations authorizations for fisheries conservation and management operations, fisheries information collection and analysis, and fisheries state and industry assistance programs. Examples include development of habitat restoration techniques, dissemination of scientific data, market development for fishery products, restoration of the Chesapeake Bay, and conservation of Antarctic living marine resources.

2. The Anadromous Fish Conservation Act (16 U.S.C. §§757a-757g; Pub. L. No. 89-304).

This Act authorizes the Secretary of Commerce, the Secretary of the Interior, or both, to enter into cooperative agreements for the purpose of protecting anadromous and Great Lakes fishery resources. The Secretary of Commerce cooperates with States as well as other non-Federal interests for the purposes of implementing the Act.

3. The Interjurisdictional Fisheries Act of 1986 (16 U.S.C. §§4101-4107; Pub. L. No. 99-659).

This Act authorizes the Secretary of Commerce to apportion money to the states for use in the development of research programs to enhance the management of interjurisdictional fisheries throughout their range. Additionally, emergency assistance programs were conducted under this Act for recent resource disasters in the Northeast and Northwest.

#### *National Ocean Service*

##### *Mapping, charting, and geodesy*

As approved by the House Science Committee the funding for Mapping, Charting and Geodesy contained in H.R. 1815, Subsections 201 (a) and (b), would be \$3.437 million below the level requested in the President's FY 96 budget. As a result, this would delay implementation of improvements to NOAA's aids to navigation that would in the long run increase efficiency and better meet user needs, such as conversion to digital nautical charts. Plans to conduct much needed surveys in areas in and around leading ports

and harbors would be hampered and some surveys would not be completed. The ability of the Nation to advance its competitive position in international trade would be directly impacted because U.S. ports would be increasingly less attractive due to outmoded charts and a failure to commit to the next-generation technology already being employed by others in the international maritime community. In addition, this would adversely impact U.S. exports such as coal because in the absence of accurate knowledge of depth, tides and currents, ships must carry lighter loads, thereby increasing the cost of U.S. goods through greater shipping costs. Finally, a failure to support the modernization of these functions places coastal communities at increased risk of major environmental disasters from collisions and spills of hazardous materials.

*Observation and assessment*

The authorization of appropriations is inadequate and below the level recommended by the President's FY 1996 budget.

*Section 201(c)—Observation and prediction*

The National Ocean Service houses the National Water Level Observation System and produces the Nation's only source of tide and current information. NOS has been upgrading historical systems with new real-time monitoring devices. The proposed reductions would impede the ability of NOS to complete this upgrade. (NOS has had to withdraw tide and current predictions for some areas until upgrades are completed because older systems are no longer accurate.) These systems are used to provide data on tsunami and storm-surge warnings, real-time data for ports and harbors, data for calculating land-sea boundaries, and data for scientific research. User groups that would be affected include Nautical Charting, the National Weather Service, the U.S. Coast Guard, the Army Corps of Engineers, the Defense Mapping Agency, the Department of Justice, state and local governments, port authorities, pilot associations, shipping firms, oceanographic researchers and 20 million recreational boaters.

*Section 201(d)—Estuarine and coastal assessment*

Overall, Estuarine and Coastal Assessment would be reduced by 35 percent. The Ocean Assessment Program would be cut by 74 percent. Such cuts imply that monitoring the health of our Nation's coastal and ocean waters is unimportant. This is contrary to all of the scientific evidence that demonstrates the vast majority of commercial and recreational fish depend upon healthy coastal waters as hatcheries and nurseries for their young. In addition to the fishing industry, the booming coastal tourism industry is dependent on clean coastal environments to attract people to the shore. The transboundary nature of coastal waters and rivers that wind down to coastal estuaries requires a national effort to sustain healthy coasts.

The Center for Coastal Ecosystem Health's program activities would receive no funds under H.R. 1815 although the President's FY 96 budget request was for \$10 million. The Center provides science-based information and tools to state and local managers to improve the scientific basis for permitting decisions. In an era

when Congress is promoting the use of the best science to perform risk analysis and evaluate the cost/benefits of projects, it seems particularly inappropriate to reduce the Center's funding.

*Ocean and coastal management*

H.R. 1815 fails to authorize appropriations for Coastal Zone Management, the National Estuarine Research Reserve System (NERRS) or National Marine Sanctuaries. These programs fall outside the jurisdiction of the Science Committee. However, funding should be authorized by the Resources Committee.

The Coastal Zone Management Act (CZMA), for which Rep. Saxton has recently introduced reauthorization legislation (H.R. 1965), provides the kind of voluntary federal/state partnerships so many in Congress are trying to achieve. The Department recommends that section 201 of H.R. 1815 be amended to include a new paragraph (e), "Ocean and Coastal Management", to authorize appropriations of \$58,851,000 as requested in the President's budget to continue the CZM and NERRS programs.

Under the CZMA, the federal government, realizing it has a tremendous stake in primarily state-managed coastal areas, offers direct grants and other provisions to participating states. The states implement their own management programs aimed at balancing federal, state and local interests. States match federal funds received under the CZMA dollar for dollar. To further enhance state authority, the CZMA assures states that once they have instituted an approved coastal management program, most federal or federally permitted activities will be reviewed by the state to ensure consistency with the state plan.

The CZMA includes the National Estuarine Research Reserve System. Federal funding for each of the 22 NERRS sites amounts to less than \$150,000 per year. The sites serve as living laboratories that are studied by students of all ages from preschool to doctoral candidates. Many NERRS have cultivated groups of local volunteers to assist in educational and other Reserve activities. The success of NERRS is demonstrated by the continued interest from state governors in establishing NERRS in their states. Most recently Alaska has requested three sites be considered for designation.

In short, the CZMA encourages balancing stewardship with developmental needs without imposing burdensome federal regulations. It empowers states and local communities to take responsibility for the management and wise use of their coastal resources. It is a partnership that works.

In addition, a new paragraph (f), authorizing appropriations as requested in the President's budget of \$12,371,000 for the National Marine Sanctuaries Programs, should be added to section 201 of H.R. 1815. The sanctuary program encompasses thousands of square miles of treasured national marine environments and living resources. Funding is essential for continuing this program that leading oceanographers and many citizens have called one of the best ideas the Nation has ever had.

*Oceanic and atmospheric research**National Sea Grant College program*

Section 202(b) of the NOAA Authorization Act of 1995 would destroy the concept of Sea Grant as the bridge between universities and users in coastal communities, industry, government, and non-profit organizations. This section would drastically reduce Sea Grant's authorized funding level as well as amend the Sea Grant College Program Act to require the program to focus exclusively on scientific research. Although we agree with the level of support provided for the research component of Sea Grant, this legislation would eliminate vital education and outreach programs. By repealing the authority to perform these functions and by failing to authorize appropriations for such activities, the bill would destroy all efforts to develop a strong educational base and to carry out prompt dissemination to users of knowledge and techniques resulting from Sea Grant research. Provisions of H.R. 1815 that remove the education and outreach components would eliminate the ability of Sea Grant to transfer the research results to the user community, the exact group that has the research need and enjoys the benefits. Until the creation of Sea Grant's extension network, no mechanism existed which could bridge the gap between marine sciences research and coastal industries and residents. Sea Grant educational activities reach across the complete spectrum including graduate education, direct technology transfer from research to industry, upgrading skills through science teacher training and extension, and improving math and science skills at the K-12 level. Together, outreach and education are the keys to ensuring the broadest benefit of the research. Amendments to address the Department's concerns are attached (see Tab B).

This bill would jeopardize the ability of the Sea Grant programs to secure legislatively required matching funds and thus the leveraging ability of the Sea Grant program. Finally, this change would seriously cripple national progress in solving critical problems facing our Nation's fisheries, increasing seafood production through aquaculture, and developing new technologies and products to spur economic growth in the coastal zone. With over 50 percent of the U.S. population now residing in coastal areas, Sea Grant is needed more than ever.

*Marine prediction research*

Section 202(a) would authorize appropriations for marine prediction research at a level approximately \$1.2 million below amounts requested in the President's budget. This decrease would significantly hinder OAR's tsunami research which, as part of the Coastal Hazards element of NOAA's Coastal Ocean Program, seeks to mitigate tsunami hazards to Hawaii, California, Oregon, Washington, and Alaska. Research efforts involve three coupled programs—instrumental, observational, and modeling—which are designed to improve our fundamental understanding of tsunami generation, propagation, and inundation dynamics. The decrease would also result in significant cuts in marine prediction programs at the Great Lakes Environmental Research Laboratory (GLERL) by causing critical cutbacks in models for simulating hydrological

processes in the Laurentian Great Lakes that allow for improving hydrological forecasts and for assessing hydrological impacts associated with climate and other changes. These models are the basis for the Great Lakes component of the NWS Water Resources Forecasting System. The authorization of appropriations in section 202(a) should be revised to be consistent with the President's budget request of \$14,984,000.

*VENTS program*

The President's FY 1996 budget requests continued support of \$2,499,000 for the VENTS program through the climate and global change program. The Department, therefore, opposes section 401(a)(15) which would terminate funding for the program. VENTS has a long list of scientific successes including the discovery that submarine volcanic eruptions are much more common than previously known. Associated discoveries have demonstrated how these eruptions have ocean environmental impacts which affect the chemical and thermal state of the global ocean over varying time scales. Additionally, technology development in support of VENTS has produced many technological "spinoffs" beneficial to the Nation (e.g., acoustically monitoring the entire Pacific Basin for volcanic events and marine mammal activity).

*Office of NOAA corps operations*

*Fleet Replacement and Modernization (FRAM)*

Section 401(a) would prohibit funds from being appropriated for the FRAM account. The President's budget requests \$23 million for FY 1996. These funds are essential. They support maintenance of the current NOAA fleet of vessels and long-range preparations for the replacement of these aging vessels with appropriate owned, leased or chartered vessels. Without these funds in FY 96, NOAA would be unable to complete critical repairs to the DISCOVERER and OREGON II. Current NOAA ship operations would be severely impacted, resulting in the loss of important fisheries, hydrographic, and research data needed to support fisheries management, nautical charting and climate research.

Section 401(d) would repeal the NOAA Fleet Modernization Act, which provides legal authority for NOAA to modernize its aging fleet. If this legal authorization were repealed, critical data collection platforms for fisheries stock assessments, oceanographic and marine mammal data collection, and hydrographic surveys for safe ship navigation would be jeopardized. Without a modernized fleet, NOAA would be unable to meet its statutorily mandated responsibilities in these areas. In addition, if this Act were repealed, NOAA would lose its authority to lease vessels on a multiyear basis to satisfy NOAA days-at-sea requirements and its authority to enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist NOAA in fulfilling its missions. NOAA requires the authorization to make multiyear contracts in order to complete its statutorily mandated responsibility.

*NOAA corps streamlining or elimination*

Section 403 would reduce the size of the NOAA Corps from a maximum of 369 in FY 1996 to 100 in FY 1997, 50 in FY 1998, and zero after FY 1998. In the context of the National Performance Review, the Department of Commerce proposes to eliminate the NOAA Corps as part of its effort to streamline and reinvent services within the Department. Therefore, the Department considers section 403 to be unnecessary and overly restrictive. We recommend that section 403 be deleted.

*Natural resources*

Section 201(d)(3) would authorize \$585,000 to carry out the Damage Assessment Program for FY 1996. If the authorization for damage assessment remains at \$585,000 instead of the President's request of \$4.5 million, NOAA would be required to dismantle its Natural Resource Damage Assessment and Restoration Program (DARP) beginning in FY 1996. If the DARP is phased out in FY 1996, explicit Congressional mandates assigned to the Secretary of Commerce under the Comprehensive Environmental Response, Compensation, and Liability Act and the Oil Pollution Act would not be addressed. Injuries to the Nation's marine and coastal resources from hazardous material releases and oil spills would continue and important trust resources would not be restored.

Working with co-trustees, NOAA has recovered more than \$140 million in restoration funds with an investment of just under \$10 million in appropriated monies. This represents a return of more than \$10 for the restoration of injured coastal and marine habitats for every tax dollar spent. We therefore recommend that authorization levels be revised to match the President's FY 1996 budget.

*High-Performance Computing and Communications (HPCC)*

Reducing the HPCC program to the \$1 million level would leave NOAA unable to use advanced high-performance computing technology to develop improved weather forecasting and other models. The high-performance computer system just acquired for the Geophysical Fluid Dynamics Lab would have to be returned, since funds to support its continued lease and use would not be available. NOAA would have to retrench in its use of computer networking, substantially reducing public and private access to the real-time and historical environmental data NOAA makes available to the Nation.

*Program and account terminations*

Subsection 401(a) of the bill prohibits appropriation of funds for, and thus terminates, 19 specific programs and budget accounts. Although NOAA supports the termination of the majority of the programs, the time frame which requires the Secretary to certify to the Congress within 60 days of enactment that the listed programs and accounts would be terminated by September 30, 1995, is a problem. As a practical matter, this schedule is impossible to meet—for termination of programs funded in the President's FY 96 budget, additional time would be needed to close accounts and wind up program activities and obligations. In addition, section 401(a)(5)

would delete “\* \* \* Weather Modernization Grants”. Presumably this should read, “Weather modification grants.”

*Program support*

Subsections 301(a) and (b) would reduce program support accounts by \$7 million. This would hamper NOAA’s capabilities in human resource management, grants and procurements, financial management, public affairs, legislative affairs and administrative service center functions. This reduction would require either a massive reprogramming of funds, or a reduction-in-force of over one hundred employees.

*Limitation on appropriations*

Subsection 402(a) provides that no funds are authorized to be appropriated for any fiscal year after FY 1996 programs for which funds are authorized by this bill. This provision could subject appropriations for NOAA in FY 1997 to a point of order challenge under the Rules of the House of Representatives. During the past two decades, Congress has only infrequently passed omnibus legislation explicitly authorizing appropriations for NOAA. The provision, therefore, appears to needlessly jeopardize future funding for NOAA’s programs.

Subsection 402(b) would authorize appropriations of no more than \$1,692,470,000 in FY 1996 to enable NOAA to carry out all activities associated with Operations, Research and Facilities, whereas the President’s FY 1996 budget requests were \$2,105,235,000.

*Financial assistance eligibility*

Section 504 of H.R. 1815 would exclude from eligibility for NOAA financial assistance for five years, any person who had received non-competitive federal funding, except for persons receiving formula grants. We interpret section 504 to apply solely to Federal assistance awards, and not to procurement contracts or other reimbursable agreements. The term “person” appears to refer to an individual. If the term “person” includes all entities that receive Federal assistance (e.g. institutions and universities), then the section could severely impede NOAA’s ability to provide the scientific and academic communities with support to conduct highly specialized research. Also, the section appears to conflict with certain statutes (e.g. 15 USC 1539) which mandate that NOAA make awards to selected recipients.

A number of statutes already require NOAA to maintain merit-based competitive awards. Pursuant to the Federal Grant and Cooperative Agreement Act of 1977, the Department of Commerce generally requires discretionary grants to be made on the basis of competitive review. In addition, the Federal Acquisition Streamlining Act of 1994 states a preference for merit-based selection procedures for making awards.

Accordingly, NOAA sole source awards are made on a limited basis and must be justified. NOAA reviews all sole source awards to ensure strict compliance with one of the following factors: (1) a sole applicant with particular capabilities; (2) a sole applicant that possesses specialized facilities and/or equipment; (3) the grantee

makes a substantial investment; (4) a sole applicant holds the patent, data or copyright; (5) time is of the essence and a sole source can meet the Department's needs; and, (6) a clear advantage exists in continuing a previous effort.

The discretion to make sole source awards is vital to NOAA's mission. Section 504 would eliminate all discretion to make these awards and undermine NOAA's ability to address the needs of the scientific, academic, and environmental communities in an efficient manner. In particular, NOAA/University partnerships would suffer. Under these partnerships, government and academia serve as a focal point in facilitating and enhancing long-term, peer-reviewed scientific research through their substantial collaboration, nationally as well as internationally. Under section 504, NOAA would risk losing top notch researchers because they will not "risk" having one year jobs if proposals are competed for every year. While NOAA's research is far reaching in many ways, it also needs to be closely coordinated with other research. Co-location of NOAA and university expertise cannot readily be duplicated elsewhere. Under section 504, NOAA would almost certainly lose its valuable dialogue and credibility with the academic research community. The Department therefore strongly recommends that section 504 be deleted.

*Prohibition of funding for activities whose purpose is to influence pending legislation*

Section 505 provides that except for certain communications by officers or employees of the United States to members of Congress, through the proper channels, "none of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress." The Department notes that an existing criminal statute, 18 U.S.C. §1913, enacted in 1919, directly prohibits the use of appropriated funds to "be used directly or indirectly to pay for any personal service, advertisement \* \* \* or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member of Congress through the proper official channels, request for legislation or appropriations which they deem necessary for the efficient conduct of the public business."

In addition, the Department is subject to an annual appropriations act restriction similar to those applicable to virtually all Federal agencies, which prohibits appropriated funds from being used for "publicity or propaganda purposes not authorized by Congress." Title VI, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, Pub. L. No. 103-317, §601 (Aug. 26, 1994), 108 Stat. 1773. These laws have historically formed the basis for Federal agency practice, and have proved quite adequate over the years.

Because current law already provides such restrictions on the use of funds by Federal agencies, section 505 is duplicative and

therefore unnecessary. Therefore, the Department recommends that section 505 be deleted.

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**NOAA MARINE FISHERIES PROGRAM AUTHORIZATION  
ACT AMENDMENT**

**SEC. . AUTHORIZATION OF APPROPRIATIONS.**

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law No. 98-210; 97 Stat. 1409) is amended—(a) in section 2(a)—

(1) by striking “and” immediately after “1992” and inserting a comma; and

(2) by inserting immediately before the period at the end “, \$51,207,000 for fiscal year 1996, and such sums as may be necessary for fiscal years 1997 and 1998”;

(b) in section 3(a)—

(1) by striking “and” immediately after “1992” and inserting a comma; and

(2) by inserting immediately before the period at the end “, \$32,038,000 for fiscal year 1996, and such sums as may be necessary for fiscal years 1997 and 1998”; and

(c) in section 4(a)—

(1) by striking “and” immediately after “1992” and inserting a comma; and

(2) by inserting immediately before the period at the end “, \$17,131,000 for fiscal year 1996, and such sums as may be necessary for fiscal years 1997 and 1998”.

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**ANADROMOUS FISH CONSERVATION ACT AMENDMENT**

**SEC. . AUTHORIZATION OF APPROPRIATIONS.**

The Anadromous Fish Conservation Act (Pub. L. No. 89-304, 16 U.S.C. §757d) is amended by inserting in subsection (a) after the words “and 1995.” the following: “(3) \$2,358,000 for fiscal year 1996, and such sums as may be necessary for fiscal years 1997 and 1998.”

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**THE INTERJURISDICTIONAL FISHERIES ACT  
AMENDMENT**

**SEC. . AUTHORIZATION OF APPROPRIATIONS.**

The Interjurisdictional Fisheries Act (Pub. L. No. 99-649, 16 U.S.C. §4107) is amended by inserting before the period in subsection (a) the following: “; \$3,650,000 for fiscal year 1996; and such sums as may be necessary for fiscal years 1997 and 1998”.

NATIONAL SEA GRANT COLLEGE PROGRAM

*Section 202(b)(1) Amend to read*

There are authorized to be appropriated to carry out sections 205 and 208 and the Small Business Innovative Research Program \$49,400,000 for fiscal year 1996.

*Rationale*

This authorization level supports the President's FY 1996 request. The Small Business Innovative Research Program contribution should not be taken from the funding for NOAA administrative support. Payment of the SBIR set-aside from the administrative support funds would seriously compromise NOAA's ability to effectively manage Sea Grant.

*Section 202(b)(2)*

Delete \$1,500,000 and substitute \$2,900,000.

*Rationale*

This modification retains the funding for administrative costs for NOAA administrative support at \$2.9 million.

*Section 202(b)(3)*

Delete.

*Rationale*

This section would eliminate Sea Grant's Education and Outreach functions.

*Section 401(c)(1)(A)*

Delete.

*Rationale*

This language would repeal the Knauss Fellowship program.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION MARINE FISHERIES PROGRAM AUTHORIZATION ACT**

AN ACT To consolidate and authorize certain marine fishery programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act".*

\* \* \* \* \*

FISHERIES INFORMATION COLLECTION AND ANALYSIS

SEC. 2. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries Information Collection and Analysis duties under law, \$47,933,000 for fiscal year 1992 [and],

\$59,162,000 for fiscal year 1993, \$45,000,000 for each of fiscal years 1996 and 1997. These moneys shall be used to fund those duties relating to fisheries information collection and analysis specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), and the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.), and any other law involving such duties. These duties include, but are not limited to, collection analysis and dissemination of scientific data necessary to manage: marine fishery resources, marine mammals, endangered species, and their habitats.

\* \* \* \* \*

(e) Of the sums authorized under subsection (a) of this section, no more than \$2,500,000 are authorized to be appropriated for each of the fiscal years ~~1992 and 1993~~ 1996 and 1997 to enable the National Oceanic and Atmospheric Administration to ~~establish~~ operate the Chesapeake Bay Estuarine Resources Office under section ~~306~~ 307 of the National Oceanic and Atmospheric Administration Authorization Act of ~~1991~~ 1992. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.

\* \* \* \* \*

FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS

SEC. 3. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its fisheries conservation and management operations duties under law, \$27,290,000 for fiscal year 1992 ~~and~~, \$35,594,000 for fiscal year 1993, \$27,000,000 for each of fiscal years 1996 and 1997. These moneys shall be used to fund those duties relating to fisheries conservation and management operations specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), and the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.), and any other law involving such duties. These duties include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources; including hatchery operations, fishery management plan activities, habitat conservation, and protected species management.

\* \* \* \* \*

FISHERIES STATE AND INDUSTRY ASSISTANCE PROGRAMS

SEC. 4. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its fisheries State and industry assistance program duties under law, \$12,182,000 for fiscal year 1992 ~~and~~, \$18,838,000 for fiscal year 1993, \$18,000,000 for each of fiscal years 1996 and 1997. These moneys shall be used to fund those duties

specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law affecting State and industry fisheries assistance. These duties include, but are not limited to, financial assistance for fishing boats and fish processing plants, market development for fishery products, product quality and grants to States for improving management of interstate fisheries and stimulating fishery development.

\* \* \* \* \*

### **COAST AND GEODETIC SURVEY COMMISSIONED OFFICERS' ACT OF 1948**

AN ACT To provide for the distribution, promotion, separation, and retirement of commissioned officers of the Coast and Geodetic Survey, and for other purposes

*【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### 【SHORT TITLE

【SECTION 1. That this Act may be cited as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948".

#### 【AUTHORIZED NUMBERS IN GRADES

【SEC. 2. (a) Of the total authorized number of commissioned officers on the active list of the Coast and Geodetic Survey, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in the proportion of eight in the grade of captain, to fourteen in the grade of commander, to nineteen in the grade of lieutenant commander, to twenty-three in the grade of lieutenant, to eighteen in the grade of lieutenant (junior grade), to eighteen in the grade of ensign.

【(b) Whenever a final fraction occurs in computing the authorized number of officers in any grade, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken: *Provided*, That the total number of officers as authorized by law shall not be increased as the result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

【(c) No officer shall be reduced in grade or pay or separated from the active list as the result of any computations made to determine the authorized number of officers in the various grades.

【(d) Nothing in this section shall be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

【(e) The total number of officers on active duty as authorized by law may be temporarily exceeded provided that the average number on active duty for the fiscal year shall not exceed the authorized number.

#### 【PROMOTION AND SEPARATION OF OFFICERS

【SEC. 3. Promotion to fill vacancies in all permanent grades above that of lieutenant (junior grade) shall be made by selection

from the next lower respective grades upon recommendation of the personnel board hereinafter provided for.

【SEC. 4. Irrespective of any vacancies, any officer in the permanent grade of lieutenant (junior grade) and lieutenant shall be considered by the personnel board for promotion to the grade of lieutenant and lieutenant commander in sufficient time so that, if found fully qualified, such officer may be promoted to and appointed in such grade upon completion of seven and fourteen years of service, respectively. All promotions under this section shall be made on the date on which the required service is completed, and the authorized number of officers in the grade of lieutenant and lieutenant commander shall be temporarily increased, if necessary, to authorize such appointments: *Provided*, That an officer found not fully qualified in accordance with this section may be promoted on such later date on which he may be found fully qualified.

【SEC. 5. Irrespective of any vacancies, any officer in the permanent grade of lieutenant commander who has completed twenty-one years of service and any officer in the permanent grade of commander who has completed thirty years of service may be considered by the personnel board at any time for promotion to the grade of commander and captain, respectively. If selected, he may be promoted at any time and the authorized number of officers in the grade of commander and captain shall be temporarily increased, if necessary, to authorize such appointments.

【SEC. 6. (a) Officers in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) on completion of three years of service, and the authorized number of officers in the grade of lieutenant (junior grade) shall from time to time be temporarily increased as necessary to authorize such appointments.

【(b) Ensigns who are found not fully qualified at any time shall have their commissions revoked and be separated from the commissioned service.

【SEC. 7. Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer below him on the lineal list, except that an officer who has lost numbers shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list.

【SEC. 8. (a) As recommended by the personnel board—

【(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

【(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

【(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

【(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier re-

tirement or separation, the date shall be as determined by the Secretary.

【SEC. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

【(b)(1) In the case of an officer who has completed five or more years of continuing active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) twelve times the monthly basic pay to which the officer was entitled at the time of separation, or \$30,000, whichever is less.

【(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than \$15,000.

【(c) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

【(d)(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

【(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed \$30,000.

【(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

【(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability

compensation was incurred or aggravated during a later period of active duty.

【SEC. 10. (a) Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

【(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

【SEC. 11. Nothing in this Act shall be construed to modify the provisions of existing law relating to examination of officers for promotion, and no officer shall be promoted until he shall have passed the prescribed examinations.

【SEC. 12. (a) Temporary appointment in the grade of ensign may be made by the President alone, provided such temporary appointment will be terminated at the close of the next regular session of the Congress unless confirmed by the Senate.

【(b) Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant junior grade by the President alone whenever vacancies exist in higher grades.

【(c) When determined by the Secretary of Commerce to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

#### 【RETIREMENT OF OFFICERS

【SEC. 13. (a) When any commissioned officer serving in a rank below that of rear admiral has attained the age of sixty years, he shall be placed on the retired list: *Provided*, That this subsection shall not become effective until a date six months subsequent to the enactment of this Act, and until such effective date the retirement age for officers serving in a rank below that of rear admiral shall be sixty-two years.

【(b) When any officer serving in a rank above that of captain has attained the age of sixty-two years, he shall be placed on the retired list: *Provided*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years.

【SEC. 14. When any commissioned officer has completed twenty years of service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed on the retired list.

\* \* \* \* \*

【SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

【(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

[(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

[(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

[(1) the retired pay base determined under section 1407 of title 10, United States Code; by

[(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

[(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

[(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as ½ of a year; and

[(B) any remaining fractional part of a month shall be disregarded.

[(2) Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

[SEC. 17. (a) Each commissioned officer heretofore or hereafter retired pursuant to any provision of law shall be placed on the retired list with the highest rank, permanent or temporary, held by him while on active duty, if his performance of duty, in the case of temporary rank, has been satisfactory as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and shall receive retired pay based on such higher rank: *Provided*, That for the purposes of this section the words "temporary rank" shall mean temporary rank held prior to June 30, 1946.

[(b) Officers on the retired list returned to an inactive status with higher rank pursuant to subsection (a) of this section shall receive retired pay based on such higher rank.

[SEC. 18. Nothing in this Act shall prevent any officer from being placed on the retired list with the highest rank and with the highest retired pay to which he might be entitled under other provision of law.

#### [PERSONNEL BOARD

[SEC. 19. At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint a personnel board consisting of not less than five officers not below the permanent rank of commander on the active list, to recommend such changes in the lineal list as the board may determine, and to make selections and recommendations for the promotion, separation, and retirement of officers as herein prescribed: *Provided*, That in case any recommendation by the board is not acceptable to the Sec-

retary of Commerce or to the President, the board shall make such further recommendations as shall be acceptable.

\* \* \* \* \*

[AMENDMENTS TO AND REPEAL OF APPOINTMENT, PROMOTION, AND RETIREMENT LAWS

[SEC. 21. (a) Section 5 of the Act of February 16, 1929 (45 Stat. 1186), as amended by the Act of March 18, 1936 (ch. 147, 49 Stat. 1164), is hereby further amended by deleting the word "not" in the third line.

[(b) Section 8 of the Act of January 19, 1942 (59 Stat. 8), is hereby amended by deleting the word "not" in the fourth line, by changing the period at the end of the section to a colon, and by adding the words "*Provided further*, That any officer, upon expiration of his appointment as Director or Assistant Director, shall, unless reappointed, revert to the grade and number that he would have occupied had he not served as Director or Assistant Director. Such officer shall be an extra number in his grade and the authorized number of ensigns shall be decreased accordingly."

[SEC. 22. (a) Sections 1, 2 (except the second proviso of section 2(b)), 3, 4, 5, and 6 of the Act of January 19, 1942 (59 Stat. 8), are hereby repealed.

[(b) The word "physicial" in the first line of section 7 of the said Act of January 19, 1942, is hereby amended to read "physical".

[SEC. 23. (a) Original appointments may be made in grades up to and including lieutenant after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary of Commerce: *Provided*, That the President, under such regulations as he may prescribe, may revoke the commission of any officer appointed under this section during his first three years of service if he is found not qualified for the service.

[(b) Any person appointed under authority of this section shall be placed on the lineal list of active duty officers in a position commensurate with his age, education, and experience in accordance with regulations prescribed by the Secretary of Commerce.

[(c)(1) For the purposes of basic pay any person appointed under this section to the grade of lieutenant or lieutenant (junior grade) shall be considered as having, on date of appointment, three years or one and one-half years service respectively.

[(2) If a person appointed under this section is entitled to credit for the purpose of basic pay under other provision of law which would exceed that authorized by subsection (c)(1) he shall be credited with that service in lieu of the credit provided by subsection (c)(1).

[SEC. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half) as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

[(b) the number of officers serving on active duty under appointments under this section may not exceed—

[(1) one in the grade of vice admiral;

[(2) three in the grade of rear admiral; and

[(3) three in the grade of rear admiral (lower half).

[(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

[(d) An appointment of an officer under this section—

[(1) does not vacate the permanent grade held by the officer;

and

[(2) creates a vacancy on the active list.

[(e) the provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.]

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### ACT OF FEBRUARY 16, 1929

CHAP. 22I. An Act To amend the Act entitled "An Act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922, as amended.

\* \* \* \* \*

[SEC. 5. That the Director of the Coast and Geodetic Survey shall be appointed and hold office as now authorized by law; his appointment shall create a vacancy, and while holding said office he shall have the rank, pay, and allowances of a Chief of Bureau of the Navy Department.]

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### ACT OF JANUARY 19, 1942

AN ACT To regulate the distribution and promotion of commissioned officers of the Coast and Geodetic Survey, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* [That the total number of commissioned officers on the active list of the Coast and Geodetic Survey shall be distributed in rank relative with officers of the Navy in the proportion of five in the grade of captain to eight in the grade of commander, to eighty-seven in the grades of lieutenant commander, lieutenant, lieutenant (junior grade) and ensign, inclusive: *Provided,* That the number of officers in the grade of lieutenant commander shall not exceed 35 per centum of the total authorized number of commissioned officers on the active list.

#### [PROMOTION OF OFFICERS

[SEC. 2. (a) Promotions to the grades of captain and commander shall be made as vacancies occur and shall be by selection from the next lower respective grades upon recommendation of the Personnel Board hereinafter authorized.

[(b) Except as otherwise provided in this Act, lieutenants, lieutenants (junior grade), and ensigns shall be promoted to the respective grades of lieutenant commander, lieutenant, and lieutenant (junior grade) in the order in which the names appear on the current lineal list hereinafter authorized as the officers become credited with seventeen years', ten years', and three years' service, respectively: *Provided*, That lieutenants with not less than fourteen years' accredited service and lieutenants (junior grade) with not less than seven years' accredited service may be promoted to the grades of lieutenant commander and lieutenant, respectively, at any time in such numbers as will not cause the resulting number of officers in each of the grades of lieutenant commander and lieutenant to exceed 28 per centum of the total authorized force of commissioned officers on the active list: *Provided further*, That for purposes of pay, longevity pay, allowances, promotion, or retirement, which are now or may hereafter be authorized for officers appointed after June 30, 1992, there shall be counted in addition to active commissioned service, as deck officer and junior engineer in excess of one year.

[(c) All promotions, when made, shall be effective from the date of the respective vacancies, and promotions to all grades shall be made by the President, by and with the advice and consent of the Senate.

[(d) Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer junior to him on the lineal list hereinafter authorized, except that an officer who has lost numbers on the lineal list shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list.

[(e) Whenever a final fraction occurs in computing the authorized number of officers of any grade, the nearest whole number shall be regarded as the authorized number: *Provided*, That the total number of officers as authorized by law shall not be increased as a result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly: *Provided further*, That no officer shall be reduced in grade or pay or separated from the active list as the result of any computations made to determine the authorized number of officers in the various grades.

#### [(PERSONNEL BOARD

[SEC. 3. At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint and convene a Personnel Board consisting of not less than five officers not below the rank of commander on the active list of the Coast and Geodetic Survey, to make the computations prescribed herein, to prepare and maintain a lineal list on which the names of all officers on the active list shall be arranged in such order as the board may determine, and to make selections and recommendations for the promotion and retirement of officers as herein prescribed.

[SEC. 4. Each report of the Personnel Board shall be submitted to the President for approval or disapproval: *Provided*, That in case any recommendation by the board is not acceptable to the President, the board shall be so informed and shall make such further

recommendations as shall be acceptable to the President and, if necessary, the board shall be reconvened for this purpose: *Provided further*, That when the report of the board shall have been approved, the recommendations therein shall be carried out in accordance with the provisions of this Act.

#### 【RETIREMENT OF OFFICERS

【SEC. 5. The President may transfer to the retired list from the grades of captain, commander, lieutenant commander, and lieutenant such officers as have been recommended for retirement by the Personnel Board: *Provided*, That the total number of officers so retired in any fiscal year shall not exceed the whole number nearest 1 per centum of the total authorized number of commissioned officers on the active list, and, except as otherwise required by law, the number of officers so retired plus the number of officers retired for age in any fiscal year shall not exceed 3 per centum of the total authorized number of commissioned officers on the active list: *Provided further*, That all transfers to the retired list pursuant to this Act shall become effective on the next ensuing July 1 and the resulting vacancies may be filled as of that date.

【SEC. 6. Officers retired pursuant to section 5 of this Act shall receive pay at the rate of 2½ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of 2½ per centum is multiplied.

【SEC. 7. Should an officer fail in his physical examination for promotion and be found incapacitated for service by reason of physical disability contracted in line of duty, he shall be retired with the rank to which he would otherwise be entitled to be promoted, with retired pay at the rate of 75 per centum of the active-duty pay of that grade.

#### 【MISCELLANEOUS PROVISIONS

【SEC. 8. The President is authorized to appoint, by and with the advice and consent of the Senate, an officer on the active list of the Coast and Geodetic Survey not below the rank of commander to serve as Assistant Director; his appointment shall not create a vacancy and while holding said office he shall have the rank, pay, and allowances of rear admiral (lower half): *Provided*, That any officer who may be retired while serving as Director or Assistant Director, or who has or shall have served four years as Director or Assistant Director and is retired after completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade or rank held by him as Director or Assistant Director.

【SEC. 9. The provisions of sections 1 to 5, inclusive, of the Act of April 20, 1940 (54 Stat. 144), relating to the burial expenses of Navy personnel, and the provisions of the Act of June 4, 1920 (41 Stat. 824), as amended by the Act of May 22, 1928 (45 Stat. 710), relating to the payment of a death gratuity to dependents of commissioned officers and other personnel of the Navy or Marine

Corps, shall apply to commissioned officers of the Coast and Geodetic Survey, except that the duties and obligations imposed in said Acts upon the Secretary of the Navy are hereby imposed for the purposes of this Act upon the Secretary of Commerce who shall cause the necessary payments to be made from funds appropriated for the Coast and Geodetic Survey: *Provided*, That the provisions of this section shall be effective from December 8, 1941.

[SEC. 10. Commissioned officers, ships' officers, and members of the crews of vessels of the Coast and Geodetic Survey shall be permitted to purchase commissary and quartermaster supplies as far as available from the Army, Navy, or Marine Corps at the prices charged officers and enlisted men of those services.

[SEC. 11. All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed, and the provisions of this Act shall be in effect in lieu thereof.]

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**SECTION 9 OF PUBLIC LAW 87-649**

AN ACT To revise, codify, and enact title 37 of the United States Code, entitled "Pay and Allowances of the Uniformed Services"

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**AMENDMENTS TO CERTAIN LAWS APPLICABLE TO  
COAST AND GEODETIC SURVEY**

[SEC. 9. (a) Section 3(a) of the Act of August 10, 1956, ch. 1041, as amended (33 U.S.C. 857a(a)), is amended by adding the following new clause at the end thereof:

["(10) Chapter 40. Leave."

(b) The Act of June 3, 1948, ch. 390, as amended, is further amended as follows:

(1) Section 9 (33 U.S.C. 853h) is amended by striking out the words "active-duty pay with longevity credit" wherever they appear and inserting the words "basic pay" in place thereof.

(2) Section 16(a) (33 U.S.C. 853o(a)) is amended by striking out the words "active-duty pay with longevity credit" wherever they appear and inserting the words "basic pay" in place thereof.

(c) Active service in the Coast and Geodetic Survey as a deck officer or junior engineer and active service counted on June 30, 1992, for longevity pay, shall be credited to commissioned officers as active commissioned service for purposes of retirement and retirement pay.]

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**ACT OF MAY 22, 1917**

CHAP. 20.—An Act To temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes.

\* \* \* \* \*

[SEC. 16. The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service

and jurisdiction of a military department such vessels, equipment, stations, and commissioned officers of the Environmental Science Services Administration as he may deem to the best interest of the country, and after such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which transfer is made: *Provided*, That such vessels, equipment, stations, and commissioned officers shall be returned to the Environmental Science Services Administration when such national emergency ceases, in the opinion of the President, and nothing in this section shall be construed as transferring the Environmental Science Services Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent herein provided: *Provided further*, That any of the commissioned officers of the Environmental Science Services Administration who may be transferred as provided in this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

[Nothing in this Act shall reduce the total amount of pay and allowances they were receiving at the time of transfer. While actually employed in active service under direct orders of the War Department or of the Navy Department members of the Coast and Geodetic Survey shall receive the benefit of all provisions of laws relating to disability incurred in line of duty or loss of life.

[When serving with the Army, Navy, or Air Force, commissioned officers of the Coast and Geodetic Survey shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade.

[And nothing in this Act shall be construed to affect or alter their rates of pay and allowances when not assigned to military duty as hereinbefore mentioned.

[The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations governing the duties to be performed by the Environmental Science Services Administration in time of war, and for the cooperation of that service with the military departments in time of peace in preparation for its duties in war, which regulations shall not be effective unless approved by each of those Secretaries, and included therein may be rules and regulations for making reports and communications between a military department and the Environmental Science Services Administration.]

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### ACT OF DECEMBER 3, 1942

AN ACT Authorizing the temporary appointment or advancement of commissioned officers of the Coast and Geodetic Survey in time of war or national emergency, and for other purposes

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Personnel of the Environmental Science Services Administration shall be subject in like manner and to the same extent as personnel of the Navy to*

all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency subject to the following limitations:

【(1) Commissioned officers in the service of a military department, under the provisions of section 16 of the Act of May 22, 1917 (40 Stat. 87), as amended, may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to higher ranks or grades.

【(2) Commissioned officers in the service of the Environmental Science Services Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under the provisions of section 16 of the Act of May 22, 1917 (40 Stat. 87), as amended.

【(3) Temporary appointments may be made in all grades to which original appointments in the Environmental Science Service Administration are authorized: *Provided*, That the number of officers holding temporary appointments shall not exceed the number of officers transferred to a military department under the provisions of section 16 of the Act of May 22, 1917 (40 Stat. 87), as amended.

\* \* \* \* \*

【SEC. 3. Any commissioned officer of the Coast and Geodetic Survey promoted to a higher grade at any time after December 7, 1941, shall be deemed for all purposes to have accepted his promotion to higher grade upon the date such promotion is made by the President unless he shall expressly decline such promotion, and shall receive the pay and allowances of the higher grade from such date unless he is entitled under some other provision of law to receive the pay and allowances of the higher grade from an earlier date. No such officer who shall have subscribed to the oath of office required by section 1757, Revised Statutes, shall be required to renew such oath or to take a new oath upon his promotion to a higher grade, if his service after the taking of such an oath shall have been continuous.】

### PUBLIC LAW 91-621

AN ACT To clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

【SECTION 1. Definitions listed in section 101 of title 10, United States Code, apply to this Act, except as noted below:

【(1) "active duty" means full-time duty in the active service of a uniformed service;

【(2) "Administration" means the National Oceanic and Atmospheric Administration;

【(3) "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;

【(4) "officer" means a commissioned officer;

【(5) "Secretary" means the Secretary of Commerce;

[(6) "Secretary concerned" as defined in section 101 of title 37, United States Code.

[(7) "uniformed services" is defined in section 101 of title 37, United States Code.

[SEC. 2. Each officer retired pursuant to any provision of law shall be placed on the retired list with the highest grade satisfactorily held by him while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and he shall receive retired pay based on such highest grade: *Provided*, That his performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and unless retired for disability, his length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

[SEC. 3. (a) Active service of officers of the Administration shall be deemed to be active military service in the armed forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided by—

[(1) laws administered by the Secretary of Veterans Affairs;

[(2) laws administered by the Interstate Commerce Commission; and

[(3) the Soldiers' and Sailors' Civil Relief Act of 1940, as amended.

In the administration of these laws and regulations, with respect to the National Oceanic and Atmospheric Administration, the authority vested in the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force and their respective departments shall be exercised by the Secretary of Commerce.

[(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

[SEC. 4. (a) Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the armed forces at the prices charged officers and enlisted men of those services.

[(b) The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

[(c) Rights extended to members of the uniformed services in this section are extended to their widows and to such others as are designated by the Secretary concerned.

[SEC. 5. (a) All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, shall apply to officers of the Environmental Science Services Administration on that date and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey

shall constitute service as a commissioned officer in the Environmental Science Services Administration.

[(b) All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, and to commissioned officers of the Environmental Science Services Administration subsequent to that date shall apply to officers of the National Oceanic and Atmospheric Administration on October 3, 1970, and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey or the Environmental Science Services Administration shall constitute service as a commissioned officer in the National Oceanic and Atmospheric Administration.

[(c) The enactment of this Act does not increase or decrease the pay or allowances of any person.

[(d) A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provisions enacted by this Act.

[(e) An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provisions enacted by this Act until repealed, amended, or superseded.

[(f) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

[(g) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.]

### ACT OF AUGUST 10, 1956

AN ACT To revise, codify, and enact into law, title 10 of the United States Code, entitled "Armed Forces", and title 32 of the United States Code, entitled "National Guard"

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#### [PARTS OF TITLE 10 ADOPTED FOR COAST AND GEODETIC SURVEY

[SEC. 3. (a) The rules of law that apply to the Armed Forces under the following provisions of title 10, Armed Forces, United States Code, including changes in those rules made after the effective date of this Act, apply also to the Coast and Geodetic Survey:

[(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

[(2) Chapter 61, Retirement or Separation for Physical Disability.

[(3) Chapter 69, Retired Grade, except sections 1370, 1374, 1375, and 1387(a).

[(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

[(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

[(6) Chapter 75, Death Benefits.

[(7) Section 2771, Final settlement of accounts: deceased members.

[(8) Sections 2731, 2732, and 2735, property loss incident to service.

[(9) Such other provisions of subtitle A as may be adopted for applicability to the Coast and Geodetic Survey by any other provision of law.

[(10) Chapter 40. Leave.

[(11) Section 2634, Motor vehicles: for members on permanent change of station.

[(12) Section 1035, Deposits of Savings.

[(13) Section 716, Commissioned officers: transfers among the Armed Forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.

[(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty.

[(b) The authority vested by title 10, United States Code, in the "military departments" Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the Coast and Geodetic Survey, by the Secretary of Commerce or his designee.]

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#### ACT OF MAY 18, 1920

CHAP. 190.—An Act To increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

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[SEC. 11. That in lieu of compensation now prescribed by law, commissioned officers of the Coast and Geodetic Survey shall receive the same pay and allowances as now are or hereafter may be prescribed for officers of the Navy with whom they hold relative rank as prescribed in the Act of May 22, 1917, entitled "An Act to temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes," including longevity; and all laws relating to the retirement of commissioned officers of the Navy shall hereafter apply to commissioned officers of the Coast and Geodetic Survey: *Provided*, That hereafter longevity pay for officers in the Army, Navy, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey shall be based on the total of all service in any or all of said services.]

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#### ACT OF JULY 22, 1947

AN ACT To provide basic authority for the performance of certain functions and activities of the Coast and Geodetic Survey, and for other purposes

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coast and Geodetic Survey is hereby authorized to provide, from appropriations now or hereafter made available to the Survey, for—*

[(a) Transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of commissioned officers who die on active duty to the official residence of record for such officers, or, upon application by their dependents, to such other locations as may be determined by the Director of the Coast and Geodetic Survey or by such person as he may designate.

[(b) Reimbursement, under regulations prescribed by the Secretary, of commissioned officers for food, clothing, medicines, and other supplies furnished by them for the temporary relief of distressed persons in remote localities and to shipwrecked persons temporarily provided for by them.

[SEC. 2. The Secretary of Commerce is hereby authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him and without regard to section 301 of the Dual Compensation Act.]

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### ACT OF AUGUST 3, 1956

AN ACT To authorize officers of the Coast and Geodetic Survey to act as notaries in places outside the United States

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in places where the Coast and Geodetic Survey is serving which are not within the jurisdiction of any one of the States of the continental United States, excluding Alaska commanding officers of Coast and Geodetic Survey vessels, and such other officers of the Coast and Geodetic Survey as the Secretary of Commerce may designate, may exercise the general powers of the notary public in the administration of oaths for the execution, acknowledgment, and attestation of instruments and papers, and the performance of all other notarial acts. The powers hereby conferred shall be limited to acts performed in behalf of the personnel of the Coast and Geodetic Survey or in connection with the proper execution of the functions of that agency.*

[SEC. 2. No fee of any kind shall be paid to any officer for the performance of any notarial act herein authorized. The signature without seal together with indication of grade of any officer performing any notarial act shall be prima facie evidence of his authority.]

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### NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE ACT OF 1977

AN ACT To establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the Committee for fiscal year 1978

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the "National Advisory Committee on Oceans and Atmosphere Act of 1977".*

**[SEC. 2. ESTABLISHMENT.**

【There is hereby established a committee of 18 members to be known as the National Advisory Committee on Oceans and Atmosphere (hereinafter in this Act referred to as the “Committee”).

**[SEC. 3. MEMBERSHIP, TERMS, AND DUTIES.**

【(a) MEMBERSHIP.—The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President. Members shall be appointed only from among individuals who are eminently qualified by way of knowledge and expertise in the following areas of direct concern to the Committee—

【(1) one or more of the disciplines and fields included in marine science and technology, marine industry, marine-related State and local governmental functions, coastal zone management, or other fields directly appropriate for consideration of matters of ocean policy; or

【(2) one or more of the disciplines and fields included in atmospheric science, atmospheric-related State and local governmental functions, or other fields directly appropriate for consideration of matters of atmospheric policy.

【(b) TERMS.—(1) The term of office of a member of the Committee shall be 3 years; except that of the original appointees, 6 shall be appointed for a term to expire on July 1, 1979, 6 shall be appointed for a term to expire on July 1, 1980, and 6 shall be appointed for a term to expire on July 1, 1981.

【(2) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be reappointed to the Committee for more than one additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office. The terms of office for members first appointed after the date of enactment of this Act shall begin on July 1, 1977.

【(c) CHAIRMAN.—The President shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

【(d) DUTIES.—The Committee shall—

【(1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; and

【(2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

**[SEC. 4. REPORTS.**

【(a) IN GENERAL.—The Committee shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation’s marine and atmospheric activities, and shall submit such other reports as may from time to time be requested by the President or the Congress.

[(b) REVIEW BY SECRETARY.—Each annual report shall also be submitted to the Secretary of Commerce, who shall, within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

[(c) ANNUAL REPORT SUBMITTAL.—The annual report required under subsection (a) shall be submitted on or before June 30 of each year, beginning with June 30, 1978.

**[SEC. 5. COMPENSATION AND TRAVEL EXPENSES.**

[Members of the Committee shall each be entitled to receive compensation not to exceed the daily rate for a GS-18 for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Committee. In addition, while away from their homes or regular places of business in the performance of the duties of the Committee, each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

**[SEC. 6. INTERAGENCY COOPERATION AND ASSISTANCE.**

[(a) LIAISON.—The head of each department or agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Committee and offer necessary assistance.

[(b) AGENCY ASSISTANCE.—The Committee is authorized to request from the head of any department, agency, or independent instrumentality of the Federal Government any information and assistance it deems necessary to carry out the functions assigned under this Act. The head of each such department, agency, or instrumentality is authorized to cooperate with the Committee, and, to the extent permitted by law, to furnish such information and assistance to the Committee upon request made by the Chairman, without reimbursement for such services and assistance.

[(c) ADMINISTRATIVE ASSISTANCE.—The Secretary of Commerce shall make available to the Committee such staff, information, personnel, and administrative services and assistance as may reasonably be required to carry out the provisions of this Act.

**[SEC. 7. REPEAL AND TRANSFER.**

[(a) REPEAL.—The Act of August 16, 1971 (establishing an advisory committee on oceans and atmosphere) (33 U.S.C. 857-6 et seq.) is hereby repealed.

[(b) TRANSFER.—All personnel, positions, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions specified by the Act of August 16, 1971 (establishing an advisory committee on oceans and atmosphere), are hereby transferred to the National Advisory Committee on Oceans and Atmosphere established by this Act. The personnel transferred under this subsection shall be so transferred without reduction in classification or compensation except, that after such transfer, such personnel shall be subject to reductions in classification or compensation in the same manner, to the same extent, and according to the same procedure as other employees of the United States

classified and compensated according to the General Schedule in title 5, United States Code.

**[SEC. 8. AUTHORIZATION FOR APPROPRIATIONS.**

[There are authorized to be appropriated for purposes of carrying out the provisions of this Act not to exceed \$520,000 for the fiscal year ending September 30, 1978, \$572,000 for the fiscal year ending September 30, 1979, \$565,000 for the fiscal year ending September 30, 1980, \$600,000 for the fiscal year ending September 30, 1981, and \$555,000 for the fiscal year ending September 30, 1982. Such sums as may be appropriated under this section shall remain available until expended.]

**OCEAN THERMAL CONVERSION ACT OF 1980**

AN ACT To regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".*

**[SEC. 2. DECLARATION OF POLICY.**

[(a) It is declared to be the purposes of the Congress in this Act to—

[(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in whole or in part between the highwater mark and the seaward boundary of the territorial sea of the United States consistent with the Convention on the High Seas, and general principles of international law;

[(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

[(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

[(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

[(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

[(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

[(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

[(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

[(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

**[SEC. 3. DEFINITIONS.**

[As used in this Act, unless the context otherwise requires, the term—

[(1) “adjacent coastal State” means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

[(2) “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration;

[(3) “antitrust laws” includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

[(4) “application” means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

[(5) “coastal State” means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

[(6) “construction” means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

[(7) “facility” means an ocean thermal energy conversion facility;

[(8) “Governor” means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

[(9) “high seas” means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

[(10) “licensee” means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

[(11) “ocean thermal energy conversion facility” means any facility which is standing, fixed or moored in whole or in part seaward of the highwater mark and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, fresh water, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

[(12) “ocean thermal energy conversion plantship” means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

[(13) “plantship” means an ocean thermal energy conversion plantship;

[(14) “person” means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

[(15) “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

[(16) “Test platform” means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

[(17) “thermal plume” means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

[(18) “United States citizen” means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its

chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

**[TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS**

**[SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.**

[(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in whole or in part between the highwater mark and the seaward boundary of the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

[(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

[(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

[(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in whole or in part between the highwater mark and the seaward boundary of the territorial sea of the United States, or connected to the United States by pipeline or cable.

[(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

[(1) he determines that the applicant cannot or will not comply with applicable laws, regulations, and license conditions;

[(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

[(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

[(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Adminis-

trator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has regulatory authority;

[(5) he has received the opinion of the Attorney General, pursuant to section 104 of this Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-period provided in section 104 has not expired;

[(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for a license is inadequate;

[(7) the proposed ocean thermal energy conversion facility or plantship will be documented under the laws of a foreign nation;

[(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

[(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

[(10) the Governor of any adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs with his or her jurisdiction;

[(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

[(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, or any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

[(13) When the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from im-

pinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; or

[(14) if a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operations, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

[(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

[(2) No license shall be issued, transferred, or renewed under this Act unless the applicant, licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

[(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the application. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

[(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section.

[(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

[(g) Licenses issued under this Act shall be for a term of not to exceed 25 years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of

this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate.

**[SEC. 102. PROCEDURE.**

[(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment.

[(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith.

[(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation or ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

[(d)(1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action

with respect to the application until such deficiencies have been remedied.

[(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

[(e)(1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

[(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

[(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation

within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

[(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

[(h) The Administrator shall not take final action on any application unless the applicant has paid to the Administrator a reasonable administrative fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred by the National Oceanic and Atmospheric Administration in reviewing and processing the application.

[(i)(1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act not later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

[(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the national interest, shall make decisions on license applications in the order in which they were submitted to him.

[(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best

serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

[(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

[(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

[(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

[(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

[(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

**[SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.**

[(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding \$5,000, or to both fine and imprisonment, at the discretion of the court.

[(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$500, or to both fine and imprisonment, at the discretion of the court.

[(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

[(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

[(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed: *Provided*, That the owner of the vessel had taken all reasonable precautionary measures beforehand.

[(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

**[SEC. 104. ANTITRUST REVIEW.**

[(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views has been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

[(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anti-competitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility of plantship.

**[SEC. 105. ADJACENT COASTAL STATES.**

[(a)(1) The Administrator, in issuing notice of application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

[(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines (A) that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

[(b)(1) Not later than 5 days after the designation of an adjacent coastal State pursuant to this section, the Administrator shall

transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application are concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

[(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

[(c) The consent of Congress is given to 2 or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further approval by the Congress.

**[SEC. 106. DILIGENCE REQUIREMENTS.**

[(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

[(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operations of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

**[SEC. 107. PROTECTION OF THE ENVIRONMENT.**

[(a) The administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities or plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities and plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the mag-

nitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

[(b) The program shall be designed to determine, among other things—

[(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

[(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or biological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

[(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

[(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

[(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

[(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

[(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). For all timely applications covering purposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and

published within 180 days after notice of the application has been published pursuant to section 102(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

[(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

**[SEC. 108. MARINE ENVIRONMENTAL PROTECTION AND SAFETY OF LIFE AND PROPERTY AT SEA.**

[(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

[(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

[(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

[(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of navigational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the

Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

[(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

[(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

[(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

[(2) Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship—

[(A) be documented;

[(B) comply with minimum standards of design, construction, alteration, and repair; and

[(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

[(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

[(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored; fixed or standing structure, that application of this requirement would not be consistent with the national interest.

[(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911-984).

[(4) For the purposes of this subsection the term "ocean thermal energy conversion facility" refers only to an ocean thermal energy conversion facility which has major components other than water intake or discharge pipes located seaward of the highwater mark.

[(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

**[SEC. 109. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS.**

[(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

[(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed—

[(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

[(2) to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

[(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantship licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or

area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingement after consultation with such nation.

**[SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.**

Each license shall require the licensee—

[(1) to allow the Administrator to place appropriate Federal officers or employees in or aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the licensee, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

[(2) to cooperate with such officers and employees in the performance of monitoring functions; and

[(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

**[SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.**

[(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

[(1) suspend the license; or

[(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

[(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

**[SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION.**

[(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the administrator, after consultation with other interested Federal departments and agencies, shall be regulation prescribed to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

[(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and commercial or financial information which is privileged or confidential), shall not—

[(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

[(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

[(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

[(2) be otherwise disclosed except—

[(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

[(ii) to any committee of the Congress of appropriate jurisdiction, or

[(iii) pursuant to court order, and

[(B) when the commercial or financial information which is privileged or confidential) has taken appropriate steps to inform the recipient of the confidential nature of the information.

**[SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE.**

[(a) Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

[(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

**[SEC. 114. CIVIL ACTIONS.**

[(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

[(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

[(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

[(b) No civil action may be commenced—

[(1) under subsection (a)(1) of this section—

[(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

[(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

[(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

[(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

[(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

[(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

#### **[SEC. 115. JUDICIAL REVIEW.**

[Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

[(1) has participated in the administrative proceeding before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

[(2) is adversely affected by the Administrator's action.

**[SEC. 116. TEST PLATFORMS AND COMMERCIAL DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.**

[(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or plantship after conclusion of the testing period.

[(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.

**[SEC. 117. PERIODIC REVIEW AND REVISION OF REGULATIONS.**

[The Administrator and the Secretary of the department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5, United States Code.

**[TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION**

**[SEC. 201. DETERMINATIONS UNDER THE MERCHANT MARINE ACT, 1936.**

[(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

[(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

[(b) For the purposes of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

**[SEC. 202. AMENDMENTS TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.**

[(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

[(1) in subsection (b) by striking “and” immediately before “dredges” and inserting in lieu thereof a comma, and by inserting immediately after “dredges” the following: “and ocean thermal energy conversion facilities or plantships”,

[(2) in subsection (g) by striking “and” after the semicolon,

[(3) in subsection (h) by striking “equipping” and inserting in lieu thereof “equipping and”, and

[(4) by adding at the end thereof a new subsection (i) to read as follows:

[(i) The term ‘ocean thermal energy conversion facility or plantship’ means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.”.

[(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking “or (E)” and inserting in lieu thereof “(E) as an ocean thermal energy conversion facility or plantship; or (F)”.

[(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1247(b)(2)), is amended by striking “vessel;” and inserting in lieu thereof “vessel: *Provided further*, That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;”.

**[SEC. 203. OTEC DEMONSTRATION FUND.**

[(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

[(“SEC. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obliga-

tion which aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that—

【“(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

【“(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;

【“(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the commercial demonstration ocean thermal energy conversion facility or plantship: *Provided*, That, if the commercial demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

【“(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate commercial demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

【“(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.

【“(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified

otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that, notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to section 1101 through 1107 of this title with respect to guarantees or commitments to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed \$2,000,000,000.

["(d) the provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however,* That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

["(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

[(b)(1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f) is amended by striking out "\$10,000,000,000." and inserting in lieu thereof "\$12,000,000,000, of which \$2,000,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

[(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

### [TITLE III—ENFORCEMENT

#### [SEC. 301. PROHIBITED ACTS.

[It is unlawful for any person who is a United States citizen or national, or a foreign national in or on board an ocean thermal energy conversion facility or plantship or on board any vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

[(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

[(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of section 110 and 303 of this Act to enter or board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

[(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

[(4) to resist a lawful arrest for any act prohibited by this section; or

[(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

**[SEC. 302. REMEDIES AND PENALTIES.**

[(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpoenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

[(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

[(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

[(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, to halt any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

[(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

[(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States

for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

[(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

[(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

[(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

[(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than \$75,000 for each day during which the violation continues. Any offense described in paragraph (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

[(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule thereof, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed

and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

**ISEC. 303. ENFORCEMENT.**

[(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

[(b) To enforce the provisions of this Act in or on board any ocean thermal energy conversion facility or plantship or any vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

[(1) enter or board, and inspect, any ocean thermal energy conversion facility or plantship any vessel which is subject to the provisions of this Act;

[(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

[(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

[(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

[(5) seize any evidence related to any violation of any provision of this Act;

[(6) execute any warrant or other process issued by any court of competent jurisdiction; and

[(7) exercise any other lawful authority.

[(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions

of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

[(1) enter restraining orders or prohibitions;

[(2) issue warrants, process in rem, or other process;

[(3) prescribe and accept satisfactory bonds or other security; and

[(4) take such other actions as are in the interest of justice.

[(d) For the purposes of this section, the term “vessel” includes an ocean thermal energy conversion facility or plantship, and the term “provisions of this Act” or “provision of this Act” includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

#### **[TITLE IV—MISCELLANEOUS PROVISIONS**

##### **[SEC. 401. EFFECT OF LAW OF THE SEA TREATY.**

[(If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

##### **[SEC. 402. INTERNATIONAL NEGOTIATIONS.**

[(The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

##### **[SEC. 403. RELATIONSHIP TO OTHER LAWS.**

[(a)(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and all of which is located seaward of the highwater mark, and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve,

exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

[(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

[(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

[(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however,* That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

[(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

[(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury, including the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code, shall not apply to any ocean thermal energy conversion facility or plantship documented under the laws of the United States and licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

**[SEC. 404. SUBMARINE ELECTRIC TRANSMISSION CABLE AND EQUIPMENT SAFETY.**

[(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable.

[(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed

to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance.

**[SEC. 405. ANNUAL REPORT.]**

【Within 6 months after the end of each fiscal year the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report—

【(1) a description of progress in implementing this Act;

【(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications of activities under licenses;

【(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

【(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

【(5) such recommendations as the Administrator deems appropriate for amending this Act.

**[SEC. 406. AUTHORIZATION OF APPROPRIATIONS.]**

【There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed \$3,000,000 for the fiscal year ending September 30, 1981, not to exceed \$3,500,000 for the fiscal year ending September 30, 1982 not to exceed \$3,500,000,000 for the fiscal year ending September 30, 1983, not to exceed \$480,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985, and not to exceed \$630,000 for each of the fiscal years ending September 30, 1986 and September 30, 1987.

**[SEC. 407. SEVERABILITY.]**

【If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

【SEC. 408. Within 18 months after the date of enactment of this provision, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing what steps the United States Government is taking and plans to take to promote and enhance the export potential of ocean thermal energy conversion components facilities, and plantships manufactured by United States industry. Such report shall include—

【(1) the relevant views of the National Oceanic and Atmospheric Administration, International Trade Administration, Maritime Administration, Department of Energy, Small Business Administration, United States International Development Cooperative Agency, the Office of the Special Trade Representative, and other relevant United States Government agencies;

[(2) the findings of studies conducted by the Administrator to fulfill the intent of this section;

[(3) a summary of activities, including consultations held with representatives of both the ocean thermal energy conversion and financial industries conducted by the Administrator to fulfill the intent of this section; and

[(4) such recommendations as the Administrator deems appropriate for amending the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) or other relevant Acts to better promote and enhance the export potential of ocean thermal energy conversion components, facilities and plantships manufactured by United States industry.]

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**MARINE PROTECTION, RESEARCH, AND SANCTUARIES  
ACT OF 1972**

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**[TITLE IV—REGIONAL MARINE RESEARCH PROGRAMS**

**[PURPOSES**

[SEC. 401. The purpose of this title is to establish regional research programs, under effective Federal oversight, to—

[(1) set priorities for regional marine and coastal research in support of efforts to safeguard the water quality and ecosystem health of each region; and

[(2) carry out such research through grants and improved coordination.

**[DEFINITIONS**

[SEC. 402. As used in this title, the term—

[(1) “Board” means any Regional Marine Research board established pursuant to section 403(a);

[(2) “Federal agency” means any department, agency, or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government and any government corporation;

[(3) “local government” means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

[(4) “marine and coastal waters” means estuaries, waters of the estuarine zone, including wetlands, any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean;

[(5) “nonprofit organization” means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation pursuant to section 501(a) of such Code;

[(6) “region” means 1 of the 9 regions described in section 403(a); and

[(7) “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam,

American Samoa, and the Commonwealth of the Northern Mariana Islands.

【REGIONAL MARINE RESEARCH BOARDS

【SEC. 403. (a) ESTABLISHMENT.—A Regional Marine Research board shall be established for each of the following regions:

【(1) the Gulf of Maine region, comprised of the marine and coastal waters off the State of Maine, New Hampshire, and Massachusetts (north of Cape Cod);

【(2) the greater New York bight region, comprised of the marine and coastal waters off the States of Massachusetts (south of Cape Cod), Rhode Island, Connecticut, New York, and New Jersey, from Cape Cod to Cape May;

【(3) the mid-Atlantic region, comprised of the marine and coastal waters off the States of New Jersey, Delaware, Maryland, Virginia, and North Carolina, from Cape May to Cape Fear;

【(4) the South Atlantic region, comprised of the marine and coastal waters off the States of North Carolina, South Carolina, Georgia, and Florida, from Cape Fear to the Florida Keys, including the marine and coastal waters off Puerto Rico and the United States Virgin Islands;

【(5) the Gulf of Mexico region, comprised of the marine and coastal waters off the States of Florida, Alabama, Mississippi, Louisiana, and Texas, along the Gulf coast from the Florida Keys to the Mexican border;

【(6) the California region, comprised of the marine and coastal waters off the State of California, from Point Reyes to the Mexican border;

【(7) the North Pacific region, comprised of the marine and coastal waters off the States of California, Oregon, and Washington, from Point Reyes to the Canadian border;

【(8) the Alaska region, comprised of the marine and coastal waters off the State of Alaska; and

【(9) insular Pacific region, comprised of the marine and coastal waters off the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The Great Lakes Research Office authorized under section 118(d) of the Federal Water Pollution Control Act (33 U.S.C. 1268(d)) shall be responsible for research in the Great Lakes region and shall be considered the Great Lakes counterpart to the research program established pursuant to this title.

【(b) MEMBERSHIP.—

【(1) COMPOSITION.—Each Board shall be comprised of 11 members of which—

【(A) 3 members shall be appointed by the Administrator of the National Oceanic and Atmospheric Administration, including 1 member who shall be a Sea Grant Program Director from a State within such region, who shall serve as chairman of the board;

【(B) 2 members shall be appointed by the Administrator of the Environmental Protection Agency; and

[(C) 6 members shall be appointed by Governors of States located within the region.

[(2) QUALIFICATIONS.—Each individual appointed as a member of a Board shall possess expertise, pertinent to the region concerned, in scientific research, coastal zone management, fishery management, water quality management, State and local government, or any other area which is directly relevant to the functions of the Board. A majority of the members of each Board shall be trained in a field of marine or aquatic science and shall be currently engaged in research or research administration.

[(3) TERMS.—Each appointed member of a Board shall serve for a term of 4 years.

[(4) VACANCIES.—In the event of a vacancy, a replacement member shall be appointed in the same manner and in accordance with the same requirements as the member being replaced and shall serve the remainder of the term of the replaced member.

[(5) REIMBURSEMENT OF EXPENSES.—Each appointed member of a Board may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of Board duties.

[(c) FUNCTIONS.—Each Board shall, in accordance with the provisions of this title—

[(1) develop and submit to the Administrators of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency a marine research plan, including periodic amendments thereto, that meets the requirements of section 404;

[(2) provide a forum for coordinating research among research institutions and agencies;

[(3) provide for review and comment on research plans by affected users and interests, such as the commercial and recreational fishing industries, other marine industries, State and local government entities, and environmental organizations;

[(4) ensure that the highest quality of research projects will be conducted to carry out the comprehensive plan; and

[(5) prepare, for submission to Congress, a periodic report on the marine environmental research issues and activities within the region in accordance with section 406 of this title.

[(d) POWERS.—Each Board shall be authorized to—

[(1) cooperate with Federal agencies, with States and with local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions, laboratories, and organizations, or other appropriate persons, in the preparation and support of marine research in the region;

[(2) enter into contracts, cooperative agreements or grants to State and local governmental entities, other public agencies or institutions, and non-profit institutions and organizations for purposes of carrying out the provisions of this title;

[(3) collect and make available through publications and other appropriate means, the results of, and other information pertaining to, the research conducted in the region;

[(4) call conferences on regional marine research and assessment issues, giving opportunity for interested persons to be heard and present papers at such conferences;

[(5) develop and stimulate, in consultation with the Department of State, joint marine research projects with foreign nations;

[(6) utilize facilities and personnel of existing Federal agencies, including scientific laboratories and research facilities;

[(7) accept, and for all general purposes of this Act, utilize funds from other sources, including but not limited to State and local funds, university funds, and donations; and

[(8) acquire secret processes, inventions, patent applications, patents, licenses, and property rights, by purchase, license, lease, or donation.

[(e) ADMINISTRATION.—

[(1) PRACTICES AND PROCEDURES.—Each Board shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this title. Each Board should use existing research administrative capability to the extent practicable.

[(2) COMMITTEES AND SUBCOMMITTEES.—Each Board shall establish such committees and subcommittees as are appropriate in the performance of its functions.

[(3) STAFF AND SUPPORT.—Each Board is authorized to hire such staff as are necessary to carry out the functions of the Board.

[(f) TERMINATION.—Each Board shall cease to exist on October 1, 1999, unless extended by Congress.

#### [REGIONAL RESEARCH PLANS

[SEC. 404. (a) DEVELOPMENT AND AMENDMENT OF REGIONAL PLANS.—

[(1) IN GENERAL.—Each Board shall develop a comprehensive 4-year marine research plan for the region for which the Board is responsible, and shall amend the plan at such times as the Board considers necessary to reflect changing conditions, but no less frequently than once every 4 years.

[(2) REVIEW AND CONSIDERATION OF NATIONAL PLAN.—In the development and amendment of its research plan, the Board shall consider findings and recommendations of the national plan developed pursuant to the National Ocean Pollution Planning Act of 1978 33 U.S.C. 1701 et seq.).

[(b) CONTENTS OF PLAN.—Such marine research plan shall include—

[(1) an overview of the environmental quality conditions in the coastal and marine waters of the region and expected trends in these conditions;

[(2) a comprehensive inventory and description of all marine research related to water quality and ecosystem health expected to be conducted in the region during the 4-year term of the research plan;

[(3) a statement and explanation of the marine research needs and priorities applicable to the marine and coastal waters of the region over the upcoming 10-year period with emphasis on the upcoming 3-to-5 year period;

[(4) an assessment of how the plan will incorporate existing marine, coastal, and estuarine research and management in the region, including activities pursuant to section 320 of the Federal Water Pollution Control Act 33 U.S.C. 1330) and section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461); and

[(5) a general description of marine research and monitoring objectives and timetables for achievement through the funding of projects under this title during the 4-year period covered by the plan so as to meet the priorities specified in the plan in accordance with paragraph (3).

[(c) PLAN REVIEW AND APPROVAL.—

[(1) IN GENERAL.—When a Board has developed a marine research plan, including amendments thereto, the Board shall submit the plan to the Administrator of the National Oceanic and Atmospheric Administration and the Administration of the Environmental Protection Agency, who shall jointly determine whether the plan meets the requirements of subsection (b).

[(2) TIME FOR APPROVAL OR DISAPPROVAL.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, shall jointly approve or disapprove such research plan within 120 days after receiving the plan.

[(3) ACTION AFTER DISAPPROVAL.—In the case of disapproval of such research plan, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly notify the appropriate Board in writing, stating in detail the revisions necessary to obtain approval of the plan. Such Administrators shall approve or disapprove the revised plan within 90 days after receiving the revised plan from the Board.

【RESEARCH GRANT PROGRAM

【SEC. 405. (a) PROGRAM ADMINISTRATION.—The Administrator of the National Oceanic and Atmospheric Administration shall administer a grant program to support the administrative functions of each Board.

【(b) RESEARCH GRANTS.—(1) Each Board may annually submit a grant application to the Administrator of the National Oceanic and Atmospheric Administration to fund projects aimed at achieving the research priorities set forth in each research plan, including amendments thereto, developed and approved pursuant to section 404.

【(2) Projects eligible for funding under this section shall include research, investigations, studies, surveys, or demonstrations with respect to—

【(A) baseline assessment of marine environmental quality, including chemical, physical, and biological indicators of environmental quality;

[(B) effects or potential effects of contaminants, including nutrients, toxic chemicals and heavy metals, on the environment, including marine and aquatic organisms;

[(C) effects of modification of habitats, including coastal wetlands, seagrass beds and reefs, on the environment, including marine organisms;

[(D) assessment of impacts of pollutant sources and pollutant discharges into the coastal environment;

[(E) transport, dispersion, transformation, and fate and effect of contaminants in the marine environment;

[(F) marine and estuarine habitat assessment and restoration;

[(G) methods and techniques for modeling environmental quality conditions and trends;

[(H) methods and techniques for sampling of water, sediment, marine and aquatic organisms, and demonstration of such methods and techniques;

[(I) the effects on human health and the environment of contaminants or combinations of contaminants at various levels, whether natural or anthropogenic, that are found in the marine environment;

[(J) environmental assessment of potential effects of major coastal and offshore development projects in the region;

[(K) assessment of the effects of climate change on marine resources in the region; and

[(L) analysis and interpretation of research data for the benefit of State and local environmental protection and resource management agencies in the region.

[(3) Grant applications submitted pursuant to this subsection shall include—

[(A) a description of the specific research projects to be conducted;

[(B) identification of the organization responsible for each project and the principal investigator directing the project;

[(C) a budget statement for each project;

[(D) a schedule of milestones and interim products for each research project;

[(E) a description of the relationship of the proposed project to the goals, objectives, and priorities of the research plan for the region and to other research projects; and

[(F) any other information which may be required by the Administrator.

[(c) REVIEW AND APPROVAL OF PROJECT PROPOSALS.—(1) The Administrator of the National Oceanic and Atmospheric Administration shall review the annual grant application and, with the concurrence of the Administrator of the Environmental Protection Agency, approve such grant application with such conditions as are determined to be appropriate based on peer reviews conducted pursuant to paragraph (2).

[(2) The Administrator of the National Oceanic and Atmospheric Administration shall develop a system of peer review of grant applications which shall ensure that only the highest quality research is approved for funding and that each project is reviewed by research scientists outside the region concerned.

[(d) REPORTING.—Any recipient of a grant under this section shall report to the appropriate Board, not later than 18 months after award of the grant, on the activities of such recipient conducted pursuant to this subsection. Such report shall include narrative summaries and technical data in such form as the Administrator of the National Oceanic and Atmospheric Administration may require.

[REPORT ON RESEARCH PROGRAM

[SEC. 406. (a) PREPARATION AND SUBMISSION OF REPORT.—Each Board receiving a grant under section 405 shall, not later than 2 years after the approval of its comprehensive plan under section 405 and at 2-year intervals thereafter, prepare and submit to the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency a report describing—

[(1) the findings and conclusions of research projects conducted in the region;

[(2) recommendations for improvements in the design or implementation of programs for the protection of the marine environment; and

[(3) available data and information concerning ecosystem health within the region.

[(b) TRANSMITTAL TO CONGRESS.—Upon receipt of a report prepared by a Board under subsection (a), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall transmit a copy of such report to the Committees on Commerce, Science, and Transportation and on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 407. (a) IN GENERAL.—For purposes of carrying out the provisions of this title, there are authorized to be appropriated \$18,000,000 for each of the fiscal years 1992 through 1996.

[(b) ALLOCATION.—(1) Of funds appropriated in any fiscal year, not more than \$500,000 shall be reserved for administration of this title by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

[(2) Funds appropriated in a fiscal year which are available after allocation pursuant to paragraph (1), shall be used to support the administrative costs of Boards established pursuant to subsection 403(a), provided that such funding does not exceed \$300,000 for each research Board in each fiscal year.

[(3) Seventy-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated equally among Boards located in regions submitting research project grant applications pursuant to section 405(b).

[(4) Twenty-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated among Boards located in regions submitting research project grant applications pursuant to section 405(b) which, in the judgment of the Administrator of the National Oceanic and Atmos-

pheric Administration, in consultation with the Administrator of the Environmental Protection Agency, propose the most needed and highest quality research.

## **[TITLE V—NATIONAL COASTAL MONITORING ACT**

### **[SEC. 501. PURPOSES.**

[The purposes of this title are to—

[(1) establish a comprehensive national program for consistent monitoring of the Nation's coastal ecosystems;

[(2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;

[(3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;

[(4) establish methods for identifying uniform indicators of coastal ecosystem quality;

[(5) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;

[(6) establish a coastal environment information program to distribute coastal monitoring information;

[(7) provide state programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and

[(8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act 33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

### **[SEC. 502. DEFINITIONS.**

[For the purposes of this title, the term—

[(1) "Administrator" means the Administrator of the Environmental Protection Agency;

[(2) "coastal ecosystem" means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;

[(3) "coastal water quality" means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;

[(4) "coastal water quality monitoring" means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;

[(5) "coastal waters" means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, in-

cluding waters of the territorial sea of the United States and the contiguous zone; and

[(6) "Under Secretary" means Under Secretary of Commerce for Oceans and Atmosphere.

**[SEC. 503. COMPREHENSIVE COASTAL WATER QUALITY MONITORING PROGRAM.**

[(a) **AUTHORITY; JOINT IMPLEMENTATION.**—(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

[(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

[(b) **PROGRAM ELEMENTS.**—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

[(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

[(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or the Federal Water Pollution Control Act 33 U.S.C. 1311 et seq.);

[(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act 33 U.S.C. 1311 et seq.); and

[(C) health and quality of living resources.

[(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

[(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

[(4) assessment of the accumulation of floatables along coastal shorelines;

[(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

[(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).

[(c) **MONITORING GUIDELINES AND PROTOCOLS.**—

[(1) **GUIDELINES.**—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

[(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

[(B) establish scientifically valid monitoring methods that will—

[(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

[(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

[(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and

[(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

[(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

[(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

[(2) TECHNICAL PROTOCOLS.—Guidelines issued under paragraph (1) shall include protocols for—

[(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.

[(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

[(C) quality control, quality assessment, and data consistency and management.

[(3) PERIODIC REVIEW.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

[(4) DISCHARGE PERMIT DATA.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

[(d) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—

[(1) IN GENERAL.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

[(2) DESIGNATION OF INTENSIVE MONITORING AREAS.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

[(3) IDENTIFICATION OF SUITABLE COASTAL AREAS.—(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

[(i) are representatives of coastal ecosystems throughout the United States;

[(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

[(iii) would benefit from intensive water quality monitoring because of local management needs.

[(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

[(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the Administrator and the Under Secretary listing areas suitable for intensive monitoring.

[(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

[(4) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

[(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

[(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;

[(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

[(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

[(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring

activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

[(F) describe the data management and quality control components of the program;

[(G) specify the implementation requirements for the program, including—

[(i) the lead Federal, State, or regional authority that will administer the program;

[(ii) the public and private parties that will implement the program;

[(iii) a detailed schedule for program implementation;

[(iv) all Federal and State responsibilities for implementing the program; and

[(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

[(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

[(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

[(5) CRITERIA FOR MONITORING MASSACHUSETTS AND CAPE COD BAYS.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

[(6) MEMORANDUM OF UNDERSTANDING.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

[(7) IMPLEMENTATION.—(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

[(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of

the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

**[(e) COMPREHENSIVE IMPLEMENTATION STRATEGY.—**

**[(1) IN GENERAL.—**Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

**[(2) CONSULTATION.—**The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

**[(3) PUBLIC COMMENT.—**Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

**[(4) MEMORANDUM OF UNDERSTANDING.—**Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

**[SEC. 504. REPORT TO CONGRESS.**

**[**On September 30 of each other year beginning in 1993, the Administrator and the Under Secretary shall jointly submit to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the House of Representatives a report describing the condition of the Nation's coastal ecosystems, including the following:

**[(1)** an assessment of the status and health of the Nation's coastal ecosystems;

**[(2)** an evaluation of environmental trends in coastal ecosystems;

**[(3)** identification of sources of environmental degradation affecting coastal ecosystems;

**[(4)** an assessment of the extent to which floatables degrade coastal ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to aquatic life;

**[(5)** an assessment of the impact of government programs designed to abate the degradation of coastal ecosystems;

**[(6)** an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed; and

[(7) a summary of monitoring results in areas monitored under subsection 503(d).

**[SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

[(a) NOAA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Under Secretary amounts not to exceed \$5,000,000 for fiscal year 1993, \$8,000,000 for fiscal year 1994, \$10,000,000 for fiscal year 1995, and \$12,000,000 for fiscal year 1996.

[(b) EPA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Administrator amounts not to exceed \$5,000,000 for fiscal year 1993, \$8,000,000 for fiscal year 1994, and \$10,000,000 for fiscal year 1995, and \$12,000,000 for fiscal year 1996.]

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**GREAT LAKES SHORELINE MAPPING ACT OF 1987**

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**TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT**

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**[Subtitle B—Great Lakes Mapping**

**[SEC. 3201. SHORT TITLE.**

[This subtitle may be cited as the “Great Lakes Shoreline Mapping Act of 1987”.

**[SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.**

[(a) PREPARATION OF PLAN.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

[(b) CONTENT OF PLAN.—A plan prepared under paragraph (1) shall include—

[(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

[(2) a time schedule for completion of maps;

[(3) recommendation of funding needed for preparing the maps; and

[(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

**[SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.**

[(a) IN GENERAL.—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

[(b) CONTENT OF MAPS.—Maps prepared under this section—

[(1) shall include—

[(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

[(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

[(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

[(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

[(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

[(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

[(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

[(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

[(1) the Army Corps of Engineers;

[(2) the Federal Emergency Management Agency;

[(3) other appropriate Federal agencies;

[(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

[(5) appropriate local government units; and

[(6) the general public.

[(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

[(1) Federal agencies;

[(2) State governments;

[(3) local government units;

[(4) the Government of Canada; and

[(5) the general public.

[(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

**[SEC. 3204. CONTRACT AUTHORITY.**

[(The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

**[SEC. 3205. DEFINITIONS.**

【For purposes of this subtitle—

【(1) The term “Director” means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

【(2) The term “Great Lakes” means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary’s River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

【(3) The term “high risk of erosion” means subject to erosion at a rate greater than 1 foot per year.

**[SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.**

【There are authorized to be appropriated to carry out section 3202 not more than \$100,000 for fiscal year 1989. Amounts appropriated pursuant to this section shall remain available until expended.】

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**THE GREAT LAKES FISH AND WILDLIFE TISSUE BANK  
ACT**

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**[TITLE II—GREAT LAKES FISH AND  
WILDLIFE TISSUE BANK**

**[SEC. 201. SHORT TITLE.**

【This title may be cited as “The Great Lakes Fish and Wildlife Tissue Bank Act”.

**[SEC. 202. TISSUE BANK.**

【(a) IN GENERAL.—The Secretary shall coordinate existing facilities for the storage, preparation, examination, and archiving of tissues from selected Great Lakes fish and wildlife, which shall be known as the “Great Lakes Fish and Wildlife Tissue Bank”.

【(b) GUIDANCE.—The Secretary shall, in consultation with appropriate Federal and State agencies and the Council of Great Lakes Research Managers, issue guidance, after an opportunity for public review and comment, for Great Lakes fish and wildlife tissue collection, preparation, archiving, quality control procedures, and access that will ensure—

【(1) appropriate uniform methods and standards for those activities to provide confidence in Great Lakes fish and wildlife tissue samples used for research;

【(2) documentation of procedures used for collecting, preparing, and archiving those samples; and

【(3) appropriate scientific use of the tissues in the Great Lakes Fish and Wildlife Tissue Bank.

**[SEC. 203. DATA BASE.**

【(a) MAINTENANCE.—The Secretary shall maintain a central data base which provides an effective means for tracking and assessing relevant reference data on Great Lakes fish and wildlife, including

data on tissues collected for and maintained in the Great Lakes Fish and Wildlife Tissue Bank.

[(b) ACCESS.—The Secretary shall establish criteria, after an opportunity for public review and comment, for access to the data base which provides for appropriate use of the information by the public.]

**[SEC. 204. DEFINITIONS.**

[In this title—

[(1) “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

[(2) “Great Lakes fish and wildlife” means fauna, fish, and invertebrates dependent on Great Lakes resources, and located within the Great Lakes Basin.]

**[SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

[There is authorized to be appropriated to the Secretary, \$250,000 for each of fiscal years 1993 and 1994 to carry out this title.]

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**NONINDIGENOUS AQUATIC NUISANCE PREVENTION  
AND CONTROL ACT OF 1990**

**[TITLE I—AQUATIC NUISANCE  
PREVENTION AND CONTROL**

**[Subtitle A—General Provisions**

**[SECTION 1001. SHORT TITLE.**

[This title may be cited as the “Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990”.]

**[SEC. 1002. FINDINGS AND PURPOSES.**

[(a) FINDINGS.—The Congress finds that—

[(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

[(2) when environmental conditions are favorable, nonindigenous species, such as the zebra mussel (*Dreissena polymorpha*), become established and may disrupt the aquatic environment and economy of affected coastal areas;

[(3) the zebra mussel was unintentionally introduced into the Great Lakes and, if left uncontrolled, is expected to infest over two-thirds of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters; and

[(4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at \$5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species could be severe.]

**[(b) PURPOSES.—**The purposes of this Act are—

**[(1)** to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

**[(2)** to coordinate federally conducted, funded or authorized research, prevention control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

**[(3)** to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;

**[(4)** to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

**[(5)** to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

**[SEC. 1003. DEFINITIONS.**

**[As used in this Act, the term—**

**[(1)** “appropriate Committees” means the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works and Committee on Commerce, Science, and Transportation in the Senate; and

**[(2)** “aquatic nuisance species” means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

**[(3)** “assistant Secretary” means the Assistant Secretary of the Army (Civil Works);

**[(4)** “ballast water” means any water and associated sediments used to manipulate the trim and stability of a vessel;

**[(5)** “Director” means the Director of the United States Fish and Wildlife Service;

**[(6)** “exclusive economic zone” means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

**[(7)** “environmentally sound” methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

**[(8)** “Great Lakes” means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

[(9) “nonindigenous species” means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

[(10) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

[(11) “Task Force” means the Aquatic Nuisance Species Task Force established under section 1201 of this Act;

[(12) “territorial sea” means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

[(13) “Under Secretary” means the Under Secretary of Commerce for Oceans and Atmosphere;

[(14) “waters of the United States” means the navigable waters and the territorial sea of the United States; and

[(15) “unintentional introduction” means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

## **[Subtitle B—Prevention of Unintentional Introductions of Aquatic Nuisance Species**

### **[SEC. 1101. AQUATIC NUISANCE SPECIES IN THE GREAT LAKES.**

[(a) GUIDELINES.—(1) Not later than 6 months after the date of enactment of the Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

[(2) The guidelines issued under this subsection shall—

[(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

[(B) protect the safety of each vessel, its crew, and passengers;

[(C) take into consideration different vessel operating conditions; and

[(D) be based on the best scientific information available.

[(3) Within 12 months after the date of enactment of this Act, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

[(b) AUTHORITY OF SECRETARY.—(1) Within 24 months after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

[(2) The regulations issued under this subsection shall—

[(A) require all vessels that carry ballast water and enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

[(B) require a vessel to—

[(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

[(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

[(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species.

[(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

[(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

[(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

[(F) request the Secretary of the Treasury to withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel, the owner or operator of which is in violation of the regulations;

[(G) protect the safety of each vessel, its crew, and passengers;

[(H) take into consideration different vessel operating conditions; and

[(I) be based on the best scientific information available.

[(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species in the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.

[(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.

[(c) CIVIL PENALTIES.—Any person who violates the regulations issued under subsection (b) shall be liable for a civil penalty in an amount not to exceed \$25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

[(d) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations issued under subsection (b) is guilty of a class C felony.

[(e) CONSULTATION WITH CANADA.—In developing the guidelines and regulations, the Secretary is encouraged to consult with the Government of Canada to develop an effective international program for preventing the introduction and spread of aquatic nuisance species in the Great Lakes from the ballast water of vessels.

**[SEC. 1102. NATIONAL BALLAST WATER CONTROL PROGRAM.**

[(a) STUDIES ON INTRODUCTION OF AQUATIC NUISANCE SPECIES BY VESSELS.—

[(1) BALLAST EXCHANGE STUDY.—The Task Force shall conduct a study—

[(A) to assess the environmental effects of ballast water exchange on the diversity and abundance of native species in receiving estuarine, marine, and fresh waters of the United States; and

[(B) to identify areas within the waters of the United States and the exclusive economic zone, if any, where the exchange of ballast water does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States.

[(2) BIOLOGICAL STUDY.—The Task Force shall conduct a study to determine whether aquatic nuisance species threaten the ecological characteristics and economic uses of waters of the United States other than the Great Lakes.

[(3) SHIPPING STUDY.—The Secretary shall conduct a study to determine the need for controls on vessels entering waters of the United States, other than the Great Lakes, to minimize the risk of unintentional introduction and dispersal of aquatic nuisance species in those waters. The study shall include an examination of—

[(A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;

[(B) possible alternatives for controlling introduction of those species through shipping; and

[(C) the feasibility of implementing regional versus national control measures.

[(b) CONSULTATION.—The Secretary and the Task Force shall cooperate in conducting their respective studies under this section.

[(c) REPORTS.—

[(1) BALLAST EXCHANGE.—Not later than 18 months after the date of enactment of this Act and prior to the effective date of the regulations issued under section 1101(b), the Task Force shall submit a report to the appropriate Committees that presents the results of the study required under subsection (a)(1) and makes recommendations with respect to such regulations.

[(2) BIOLOGICAL AND SHIPPING STUDIES.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Task Force shall each submit to the appropriate Committees a report on the results of their respective studies under paragraphs (2) and (3) of subsection (a).

[(d) NEGOTIATIONS.—The Secretary, working through the International Maritime Organization, is encouraged to enter into negotiations with the governments of foreign countries concerning the planning and implementation of measures aimed at the prevention and control of unintentional introductions of aquatic nuisance species in coastal waters.

## **[Subtitle C—Prevention and Control of Aquatic Nuisance Species**

### **[SEC. 1201. ESTABLISHMENT OF TASK FORCE.**

[(a) TASK FORCE.—There is hereby established an “Aquatic Nuisance Species Task Force”.

[(b) MEMBERSHIP.—Membership of the Task Force shall consist of—

[(1) the Director;

[(2) the Under Secretary;

[(3) the Administrator of the Environmental Protection Agency;

[(4) the Commandant of the United States Coast Guard;

[(5) the Assistant Secretary; and

[(6) the head of any other Federal agency that the chairpersons designated under subsection (d) deem appropriate.

[(c) EX OFFICIO MEMBERS.—The chairpersons designated under subsection (d) shall invite representatives of the Great Lakes Commission and State agencies and other governmental entities to participate as ex officio members of the Task Force.

[(d) CHAIRPERSONS.—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subtitle in consultation and cooperation with the other members of the Task Force.

[(e) MEMORANDUM OF UNDERSTANDING.—Within six months of the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subtitle.

[(f) COORDINATION.—Each Task Force member shall coordinate any action to carry out this subtitle with any such action by other members of the Task Force, and regional, State and local entities.

### **[SEC. 1202. AQUATIC NUISANCE SPECIES PROGRAM.**

[(a) IN GENERAL.—The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

[(b) CONTENT.—The program developed under subsection (a) shall—

[(1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and

research to be conducted or funded by the Federal Government;

[(2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;

[(3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;

[(4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subtitle;

[(5) include recommendations for funding to implement elements of the program; and

[(6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

[(c) PREVENTION.—

[(1) IN GENERAL.—The Task Force shall establish and implement measures, within the program developed under subsection (a), to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

[(A) identification of pathways by which aquatic organisms are introduced to waters of the United States;

[(B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

[(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

[(2) IMPLEMENTATION.—Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

[(d) MONITORING.—The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a), to—

[(1) detect unintentional introductions of aquatic nuisance species;

[(2) determine the dispersal of aquatic nuisance species after introduction; and

[(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

[(e) CONTROL.—

[(1) IN GENERAL.—The Task Force may develop cooperative efforts, within the program established under subsection (a), to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this Act, control efforts include eradi-

cation of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquatic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

[(2) DECISIONS.—The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate. The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

[(3) PROGRAMS.—If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and soliciting comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

[(f) RESEARCH.—

[(1) PRIORITIES.—The Task Force shall, within the program developed under subsection (a), conduct research concerning—

[(A) the environmental and economic risks associated with the introduction of aquatic nuisance species into the waters of the United States;

[(B) the principal pathways by which aquatic nuisance species are introduced and dispersed;

[(C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and

[(D) the assessment of the effectiveness of prevention, monitoring and control methods.

[(2) PROTOCOL.—Within 90 days of the date of enactment of this Act, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subtitle do not result in the introduction of aquatic nuisance species to waters of the United States.

[(3) GRANTS FOR RESEARCH.—The Task Force shall allocate funds authorized under this Act for competitive research

grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

[(g) TECHNICAL ASSISTANCE.—The Task Force shall, within the program developed under subsection (a), provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

[(h) EDUCATION.—The Task Force shall, with the program developed under subsection (a), establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

[(i) ZEBRA MUSSEL DEMONSTRATION PROGRAM.—

[(1) IN GENERAL.—The Task Force shall, within the program developed under subsection (a), undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

[(A) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;

[(B) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;

[(C) development of control plans in coordination with regional, State and local entities; and

[(D) provision of technical assistance to regional, State and local entities to carry out this section.

[(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—The Assistant Secretary, in consultation with the Task Force, shall develop a program of research and technology development for the environmentally sound control of zebra mussels in and around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

[(j) IMPLEMENTATION.—

[(1) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Director and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

[(2) PARTICIPATION OF OTHERS.—The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

[(k) REPORTS.—

[(1) Not later than 12 months after the date of enactment of this Act, the Task Force shall submit a report describing the program developed under subsection (a), including the research protocol required under subsection (f)(2), to the appropriate Committees.

[(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the appropriate Committees detailing progress in carrying out this section.

**[SEC. 1203. GREAT LAKES REGIONAL COORDINATION.**

[(a) IN GENERAL.—Not later than 30 days following the date of enactment of this Act, the Task Force shall request that the Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90-419) convene a panel of Great Lakes representatives from Federal, State and local agencies and from private environmental and commercial interests to—

[(1) identify priorities for the Great Lakes with respect to aquatic nuisance species;

[(2) make recommendations to the Task Force regarding programs to carry out section 1202(i) of this Act;

[(3) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes;

[(4) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes that are not conducted pursuant to this Act;

[(5) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and

[(6) submit annually a report to the Task Force describing activities within the Great Lakes related to aquatic nuisance species prevention, research, control.

[(b) CONSULTATION.—The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this section on technical and policy matters related to the international fishery resources of the Great Lakes.

[(c) CANADIAN PARTICIPATION.—The panel convened under this section is encouraged to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.

**[SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.**

[(a) STATE PLAN.—

[(1) IN GENERAL.—The Governor of each State may, after notice and opportunity for public comment, prepare and submit—

[(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State, other than those related to public facilities, for which technical and financial assistance is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

[(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State for which technical and financial assistance is needed to reduce infestations of zebra mussels.

[(2) CONTENT.—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

[(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

[(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities; and

[(C) a schedule of implementing the plan, including a schedule of annual objectives.

[(3) CONSULTATION.—

[(A) In developing and implementing a management plan, the State should, to the maximum extent practicable, involve local governments and regional entities, and public and private organizations that have expertise in the control of aquatic nuisance species.

[(B) Upon the request of a State, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide technical assistance in developing and implementing a management plan.

[(4) PLAN APPROVAL.—Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor with recommended modifications.

[(b) GRANT PROGRAM.—

[(1) STATE GRANTS.—The Director or the Assistant Secretary, as appropriate under subsection (a), may, at the recommendation of the Task Force, make grants to States with approved management plans for the implementation of those plans.

[(2) APPLICATION.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State pro-

poses to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

**[(3) FEDERAL SHARE.—**

**[(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.**

**[(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.**

**[(4) ADMINISTRATIVE COSTS.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.**

**[(5) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.**

**[SEC. 1205. RELATIONSHIP TO OTHER LAWS.**

**[All actions taken by Federal agencies in implementing the provisions of section 1202 shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.**

**[SEC. 1206. INTERNATIONAL COOPERATION.**

**[(a) ADVICE.—The Task Force shall provide timely advice to the Secretary of State concerning aquatic nuisance species that infest waters shared with other countries.**

**[(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Task Force, is encouraged to initiate negotiations with the governments of foreign countries concerning the planning and implementation of prevention, monitoring, research, education, and control programs related to aquatic nuisance species infesting shared water resources.**

**[SEC. 1207. INTENTIONAL INTRODUCTIONS POLICY REVIEW.**

**[Within one year of the date of enactment of this Act, the Task Force shall, in consultation with State fish and wildlife agencies, other regional, State and local entities, potentially affected industries and other interested parties, identify and evaluate approaches for reducing the risk of adverse consequences associated with intentional introduction of aquatic organisms and submit a report of**

their findings, conclusions and recommendations to the appropriate Committees.

**[SEC. 1208. INJURIOUS SPECIES.**

【Section 42(a) of title 18, United States Code is amended by inserting “of the zebra mussel of the species *Dreissena polymorpha*;” after “*Pteropus*;”.

**[SEC. 1209. BROWN TREE SNAKE CONTROL PROGRAM.**

【The Task Force shall, within the program developed under subsection (a), undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (*Boiga irregularis*) in Guam and other areas where the species is established outside of its historic range.

## **[Subtitle D—Authorizations of Appropriation**

**[SEC. 1301. AUTHORIZATIONS.**

【(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

【(1) \$500,000 until the end of fiscal year 1992 to the Secretary to carry out sections 1101 and 1102(a)(3);

【(2) \$2,000,000 until the end of fiscal year 1992 to the Director and Under Secretary to carry out the studies under sections 1102(a)(1) and 1102(a)(2); and

【(3) \$1,000,000 for each of fiscal years 1993, 1994, and 1995 to the Secretary for implementation and enforcement of the regulations promulgated under section 1101.

【(b) TASK FORCE AND AQUATIC NUISANCE SPECIES PROGRAM.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to develop and implement the provisions of subtitle C—

【(1) \$7,000,000 to the Director to carry out sections 1202 and 1209;

【(2) \$5,000,000 to the Under Secretary to carry out section 1202;

【(3) \$1,125,000 to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration;

【(4) \$5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:

【(A) \$3,375,000 to fund grants under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and of this amount, \$2,500,000 to fund grants in the Great Lakes region; and

【(B) \$1,675,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

[(5) \$500,000 to fund Sea Grant Marine Advisory Services education and technical assistance related to infestations of zebra mussels under sections 1202 (g) and (h);

[(6) \$200,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission; and

[(7) \$2,000,000 to the Assistant Secretary to carry out section 1202(i)(2).

[(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 1204—

[(1) \$2,500,000 to the Director; and

[(2) \$5,000,000 to the Assistant Secretary.

[(d) INTENTIONAL INTRODUCTIONS POLICY REVIEW.—There are authorized to be appropriated for fiscal year 1991, \$500,000 to the Director and the Under Secretary to conduct the intentional introduction policy review under section 1207.

## **[Subtitle E—Cooperative Environmental Analyses**

### **[SEC. 1401. ENVIRONMENTAL IMPACT ANALYSES.**

[The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.]

## **SECTION 3 OF THE SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976**

### **[SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.**

[(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

[(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

[(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

[(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

[(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

[(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

[(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

[(A) the Caribbean and Latin American regions;

[(B) the Pacific Islands region;

[(C) the Arctic and Antarctic regions;

[(D) the Atlantic and Pacific Oceans; and

[(E) the Great Lakes.

[(b) ELIGIBILITY, PROCEDURES, AND REQUIREMENTS.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate.]

## **SECTION 305 OF THE COASTAL ZONE MANAGEMENT ACT OF 1972**

### **[MANAGEMENT PROGRAM DEVELOPMENT GRANTS**

[SEC. 305. (a) In fiscal years 1991, 1992, and 1993, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than two grants pursuant to this subsection.

[(b) Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306.]

**NOAA FLEET MODERNIZATION ACT**

**[TITLE VI—NOAA FLEET MODERNIZATION**

**[SEC. 601. SHORT TITLE.**

[This title may be cited as the “NOAA Fleet Modernization Act”].

**[SEC. 602. DEFINITIONS.**

[In this title, the term—

[(1) “NOAA” means the National Oceanic and Atmospheric Administration within the Department of Commerce.

[(2) “NOAA fleet” means the fleet of research vessels owned or operated by NOAA.

[(3) “Plan” means the NOAA Fleet Replacement and Modernization Plan described in section 604.

[(4) “Secretary” means the Secretary of Commerce.

[(5) “UNOLS” means University-National Oceanographic Laboratory System.

**[SEC. 603. FLEET REPLACEMENT AND MODERNIZATION PROGRAM.**

[The Secretary is authorized to implement, subject to the requirements of this Act, a 15-year program to replace and modernize the NOAA fleet.

**[SEC. 604. FLEET REPLACEMENT AND MODERNIZATION PLAN.**

[(a) IN GENERAL.—To carry out the program authorized in section 603, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 610.

[(b) TIMING.—The Plan required in subsection (a) shall be submitted to Congress within 30 days of the date of enactment of this Act, and updated on an annual basis.

[(c) PLAN ELEMENTS.—The Plan required in subsection (a) shall include the following—

[(1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;

[(2) the number of vessels proposed to be constructed, leased, or chartered;

[(3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;

[(4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal official, and the terms and conditions for their availability;

[(5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and

[(6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

[(d) CONTRACTING LIMITATION.—The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a).

**[SEC. 605. DESIGN OF NOAA VESSELS.**

**[(a) DESIGN REQUIREMENT.—**Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

**[(1)** prepare requirements for each class of vessel to be constructed or converted under the Plan; and

**[(2)** contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

**[(b) EXCEPTION.—**The Secretary shall—

**[(1)** report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after the date of enactment of this Act and shall promptly advise the Congress of any modification of these designs; and

**[(2)** submit to Congress as part of the annual update of the Plan required in section 604, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

**[SEC. 606. CONTRACT AUTHORITY.**

**[(a) MULTIYEAR CONTRACTS.—**

**[(1) IN GENERAL.—**Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31, United States Code and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

**[(2) REQUIRED FINDINGS.—**The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

**[(A)** there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and

**[(B)** the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

**[(3) REQUIRED CONTRACT PROVISIONS.—**The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

**[(A)** a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

**[(B)** a provision that specifies the term of effectiveness of the contract; and

**[(C)** appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

[(i) an amount specified in the contract for such a termination; or

[(ii) amounts that—

[(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

[(II) are unobligated on the date of the termination.

[(b) SERVICE CONTRACTS.—Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

[(1) the Secretary finds that it is in the public interest to do so;

[(2) the contract is for not more than 7 years; and

[(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

[(B) NOAA vessels are not available or cannot provide those services.

[(c) BONDING AUTHORITY.—Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

**[SEC. 607. RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES.**

[(a) IN GENERAL.—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

[(b) DEFINITION.—In this section, the term “significant subsidy” includes, but is not limited to, any of the following:

[(1) Officially supported export credits.

[(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

[(A) grants;

[(B) loans and loan guarantees other than those available on the commercial market;

[(C) forgiveness of debt;

[(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

[(E) preferential provision of goods and services.

[(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2) (A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

[(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

[(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

[(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

[(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

[(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

**[SEC. 608. USE OF VESSELS.**

[(a) VESSEL AGREEMENTS.—In implementing the NOAA fleet replacement and modernization program, the Secretary shall use excess capacity of UNOLS vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

[(b) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Comptroller General of the United States shall provide a report to Congress, in consultation with the Secretary, comparing the cost-efficiency, accounting, and operating practices of the vessels of NOAA, UNOLS, other Federal agencies, and the United States private sector in meeting the missions of NOAA.

**[SEC. 609. INTEROPERABILITY.**

[The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken, on a reimbursable basis, to ensure that NOAA vessels are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

**[SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

**[(a) IN GENERAL.—**There are authorized to be appropriated to the Secretary for carrying out this title—

**[(1) \$50,000,000 for fiscal year 1993;**

**[(2) \$100,000,000 for fiscal year 1994; and**

**[(3) such sums as are necessary for each of the fiscal years 1995, 1996, and 1997.**

**[(b) LIMITATION ON FLEET MODERNIZATION ACTIVITIES.—**All National Oceanic and Atmospheric Administration fleet modernization shipbuilding, and conversion shall be conducted in accordance with this title.]

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**PUBLIC LAW 85-342**

AN ACT To authorize the Secretary of the Interior to establish a program for the purpose of carrying on certain research and experimentation to develop methods for the commercial production of fish on flooded rice acreage in rotation with rice field crops, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized and directed to establish an experiment station or stations for the purpose of carrying on a program of research and experimentation—

**[(1) to determine species of fishes most suitable for culture on a commercial base in shallow reservoirs and flooded rice lands;**

**[(2) to determine methods for production of fingerling fishes for stocking in commercial reservoirs;**

**[(3) to develop methods for the control of parasites and diseases of brood fishes and of fingerlings prior to stocking;**

**[(4) to develop economical methods for raising the more desirable species of fishes to a marketable size;**

**[(5) to determine, in cooperation with the Department of Agriculture, the effects of fish-rice rotations, including crops other than rice commonly grown on rice farms, upon both the fish and other crops; and**

**[(6) to develop suitable methods for harvesting the fish crop and preparing it for marketing, including a study of sport fishing as a means of such harvest.**

**[SEC. 2.** For the purpose of carrying out the provisions of this Act, the Secretary of the Interior is authorized (1) to acquire by purchase, condemnation, or otherwise such suitable lands, to construct such buildings, to acquire such equipment and apparatus, and to employ such officers and employees as he deems necessary; (2) to cooperate with State and other institutions and agencies upon such terms and conditions as he determines to be appropriate; and (3) to make public the results of such research and experiments conducted pursuant to the first section of this Act.

**[SEC. 3.** The Department of Agriculture is authorized to cooperate in carrying out the provisions of this Act by furnishing such information and assistance as may be requested by the Secretary of the Interior.

[SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.]

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**ACT OF AUGUST 8, 1956**

AN ACT To promote the fishing industry in the United States and its Territories by providing for the training of needed personnel for such industry

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Secretary of the Interior is authorized to make grants, out of funds appropriated for the purposes of this section, to public and nonprofit private universities and colleges in the several States and Territories of the United States for such purposes as may be necessary to promote the education and training of professionally trained personnel (including scientists, technicians, and teachers) needed in the field of commercial fishing. Any amount appropriated for the purposes of this section shall be apportioned on an equitable basis, as determined by the Secretary of the Interior, among the several States and Territories for the purpose of making grants within each such State and Territory. In making such appointment the Secretary of the Interior shall take into account the extent of the fishing industry within each State and Territory as compared with the total fishing industry of the United States (including Territories), and such other factors as may be relevant in view of the purposes of this section.

[(b) There are authorized to be appropriated not in excess of \$550,000 for the fiscal year beginning on July 1, 1955, and for each fiscal year thereafter for the purposes of this section.

[(c) The Secretary of the Interior may establish such regulations as may be necessary to carry out the provisions of this section.]

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**PUBLIC LAW 86-359**

AN ACT Authorizing and directing the Secretary of the Interior to undertake continuing research on the biology fluctuations, status, and statistics of the migratory marine species of game fish of the United States and contiguous waters

*[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby directed to undertake a comprehensive continuing study of the migratory marine fish of interest to recreational fishermen of the United States, including species inhabiting the offshore waters of the United States and species which migrate through or spend a part of their lives in the inshore waters of the United States. The study shall include, but not be limited to, research on migrations, identify of stocks, growth rates, mortality rates, variations in survival, environmental influences, both natural and artificial, including pollution, and effects of fishing on the species, for the purpose of developing wise conservation policies and constructive management activities.

【SEC. 2. For the purpose of carrying out the provisions of this Act, the Secretary of the Interior is authorized (1) to acquire lands, construct laboratory or other buildings, purchase boats, acquire such other equipment and apparatus, and to employ such officers and employees as he deems necessary; (2) to cooperate or contract with State and other institutions and agencies upon such terms and conditions as he determines to be appropriate; and (3) to make public the results of such research conducted pursuant to the first section of this Act.

【SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act: *Provided*, That no more than \$2,700,000 be appropriated for this purpose in any one fiscal year.】

CHAP. 253.—An Act to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes.

【*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That on and after the approval of this act it shall be unlawful for any citizen of the United States, or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel, to take or catch, by any means or method, in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, any commercial sponges measuring when wet less than five inches in their maximum diameter, or for any person or vessel to land, deliver, cure, offer for sale, or have in possession at any port or place in the United States, or on any boat or vessel of the United States, any such commercial sponges.

【SEC. 2. That the presence of sponges of a diameter of less than five inches on any vessel or boat of the United States engaged in sponging in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, or the possession of any sponges of less than the said diameter sold or delivered by such vessels, shall be prima facie evidence of a violation of this Act.

【SEC. 3. That every person, partnership, or association guilty of a violation of this Act shall be liable to a fine of not more than \$500, and in addition such fine shall be a lien against the vessel or boat on which the offense is committed, and said vessel or boat shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense.

【SEC. 4. That any violation of this Act shall be prosecuted in the district court of the United States of the district wherein the offender is found or into which he is first brought.

**[SEC. 5. That it shall be the duty of the Secretary of Commerce to enforce the provisions of this Act, and he is authorized to empower such officers and employees of the Department of Commerce as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and upon his request the Secretary of the Treasury may employ the vessels of the Revenue Cutter Service or the employees of the Customs Service to that end.**

**[SEC. 6. That the Act approved June twentieth, nineteen hundred and six, entitled "an Act to regulate the landing, delivery, cure, and sale of sponges" and all other laws in conflict herewith be, and the same hereby are, repealed.]**

