

Public Law 102-567  
102d Congress

An Act

Oct. 29, 1992  
[H.R. 2130]

To authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes.

National  
Oceanic and  
Atmospheric  
Administration  
Authorization  
Act of 1992.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Oceanic and Atmospheric Administration Authorization Act of 1992”.

**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); and

(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.).

**TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS**

**SEC. 101. NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, \$311,532,000 for fiscal year 1992 and \$395,822,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, aviation, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) **PACIFIC WEATHER BUOYS.**—Of the sums authorized under subsection (a), \$840,000 for fiscal year 1992 and \$1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

(c) **COOPERATIVE WEATHER OBSERVER PROGRAM.**—The Secretary of Commerce may use funds otherwise available for conducting weather observations to strengthen the Cooperative Weather Observer Program and encourage public participation in the program. The Secretary may—

15 USC 325 note.

(1) provide distinctive insignia or paraphernalia to Cooperative Weather Observers; and

(2) make awards of nominal value to recognize continued participation in the program by observers or to recognize outstanding achievements by such observers or groups of observers without regard to any law restricting expenditures for such purposes to Federal employees.

#### SEC. 102. PUBLIC WARNING AND FORECAST SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, \$132,034,000 for each of the fiscal years 1992 and 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) WEATHER RADAR COMPLETE PROGRAM AUTHORIZATION.—

(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed \$426,971,000, to remain available until expended, to complete the acquisition and deployment of the Next Generation Weather Radar system, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the radars, including system software, meet the technical performance specifications included in the radar procurement contract as in effect on October 1, 1992;

(ii) the system contract is viable, and the Secretary does not foresee circumstances which would prevent fulfillment of the contract;

(iii) the system can be fully sited, commissioned, and operational without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iv) the Secretary does not foresee further delays in the system deployment and operation schedule; or

(B) submits to the Congress a report which describes—

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(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the deployment and operation schedule and radar coverage; and

(iv) a justification for proceeding with the program, if appropriate.

#### SEC. 103. CLIMATE AND AIR QUALITY RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality

research activities under law, \$100,718,000 for fiscal year 1992 and \$103,877,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) **CLIMATE AND GLOBAL CHANGE.**—Of the sums authorized under subsection (a), \$67,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

#### **SEC. 104. ATMOSPHERIC RESEARCH.**

There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, \$43,935,000 for fiscal year 1992 and \$44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

#### **SEC. 105. SATELLITE OBSERVING SYSTEMS.**

(a) **IN GENERAL.**—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, \$305,744,000 for fiscal year 1992 and \$336,000,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sums authorized under paragraph (1), \$2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) **EMERGENCY CONTINGENCY FUND.**—There are authorized to be appropriated to the Secretary of Commerce, \$110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of

hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) **STRATEGIC PLAN.**—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and to accomplish the objectives described in paragraph (2).

(d) **GEOSTATIONARY SATELLITE COMPLETE PROGRAM AUTHORIZATION.**—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed \$1,005,255,000, to remain available until expended, to complete the procurement of Geostationary Operational Environmental Satellites I, J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the results of testing indicate that the satellite instruments are likely to meet the technical performance



specifications included in the satellite contract as in effect on October 1, 1992;

(ii) the procurements can be completed without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary foresees no gap in two-satellite service operations resulting from non-performance of the satellite contract; or

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(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

#### SEC. 106. DATA AND INFORMATION SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, \$32,628,000 for fiscal year 1992 and \$39,596,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

(b) MODERNIZATION INITIATIVE.—Of the sums authorized under subsection (a), \$10,000,000 in fiscal year 1992 and \$15,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

15 USC 1537.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall—

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(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels necessary to achieve modernization and improvement objectives.

#### SEC. 107. HURRICANE RECONNAISSANCE PROGRAM.

15 USC 313 note.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(2) The Secretary of Commerce shall establish the Tropical Cyclone Research Advisory Committee, an advisory committee of tropical cyclone research scientists, to make recommendations for tropical cyclone research activities and reconnaissance procedures.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce. Program responsibility may not be transferred to any other Federal department or agency, including the Coast Guard, without the agreement and approval of the Secretary of Defense, the Secretary of Commerce, and the head of any other Federal agency or department to which the responsibility is transferred.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sens-

ing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) **MANAGEMENT PLANS.**—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce, in consultation with the Tropical Cyclone Research Advisory Committee established by section 107(a)(2), shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability, or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

15 USC 313 note.

#### **SEC. 108. UNITED STATES WEATHER RESEARCH PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary of Commerce, in cooperation with the Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) **IMPLEMENTATION PLAN.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstra-

tion of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

#### **SEC. 109. WEATHER SERVICE OFFICE IN RENO, NEVADA.**

(a) **FACILITY ACQUISITION.**—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in paragraph (1) or (2).

(b) **REIMBURSEMENT AUTHORITY.**—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) **OPERATIONS.**—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### **SEC. 110. WEATHER SERVICE FACILITIES IN SOUTH FLORIDA.**

(a) **CONSTRUCTION OF FACILITY.**—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this subsection.

(b) **OPERATIONS.**—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### **SEC. 111. WEATHER FORECAST OFFICE, HONOLULU.**

(a) **FACILITY ACQUISITION.**—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Establishment.  
15 USC 813b.

#### SEC. 112. INSTITUTE FOR AVIATION WEATHER PREDICTION.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Forecast Center to assume comparable duties and responsibilities within the Institute.

#### SEC. 113. WEATHER SERVICE OFFICE IN OKLAHOMA.

(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

#### SEC. 114. TRANSFER OF DATA ARCHIVING RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;



(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) **PROVISION OF UNENHANCED DATA.**—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting “of the Interior” immediately after “Secretary”.

(c) **ARCHIVING OF DATA.**—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting “of the Interior” immediately after “Secretary” each place it appears; and

(2) by adding at the end the following new subsection: “(h) in carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.”.

#### **SEC. 115. WEATHER OFFICE IN EUREKA, CALIFORNIA.**

Real property.

Notwithstanding any other law, any property and improvements to that property located on Woodley Island in the city of Eureka, California, that are—

(1) acquired by the Secretary of Commerce from Humboldt Bay Harbor Recreation and Conservation District, California, for use as a weather forecasting office; and

(2) determined by the Secretary to be excess property, shall revert to that district.

#### **SEC. 116. REPORT ON SATELLITE OCEANOGRAPHY.**

33 USC 883j  
note.

(a) **IN GENERAL.**—The Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop findings and recommendations regarding—

(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

(2) the major goals of satellite oceanography for the next 10 years.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Federal Coordinating Council for Science,

Engineering, and Technology shall submit to the Congress a report which describes the findings and recommendations of the Committee on Earth and Environmental Sciences, including recommendations for, or a description of actions to be taken toward—

- (1) correcting the inadequacies in remote sensing capabilities;
- (2) improving the availability of remotely sensed data; and
- (3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2).

## TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

### SEC. 201. NATIONAL OCEAN SERVICE.

(a) **MAPPING, CHARTING, AND GEODESY.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic 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, \$50,917,000 for fiscal year 1992 and \$51,087,000 for fiscal year 1993.

(b) **OBSERVATION AND ASSESSMENT.**—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—

- (1) under the Act of 1947 and any other law involving those activities, \$57,273,000 for fiscal year 1992 and \$57,273,000 for fiscal year 1993; and

- (2) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), \$11,000,000 for fiscal year 1992 and \$11,000,000 for fiscal year 1993.

(c) **COASTAL OCEAN PROGRAM.**—Of the sums authorized under subsection (b)(1), \$17,352,000 for each of the fiscal years 1992 and 1993 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 of the ocean environment, to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) **LONG ISLAND SOUND CIRCULATION MODEL.**—No moneys appropriated pursuant to the authorizations in this Act shall be used to conduct analyses of samples collected under the National Status and Trends Program until the Policy Committee of the Long Island Sound Study certifies that the National Oceanic and Atmospheric Administration has completed the water circulation model for Long Island Sound.

(e) **CIRCULATION MODEL FUNDING.**—Of the sums authorized under subsection (b) for fiscal year 1992, \$600,000 is available for completion of the water circulation model for Long Island Sound and \$400,000 is available for National Status and Trends Program stations in Long Island Sound.

(f) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, \$1,678,000 for fiscal year 1992 and \$1,823,000 for fiscal year 1993.

#### SEC. 202. OCEAN AND GREAT LAKES RESEARCH.

(a) OCEAN AND GREAT LAKES RESEARCH AUTHORIZATION.—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, \$32,171,000 for fiscal year 1992 and \$39,800,000 for fiscal year 1993.

(b) COOPERATIVE INSTITUTE FOR LIMNOLOGY AND ECOSYSTEMS RESEARCH.—In addition to amounts authorized under subsection (a), there are authorized to be appropriated to the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration \$250,000 for fiscal year 1992 and \$260,000 for fiscal year 1993, for use by the Cooperative Institute for Limnology and Ecosystems Research (established in partnership with the State of Michigan and the Great Lakes Environmental Research Laboratory) for—

(1) research conducted by the Institute;

(2) development of the Institute; and

(3) for preparation of a five-year plan for research and development.

(c) LARGE LAKES RESEARCH.—(1) In addition to amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary of Commerce for use by the Office of Oceanic and Atmospheric Research \$2,000,000 for fiscal year 1992 and \$2,080,000 for fiscal year 1993 for use for preparing a plan for large lakes research.

(2) Amounts appropriated under this subsection may be used for—

(A) preparation of a 5-year plan designating large lake study sites, research activities, and anticipated research products; and

(B) collection of physical, chemical, and biological data required for preparing that plan.

(3) Activities conducted with amounts appropriated under this subsection shall be coordinated through the Great Lakes Environmental Research Laboratory, working in association with the Cooperative Institute for Limnology and Ecosystems Research and the National Undersea Research Program.

#### SEC. 203. AQUATIC NUISANCE PREVENTION AND CONTROL PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce \$11,000,000 for fiscal year 1992 and \$11,440,000 for fiscal year 1993 for use in implementing the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646).

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and

16 USC 4701  
note.

projected funding for such a program for the following five fiscal years.

**SEC. 204. REPEAL OF NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978.**

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is repealed.

33 USC 2706  
note.

**SEC. 205. NOAA OIL AND HAZARDOUS SUBSTANCE SPILL COST REIMBURSEMENT.**

(a) **TREATMENT OF AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES.**—Notwithstanding any other provision of law, amounts received by the United States as reimbursement of expenses related to oil or hazardous substance spill response activities, or natural resource damage assessment, restoration, rehabilitation, replacement, or acquisition activities, conducted (or to be conducted) by the National Oceanic and Atmospheric Administration—

(1) shall be deposited into the Fund;

(2) shall be available, without fiscal year limitation and without apportionment, for use in accordance with the law under which the activities are conducted; and

(3) shall not be considered to be an augmentation of appropriations.

(b) **APPLICATION.**—Subsection (a) shall apply to amounts described in subsection (a) that are received—

(1) after the date of the enactment of this Act; or

(2) with respect to the oil spill associated with the grounding of the EXXON VALDEZ.

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

(1) the term “Fund” means the Damage Assessment and Restoration Revolving Fund of the National Oceanic and Atmospheric Administration referred to in title I of Public Law 101-515 under the heading “National Oceanic and Atmospheric Administration” (104 Stat. 2105); and

(2) the term “expenses” includes incremental and base salaries, ships, aircraft, and associated indirect costs, except the term does not include base salaries and benefits of National Oceanic and Atmospheric Administration Support Coordinators.

**TITLE III—NOAA MARINE FISHERY PROGRAMS**

**SEC 301. 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) by striking “\$26,500,000” and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$47,933,000 for fiscal year 1992 and \$59,162,000 for fiscal year 1993”;

(2) in section 3(a) by striking “\$35,000,000” the first time it appears and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$27,290,000 for fiscal year 1992 and \$35,594,000 for fiscal year 1993”; and

(3) in section 4(a) by striking “\$10,000,000” and all that follows through “fiscal year 1989” and inserting in lieu thereof “\$12,182,000 for fiscal year 1992 and \$18,838,000 for fiscal year 1993”.

97 Stat. 1410.

**SEC. 302. DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING.**

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

“(d) Of the sums authorized under subsection (a) of this section, \$1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled ‘An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes’, approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

Printing.  
Public  
information.

“(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

“(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

“(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.”.

**SEC. 303. FISHERIES RESEARCH.**

Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after “FISHERIES RESEARCH.—” the following: “(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.”.

**SEC 304. FISHERY FACILITIES.**

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

(1) by striking “or” at the end of paragraph (1);

(2) by adding “or” at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

“(3) for aquaculture, including operations on land or elsewhere—

“(A) any structure or appurtenance thereto designed for aquaculture;

“(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

“(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary



for the performance of any function referred to in subparagraph (A); and

“(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;”.

**SEC. 305. STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS.**

Reports.

Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

Mexico.  
16 USC 1361  
note.

**SEC. 306. STUDY ON EFFECTS OF DOLPHIN FEEDING.**

(a) **STUDY.**—The Secretary of Commerce shall conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings. The study conducted pursuant to this section shall be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins.

(b) **EXTERNAL REVIEW.**—In design and conduct of the study required under subsection (a), the Secretary shall consult with the National Academy of Sciences and the Marine Mammal Commission.

(c) **REPORT.**—Within 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted pursuant to subsection (a).

Establishment.  
15 USC 1511d.

**SEC. 307. CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.**

(a) **ESTABLISHMENT.**—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the “Office”).

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the

Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) **FUNCTIONS.**—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

Reports.

(c) **BUDGET LINE ITEM.**—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(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 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes."

(e) **CHESAPEAKE EXECUTIVE COUNCIL.**—For purposes of this section, "Chesapeake Executive Council" means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

33 USC 1251  
note.

#### **SEC. 308. NATIONAL SHELLFISH INDICATOR PROGRAM.**

(a) **ESTABLISHMENT OF A RESEARCH PROGRAM.**—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the "Program") for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

Establishment.

(b) **ADVISORY COMMITTEE.**—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the "Committee") shall be established under a memorandum of understanding between

the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee.

Establishment.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

Reports.

(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) **REPORTING REQUIREMENTS.**—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce \$5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amounts appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) **DEFINITIONS.**—As used in this section, the term—

(1) “Consortium” means the Louisiana Universities Marine Consortium; and

(2) “shellfish” means any species of oyster, clam, or mussel that is harvested for human consumption.

#### **SEC. 309. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.**

North Carolina.

The Secretary of Commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds \$2,000,000.



**SEC. 310. UNITED STATES GULF OF MEXICO AND SOUTH ATLANTIC SHRIMP FISHERY STUDY.**

(a) **STUDY.**—(1) The Secretary of Commerce shall conduct a comprehensive economic study to provide baseline information to guide policy decisions on the future of the United States Gulf of Mexico and South Atlantic shrimp fishery. Funds shall only be expended under the terms of paragraph (2) of this section.

(2) The study shall—

(A) gather information as to the extent to which governmental and economic factors have affected or may affect the United States Gulf of Mexico and South Atlantic shrimp fishery;

(B) attempt to expand available historical data through survey contacts and cooperation with the industry; and

(C) incorporate the results of the studies on the United States Gulf of Mexico and South Atlantic shrimp fishery that are underway or completed on the date this section is effective.

(b) **REPORT.**—The Secretary of Commerce shall submit a report to Congress detailing the results of this study no later than October 1, 1993.

(c) **AUTHORIZATION.**—There is authorized to be appropriated to carry out the provisions of this section \$1,000,000 for fiscal year 1993. None of the funds authorized under section 304(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)) may be used to carry out the provisions of this section.

**SEC. 311. REPORT ON SATELLITE CAPABILITIES FOR FISHERIES ENFORCEMENT.**

(a) **IN GENERAL.**—Not later than six months after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the heads of other Federal agencies, shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report describing how current and planned satellite capabilities of the Federal Government can aid in the enforcement of Federal fisheries laws and international fisheries conservation programs.

(b) **REPORT CONTENTS.**—The report under subsection (a) shall include consideration of—

(1) active, transponder-based systems and passive, vessel signature-based technologies capable of localizing or identifying individual vessels without the use of vessel-carried transmitters;

(2) the resolution, coverage periods, and all-weather effectiveness of each technology and the real-time data delivery capacity of the various systems;

(3) a description of the technological requirements (including data processing and transfer procedures) and institutional requirements necessary to transfer satellite data to end users for management and enforcement purposes; and

(4) the status of foreign civil satellites and the feasibility of their application to international vessel location and monitoring.

California.

**SEC. 312. DEMONSTRATION PROJECT FOR SEAFOOD HANDLING TRAINING AND EDUCATION.**

(a) **GRANTS.**—The Secretary of Commerce may make annual grants to the City of San Francisco and the Port of San Francisco for each of the fiscal years 1992 and 1993 for a joint project at the San Francisco Wharf to demonstrate safe seafood handling and to conduct seafood education programs.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For grants under this section, there are authorized to be appropriated to the Secretary of Commerce—

(1) \$250,000 for fiscal year 1992; and

(2) \$350,000 for fiscal year 1993.

Such funds shall remain available until expended.

**SEC. 313. BOWHEAD WHALE STUDY.**

Notwithstanding any other provision of law, the Department of Commerce and the Department of the Interior are authorized to pay as appropriate, \$48,464, plus interest since June 6, 1988, to reimburse any unpaid costs incurred in the research and preparation of a paper entitled "Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos", which was presented by the United States to the 40th Annual Meeting of the International Whaling Commission.

Louisiana.

**SEC. 314. FISHERIES RESEARCH CENTER.**

The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a building, on approximately 15 acres of land to be leased from the University of Southwest Louisiana for a 99-year term. This section shall not apply if the annual cost of leasing the required land exceeds one dollar. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this section.

Mississippi.

**SEC. 315. PASCAGOULA LABORATORY WAREHOUSE FACILITIES.**

Due to the logistical crisis at the National Marine Fisheries Service Laboratory at Pascagoula, Mississippi, the Administrator of the National Oceanic and Atmospheric Administration should give immediate consideration to upgrading dock and warehouse support facilities at such Laboratory in fiscal year 1993.

**TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS****SEC. 401. 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, \$68,460,000 for fiscal year 1992 and \$75,750,000 for fiscal year 1993.

(b) **MARINE SERVICES.**—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oce-

anic 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, \$63,407,000 for fiscal year 1992 and \$68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, \$1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce \$1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

33 USC 891b  
note.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

33 USC 891g  
note.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, \$8,865,000 for fiscal year 1992 and \$10,336,000 for fiscal year 1993.

#### SEC. 402. CONSTRUCTION.

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, \$34,917,000 for fiscal year 1992 and \$94,500,000 for fiscal year 1993.

#### SEC. 403. NOTICE OF REPROGRAMMING.

15 USC 1538.

(a) IN GENERAL.—The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 15 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of \$250,000 or 5 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;

(2) reduces by 5 percent or more (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefor as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 15 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.

15 USC 1539.  
Regulations.

#### SEC. 404. FINANCIAL ASSISTANCE.

(a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term “nondiscretionary assistance program” means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

44 USC 1307  
note.

#### SEC. 405. PRICE FREEZE ON CHARTS AND OTHER PRODUCTS OF NOAA.

Notwithstanding section 1307 of title 44, United States Code, the price of nautical charts or other nautical products produced or published by the National Oceanic and Atmospheric Administration and sold after the date of the enactment of this Act shall not exceed the price of that type of chart or product on the date of enactment of this Act adjusted for inflation. This section shall not apply after September 30, 1994.

**SEC. 406. COOPERATIVE AGREEMENTS.**

15 USC 1540.

The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, may enter into cooperative agreements and other financial agreements with any nonprofit organization to—

(1) aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs; and

(2) solicit private donations for the support of such activities.

**SEC. 407. RECRUITMENT OF MINORITIES AND WOMEN FOR NOAA SCIENCE EDUCATION ACTIVITIES.**

(a) FINDINGS.—The Congress finds the following:

(1) In this decade, more than two-thirds of the new entrants to the United States labor force will be minorities and women—groups which for the most part have been historically underrepresented in the sciences.

(2) The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel.

(3) Given the demographics of the United States workforce, the problem of underrepresented minorities and women in the sciences and engineering could seriously compromise the industrial and technological capability of the United States, as well as its ability to compete in international marketplaces.

(4) The National Oceanic and Atmospheric Administration has made important efforts to promote education programs in the sciences for students, teachers, and other citizens.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the National Oceanic and Atmospheric Administration should continue to expand its educational programs in the sciences, and in this effort, that the National Oceanic and Atmospheric Administration should develop and promote programs that reach out to and recruit minorities and women for education in the sciences.

**TITLE V—NATIONAL MARINE MONITORING PROGRAM****SEC. 501. AMENDMENT.**

The Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end the following new title:

**“TITLE V—NATIONAL COASTAL MONITORING ACT****“SEC. 501. PURPOSES.**

33 USC 2801.

“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;



Reports.

"(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.

33 USC 2802.

**"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, including 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.

33 USC 2803.

**"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.

Rhode Island.

"(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).

Massachusetts.  
Maine.

"(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 indige-

nous 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.**

33 USC 2804.

"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.**

33 USC 2805.

"(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."

**TITLE VI—NOAA FLEET MODERNIZATION****SEC. 601. SHORT TITLE.**

This title may be cited as the "NOAA Fleet Modernization Act".

**SEC. 602. DEFINITIONS.**

NOAA Fleet  
Modernization  
Act.  
33 USC 851  
Note.

33 USC 891.

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.

33 USC 891a.

**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.

33 USC 891b.

**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).

33 USC 891c.

**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.

Reports.

(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.**

33 USC 891d.

**(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.

33 USC 891e.

**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.

33 USC 891f.

(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.

33 USC 891g.

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.

33 USC 891h.

(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.

### TITLE VII—WEATHER SERVICE MODERNIZATION

#### SEC. 701. SHORT TITLE.

Weather Service  
Modernization  
Act.  
15 USC 313 note.

This title may be cited as the “Weather Service Modernization Act”.

#### SEC. 702. DEFINITIONS.

For the purposes of this title, the term—

(1) “automate” means to replace employees with automated weather service equipment;

(2) “change operations at a field office” means transfer service responsibility, commission weather observation systems,



decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting or service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

#### SEC. 703. NATIONAL IMPLEMENTATION PLAN.

(a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize

the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) **TRANSMITTAL TO COMMITTEE.**—The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) **CONSULTATION.**—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

#### **SEC. 704. MODERNIZATION CRITERIA.**

(a) **NATIONAL RESEARCH COUNCIL REVIEW.**—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which—

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(1) assesses requirements and procedures for commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) **CRITERIA.**—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for—

Federal Register, publication.

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

#### **SEC. 705. CHANGES IN FIELD OFFICE OPERATIONS.**

(a) **NOTIFICATION.**—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) **WEATHER RADAR DECOMMISSIONING.**—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present

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to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

(c) **SURFACE OBSERVING SYSTEM COMMISSIONING.**—The Secretary may not commission an automated surface observing system located at an airport unless it is determined, in consultation with the Secretary of Transportation, that the weather services provided after commissioning will continue to be in full compliance with applicable flight aviation rules promulgated by the Federal Aviation Administration.

#### **SEC. 706. RESTRUCTURING FIELD OFFICES.**

**SEC. 706. (a) PROHIBITION.**—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) **CERTIFICATION.**—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the services provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) **PUBLIC REVIEW.**—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(d) **FINAL DECISION.**—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

Federal  
Register,  
publication.

Federal  
Register,  
publication.

(e) **SPECIAL CIRCUMSTANCES.**—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) **LIAISON OFFICER.**—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

#### **SEC. 707. MODERNIZATION TRANSITION COMMITTEE.**

(a) **ESTABLISHMENT.**—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) **MEMBERSHIP AND TERMS.**—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The terms of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) **DUTIES.**—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to

the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) **PAY AND TRAVEL EXPENSES.**—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) **STAFF.**—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) **TERMINATION.**—The Committee shall terminate on December 31, 1999.

#### **SEC. 708. WEATHER SERVICE REPORT.**

(a) **REPORT.**—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) **CONTENTS.**—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.



(c) **CONSULTATION.**—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Foundation, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association.

Alaska.

#### SEC. 709. REPEALS.

The National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended by repealing—

- (1) subsections (b), (c), and (d) of section 407; and
- (2) section 408.

### TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

North Pacific  
Anadromous  
Stocks Act of  
1992.  
16 USC 5001  
note.

#### SEC. 801. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks Act of 1992".

#### SEC. 802. PURPOSE.

16 USC 5001.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

#### SEC. 803. DEFINITIONS.

16 USC 5002.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that

zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

16 USC 5003.

#### SEC. 804. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 805, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) **COMPENSATION.**—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

**SEC. 805. ADVISORY PANEL.**

16 USC 5004.

(a) **ESTABLISHMENT OF PANEL.**—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) **QUALIFICATIONS.**—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) **LIMITATION ON SERVICE.**—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) **FUNCTIONS.**—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) **COMPENSATION AND EXPENSES.**—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

**SEC. 806. COMMISSION RECOMMENDATIONS.**

16 USC 5005.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

**SEC. 807. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.**

16 USC 5006.

(a) **RESPONSIBILITIES.**—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

Regulations.

(b) **CONSULTATION AND COOPERATION.**—In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

16 USC 5007.

**SEC. 808. COOPERATION WITH OTHER AGENCIES.**

(a) **IN GENERAL.**—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) **FUNCTIONS OF SECRETARY OF COMMERCE.**—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

16 USC 5008.

**SEC. 809. ENFORCEMENT PROVISIONS.**

(a) **DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.**—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) **DISTRICT COURT JURISDICTION.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) **POWERS OF ENFORCEMENT OFFICERS.**—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 810;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing 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 the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

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

(3) exercise any other lawful authority.

(d) **ADDITIONAL POWERS.**—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) If any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

#### **SEC. 810. UNLAWFUL ACTIVITIES.**

16 USC 5009.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;



(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

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

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

16 USC 5010.

#### **SEC. 811. PENALTIES.**

(a) **CIVIL PENALTIES.**—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, 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) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce 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 Secretary of Commerce 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 fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district 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) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if the person commits any act prohibited by section 810 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) if a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

16 USC 5011.

#### **SEC. 812. FUNDING REQUIREMENTS.**

(a) **AUTHORIZATION.**—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) **RESEARCH.**—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

16 USC 5012.

#### **SEC. 813. DISPOSITION OF PROPERTY.**

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

#### **SEC. 814. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.**

The Act of August 12, 1954 (16 U.S.C. 1021-1035) is repealed.

### **TITLE IX—NEW ENGLAND GROUND FISH**

#### **SEC. 901. FISHERY ENFORCEMENT.**

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

**"(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—**

**"(1) ENFORCEMENT AGREEMENTS.—**Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

**"(2) REIMBURSEMENT.—**An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

**"(3) COAST GUARD ENFORCEMENT WORKING GROUP.—**

**"(A) ESTABLISHMENT.—**The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

**"(B) MEMBERSHIP.—**The working group shall consist of members selected by the Commander, and shall include—

**"(i)** individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

**"(ii)** captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

**"(iii)** other individuals the Commander considers appropriate.

**"(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—**An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

**"(D) MEETINGS.—**The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

**"(4) USE OF FINES AND PENALTIES.—**Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan."

**SEC. 902. FISHERIES REINVESTMENT PROGRAM.**

**(a) PROGRAM.—**Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

**"SEC. 314. NORTHWEST ATLANTIC OCEAN FISHERIES REINVESTMENT PROGRAM. 16 USC 1863.**

**"(a) PROGRAM.—(1)** Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities for participants in the New England groundfish fishery;

"(C) providing technical support and assistance to United States fishermen and fish processors to improve the value-added processing of underutilized species and to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable;

"(D) creating new economic opportunities through the improved processing and expanded use of fish waste; and

"(E) helping to restore overfished New England groundfish stocks through aquaculture or hatchery programs.

"(2) CONSULTATION.—In establishing and implementing the Northwest Fisheries Reinvestment Program, the Secretary shall consult with representatives of the commercial fishing industry, the seafood processing industry, and the academic community (including the National Sea Grant Program).

Contracts.  
Grants.

"(3) ACTIVITIES UNDER PROGRAM.—Subject to the availability of appropriations, the Secretary shall award contracts, grants and other financial assistance to United States citizens to carry out the purposes of subsection (1), under the terms and conditions provided in section 2(c) of the Act of August 11, 1939 (15 U.S.C. 713c-3(c); commonly referred to as the "Saltonstall-Kennedy Act"), except that, in making awards under this section for projects involving participation in fisheries for underutilized species, the Secretary shall give the highest priority to a person who owns or operates a fishing vessel permitted under this Act to participate in the New England groundfish fishery who agrees to surrender that permit to the Secretary during the duration of the contract, grant or other assistance.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 1993 through 1997 to carry out the purposes of this section. For fiscal year 1993 no more than \$1,000,000, and for fiscal year 1994 no more than \$2,000,000, of such funds may be provided from monies made available under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

"(b) ASSISTANCE OF OTHER AGENCIES.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including, to the extent permitted by other applicable laws, assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359).

"(c) MANAGEMENT PLANS FOR UNDERUTILIZED SPECIES.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(d) UNDERUTILIZED SPECIES DEFINED.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean



that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.”

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item:

“Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.”

(c) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)); commonly referred to as the “Saltonstall-Kennedy Act”, is amended—

(1) by striking “and” at the end of clause (i); and

(2) by adding at the end the following new clause:

“(iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 314 of the Magnuson Fishery Conservation and Management Act.”

Approved October 29, 1992.

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LEGISLATIVE HISTORY—H.R. 2130 (S. 1405):

HOUSE REPORTS: No. 102-133, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORTS: No. 102-198 accompanying S. 1405 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 20, considered and passed House.

Vol. 138 (1992): Aug. 12, considered and passed Senate, amended, in lieu of S. 1405.

Oct. 5, House concurred in Senate amendment with an amendment.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.