

ploy all persons in the land or naval service of the United States, and such astronomers and other persons as he shall deem proper.

(R.S. § 4685.)

#### Editorial Notes

##### REFERENCES IN TEXT

Title 56 of the Revised Statutes, referred to in text, was in the original "this Title", meaning title 56 of the Revised Statutes, consisting of R.S. §§ 4681 to 4691 of the Revised Statutes, which are classified to sections 881 to 883 and 884 to 888 of this title. For complete classification of R.S. §§ 4681 to 4691 to the Code, see Tables.

##### CODIFICATION

Section was not enacted as part of act Aug. 6, 1947, ch. 504, 61 Stat. 787, which comprises this subchapter.

R.S. § 4685 derived from act July 10, 1832, ch. 191, § 2, 4 Stat. 571.

#### § 885. Repealed. Aug. 6, 1947, ch. 504, § 10(6), 61 Stat. 788

Section, R.S. § 4686, related to use of public vessels on coast surveys. See section 883h of this title.

#### §§ 886, 887. Repealed. June 21, 1955, ch. 172, § 5(1), (2), 69 Stat. 170

Section 886, R.S. § 4687, related to employment of officers of Army and Navy in the work of surveying the coast of the United States.

Section 887, R.S. § 4688; acts Aug. 30, 1890, ch. 837, § 1, 26 Stat. 382; June 5, 1920, ch. 235, § 1, 41 Stat. 929, provided for allowance for subsistence to officers of Army and Navy while employed on coast survey service.

#### Statutory Notes and Related Subsidiaries

##### ADDITIONAL REPEAL

Sections were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Section 49(a) of act Aug. 10, 1956, provided in part that laws effective after Mar. 31, 1955, inconsistent with that act, should be considered as superseding it to the extent of the inconsistency.

#### § 888. Omitted

#### Editorial Notes

##### CODIFICATION

Section, R.S. §§ 264, 4690; acts Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 235, § 1, 41 Stat. 929, relating to an annual statement on coast surveys by the Coast and Geodetic Survey [now the National Ocean Survey], was partially repealed by acts May 29, 1928, ch. 901, § 1(104), 45 Stat. 994; Aug. 7, 1946, ch. 770, § 1(5), 60 Stat. 866; and Aug. 30, 1954, ch. 1076, § 1(13), 68 Stat. 967.

#### §§ 889, 890. Repealed. June 21, 1955, ch. 172, § 5(5), 69 Stat. 170

Section 889, acts Mar. 4, 1909, ch. 313, § 1, 35 Stat. 1064; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, authorized cooperation with North Carolina State Fish Commission in survey of waters of State.

Section 890, acts Mar. 4, 1909, ch. 313, § 2, 35 Stat. 1065; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for marking triangulation points of North Carolina survey.

#### SUBCHAPTER III—NOAA FLEET MODERNIZATION

#### § 891. Definitions

In this subchapter, 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 891b of this title.

(4) "Secretary" means the Secretary of Commerce.

(5) "UNOLS" means University-National Oceanographic Laboratory System.

(Pub. L. 102-567, title VI, § 602, Oct. 29, 1992, 106 Stat. 4299.)

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

For short title of this subchapter as the "NOAA Fleet Modernization Act", see section 601 of Pub. L. 102-567, set out as a Short Title of 1992 Amendment note under section 851 of this title.

#### § 891a. Fleet replacement and modernization program

The Secretary is authorized to implement, subject to the requirements of this subchapter, a 15-year program to replace and modernize the NOAA fleet.

(Pub. L. 102-567, title VI, § 603, Oct. 29, 1992, 106 Stat. 4300.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", and was translated as reading "this title", meaning title VI of Pub. L. 102-567, which enacted this subchapter, to reflect the probable intent of Congress.

#### § 891b. Fleet replacement and modernization Plan

##### (a) In general

To carry out the program authorized in section 891a of this title, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 891h of this title.

##### (b) Timing

The Plan required in subsection (a) shall be submitted to Congress within 30 days of October 29, 1992, 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<sup>1</sup> official, and the terms and conditions for their availability;

<sup>1</sup> So in original. Probably should be capitalized.

(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).

(Pub. L. 102-567, title VI, § 604, Oct. 29, 1992, 106 Stat. 4300.)

**Statutory Notes and Related Subsidiaries**

**FISHERY SURVEY VESSEL ACQUISITION**

Pub. L. 106-450, title III, Nov. 7, 2000, 114 Stat. 1945, provided that:

“SEC. 301. SHORT TITLE.

“This title may be cited as the ‘Fisheries Survey Vessel Authorization Act of 2000’.

“SEC. 302. ACQUISITION OF FISHERY SURVEY VESSELS.

“(a) IN GENERAL.—The Secretary, subject to the availability of appropriations, may in accordance with this section acquire, by purchase, lease, lease-purchase, or charter, and equip up to six fishery survey vessels in accordance with this section.

“(b) VESSEL REQUIREMENTS.—Any vessel acquired and equipped under this section must—

“(1) be capable of—

“(A) staying at sea continuously for at least 30 days;

“(B) conducting fishery population surveys using hydroacoustic, longlining, deep water, and pelagic trawls, and other necessary survey techniques; and

“(C) conducting other work necessary to provide fishery managers with the accurate and timely data needed to prepare and implement fishery management plans; and

“(2) have a hull that meets the International Council for Exploration of the Sea standard regarding acoustic quietness.

“(c) AUTHORIZATION.—To carry out this section there are authorized to be appropriated to the Secretary \$60,000,000 for each of fiscal years 2002 and 2003.”

**DEACTIVATION OF NOAA RESEARCH VESSELS**

Pub. L. 102-567, title IV, § 401(b)(4), Oct. 29, 1992, 106 Stat. 4291, provided that:

“(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.

“(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 [now Committee on Science, Space, and Technology] 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.”

**§ 891c. Design of NOAA vessels**

**(a) Design requirement**

Except for the vessel designs identified under subsection (b), the Secretary, working through

the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

(1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and

(2) contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

**(b) Exception**

The Secretary shall—

(1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after October 29, 1992, 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 891b of this title, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

(Pub. L. 102-567, title VI, § 605, Oct. 29, 1992, 106 Stat. 4300.)

**§ 891d. Contract authority**

**(a) Multiyear contracts**

**(1) In general**

Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31 and subsections (a) and (b) of section 6301 of title 41, 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