

Calendar No. 251

104th CONGRESS }
1st Session }

SENATE

{ REPORT
104-178

NATIONAL OCEANIC AND ATMOSPHERIC AD-
MINISTRATION AUTHORIZATION ACT OF
1995

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

ON

S. 1142



NOVEMBER 29, 1995.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 1995

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

LARRY PRESSLER, *South Dakota, Chairman*

BOB PACKWOOD, Oregon	ERNEST F. HOLLINGS, South Carolina
TED STEVENS, Alaska	DANIEL K. INOUE, Hawaii
JOHN McCAIN, Arizona	WENDELL H. FORD, Kentucky
CONRAD BURNS, Montana	J. JAMES EXON, Nebraska
SLADE GORTON, Washington	JOHN D. ROCKEFELLER IV, West Virginia
TRENT LOTT, Mississippi	JOHN F. KERRY, Massachusetts
KAY BAILEY HUTCHISON, Texas	JOHN B. BREAUX, Louisiana
OLYMPIA SNOWE, Maine	RICHARD H. BRYAN, Nevada
JOHN ASHCROFT, Missouri	BYRON L. DORGAN, North Dakota

PATRIC G. LINK, *Chief of Staff*

KEVIN G. CURTIN, *Democratic Chief Counsel and Staff Director*

Calendar No. 251

104TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 104-178

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1995

NOVEMBER 29, 1995.—Ordered to be printed

Mr. PRESSLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. [1142]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1142) “A Bill to authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes”, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

S. 1142 as reported would authorize appropriations of \$1,800,490,000 for fiscal year (FY) 1996, \$2,006,091,000 for FY 1997, and \$2,018,134,000 for FY 1998 for administrative support and certain oceanic and atmospheric programs of the National Oceanic and Atmospheric Administration (NOAA). The bill provides for authorization of: (1) weather, atmospheric, and satellite programs; (2) ocean and coastal programs; (3) marine fishery programs; and (4) administration and support. In addition to the general authorization of appropriations, the bill would: reauthorize appropriations for the National Sea Grant College Program Act and the Coastal Zone Management (CZM) Act; authorize appropriations for the National Undersea Research Program (NURP); and initiate cost-savings efforts such as reducing the size of the NOAA fleet and the NOAA Corps, consolidating fishery facilities, and transferring aeronautical charting functions to the Federal Aviation Administration (FAA). The authorizations provided in the bill are for NOAA activities in addition to those programs reauthorized under separate statute.

BACKGROUND AND NEEDS

NOAA was created by the President's Reorganization Plan No. 4 of 1970 (5 U.S.C. App.) to consolidate many of the nation's civilian coastal, oceanic, and atmospheric programs. NOAA's management structure consists of nine staff offices (program support) and five line offices. The line offices are: (1) the National Ocean Service (NOS); (2) the National Marine Fisheries Service (NMFS); (3) the Office of Oceanic and Atmospheric Research (OAR); (4) the National Weather Service (NWS); and (5) the National Environmental Satellite, Data, and Information Service (NESDIS).

Agency Budget for Fiscal Year 1996.—The administration's budget proposal for NOAA's Operations, Research and Facilities account for FY 1996 is \$2,018,135,000, an increase of \$194,843,000 (+11 percent) over the \$1,823,292,000 appropriated in FY 1995. The request includes \$270,821,000 for OAR, \$624,332,000 for NWS, \$552,501,000 for NESDIS, \$198,826,000 for NOS, \$315,828,000 for NMFS, and \$163,577,000 for Program Support.

Oceanic and Atmospheric Research.—OAR supports a number of oceanic and atmospheric research activities, including monitoring and predicting long-term, interannual and seasonal climate change, efforts to understand and forecast severe weather events, and studies of coastal and marine processes. Atmospheric research conducted by OAR is used in support of the NWS. The National Sea Grant College Program, NURP, and the Climate and Global Change Program are funded within OAR.

National Weather Service.—NWS's central mission is the collection of weather data and the use of that data to provide weather and flood warnings, public forecasts, and advisories for all of the United States, its territories, and adjacent ocean areas, primarily for the protection of life and property. A national network of about 275 facilities collects data, prepares state and local weather updates, and disseminates information to the public both directly and indirectly through the mass media. Over the past decade, NWS has been involved in planning and implementing a \$2 billion effort to replace aging and outmoded weather systems and to restructure operations in order to produce better, more precise weather information at a much lower cost and with fewer personnel.

The modernization has been implemented jointly with the Air Force and the Federal Aviation Administration (FAA), and provides for acquisition of the following new systems: (1) Next Generation Weather Radar (NEXRAD), an automated Doppler weather radar which will provide improved information on storm location, precipitation rates, wind speed, and wind shear; (2) Automated Surface Observing System (ASOS), a collection of ground instruments which take measurements once a minute, 24 hours a day, to replace time-consuming manual observations of cloud cover, temperature, and other weather conditions; and (3) Advanced Weather Interactive Processing System (AWIPS), a computer workstation which will enable local forecasters to integrate, process, and transmit the information collected by the new observation systems. Also included in the modernization process is employee training and updating facilities.

While ASOS and NEXRAD installations are well underway, the modernization still faces a number of technical problems. First, inadequate technical progress by the AWIPS contractor has forced NOAA to restructure the program, and the AWIPS field testing has been delayed. Second, the aviation community continues to question whether the ASOS system can safely replace human weather observers in providing aviation weather observations.

In addition, the NWS plan calls for the phase-out and eventual closure of almost 200 offices, replacing the existing field structure with 118 new facilities (each with a NEXRAD unit). This plan has raised concerns the radars are sited too far apart to ensure adequate coverage in some regions and engendered strong resistance in other areas to losing local community coverage. In 1992, the Committee responded to such concerns with enactment of the Weather Service Modernization Act (P.L. 102-567). Under this law, the Secretary of Commerce (Secretary) cannot close, consolidate, automate, or relocate any weather office without certifying the action will not result in degradation of weather services provided to the affected area. The Committee recognizes the importance of maintaining the NWS modernization schedule as well as ensuring there is no degradation of service. As a result, the Committee anticipates NOAA will continue to address the technical problems that have emerged with regard to ASOS and AWIPS and keep the Committee informed on the progress in resolving these problems.

National Environmental Satellite, Data, and Information Service.—The NESDIS mission is to procure, launch, and operate the Nation's civilian polar-orbiting and geostationary weather satellites and maintaining the data collected by these systems. The primary function of the systems operated by NESDIS is to support weather forecasting. The polar-orbiting satellite system obtains global environmental data, and the geostationary satellite system (GOES) provides continuous observations of the Earth's western hemisphere. The data is used for research and by the NWS to provide daily and hourly weather predictions and warnings. In addition, NESDIS is responsible for archiving and maintaining a national environmental data base through three centers: the National Climatic Data Center, the National Oceanographic Data Center, and the National Geophysical Data Center. Later in this decade, NESDIS will be responsible for the operation of the Landsat 7 spacecraft and NOAA participation with the Department of Defense (DoD) in a converged polar weather satellite program.

National Ocean Service.—NOS manages ocean and coastal resources throughout the 200-mile exclusive economic zone to promote functional utilization of U.S. coastal areas. In addition, NOS provides ocean observations, produces nautical charts, and performs geodetic surveys. It is responsible for planning and conducting hydrographic surveys which provide the basic data for the production of over 1,000 nautical charts which are used for commercial shipping, cruise lines, defense, and public boating. To date, NOS is responsible for producing and updating approximately 16,800 aeronautical charts for use by civilian and military pilots in the National Airspace System as well as for use by FAA air traffic controllers.

The administration budget proposes \$127,604,000 in FY 1996 for those portions of NOS that carry out mapping, charting and geodesy activities, as well as observation and assessment programs. This requested amount includes \$18,541,000 to be directed to the Coastal Ocean Program (COP)—a program designed to apply NOAA's observational, research, assessment, and modeling capabilities to key coastal ocean problems and to deliver program results to decision makers. COP efforts are focused on predictions of fisheries productivity (including those in New England and the Pacific Northwest), flood and severe weather planning and warnings for the coastal zone, and coastal environmental quality.

The CZM program, a voluntary state-federal partnership in which states match federal dollars for program implementation, is funded within NOS. The program provides a national framework for maintaining the nation's coastal and economic health while giving states the incentive to design state-specific programs that reflect their particular waterfront uses, coastal residents, properties, and economies. To date, 24 states and five U.S. territories have approved coastal zone management plans, and several other states have programs in the development stage.

National Marine Fishery Service.—NMFS provides the scientific and technical expertise to manage U.S. living marine resources. NMFS is responsible for programs to protect marine mammals and endangered marine species as well as fishery conservation and management programs. The agency conducts fisheries research, collects fishery-related information, enforces Federal marine resource regulations, and carries out programs to ensure quality and safety of seafood.

NMFS activities are authorized under several specific statutes such as the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Anadromous Fish Conservation Act, and the Interjurisdictional Fisheries Act of 1986. In addition, NMFS has general authority under the Fish and Wildlife Act of 1956 for habitat conservation, hatchery operations, seafood safety and product quality control programs, and research on living marine resources, as well as responsibility for implementing several international fisheries agreements. The administration's FY 1996 request includes \$100,376,000 for these components of the NMFS budget in addition to the amounts requested for specific marine resource statutes.

Program Support.—NOAA's program support and construction activities include agency-wide program administration and services; facilities construction, maintenance, and operation; marine services; and aircraft services. The administration FY 1996 budget requests \$219,676,000 for these activities.

LEGISLATIVE HISTORY

Since the beginning of the 104th Congress, both the full Committee and the Subcommittee on Science, Technology, and Space have held hearings on the NOAA programs authorized by this legislation. The FY 1996 NOAA authorization process provided the Committee with an opportunity to review current NOAA programs, and consequently, to determine what course the agency should follow in fulfilling its missions within tight budget constraints. On January

31, 1995, an oversight hearing was held by the Subcommittee on Science, Technology, and Space to review the science and technology programs of the Department of Commerce. On August 1, 1995, a full Committee hearing was held regarding the future of the Department of Commerce which included a review of various NOAA functions. In addition to emphasizing the need to maintain NOAA's integrity, these hearings focused on the priorities and the critical roles of NOAA's science and management activities.

S. 1142 was introduced by Senator Pressler on August 9, 1995 and was referred to the Committee on Commerce, Science, and Transportation. The bill is cosponsored by Senators Hollings, Stevens, Burns, and Breaux.

On August 10, 1995, in open executive session, the Committee agreed by voice vote to include in the bill an amendment offered by Senators Snowe and Dorgan. The Snowe/Dorgan amendment requires the Secretary to evaluate the effect on users of closing or relocating NWS field offices in areas identified as areas of geographic concern in the June, 1995, report published by the National Research Council, and also to certify that an equivalent level of weather services will be provided to users prior to carrying out such closures or relocations. Without objection, the Committee then ordered the bill, as amended, to be reported.

SUMMARY OF MAJOR PROVISIONS

Authorization Levels.—The following chart summarizes FY 1995 available appropriations, the administration's budget request for FY 1996, and the FY 1996 authorization levels in the reported bill. The FY 1997 and FY 1998 levels reflect flat spending in real terms, using the assumption of three percent inflation. The figures presented below do not reflect NOAA programs and activities which are authorized under separate statutes such as the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Interjurisdictional Fisheries Act of 1986, or the Anadromous Fish Conservation Act.

PROPOSED LEVELS FOR PROGRAMS AUTHORIZED IN THE BILL

[In thousands of dollars]

Line office	Fiscal year 1995 appropriated	Fiscal year 1996 administration request	Proposed fiscal year 1996 authorization
NOS	186,218	198,826	181,108
NMFS	99,928	102,123	99,928
OAR	258,579	270,821	225,402
NWS	658,698	624,332	608,542
NESDIS	387,406	552,501	489,000
Program Support, and Construction	227,565	219,676	196,510
Total	1,818,394	1,968,279	1,800,490

The authorization levels in the bill are based on the administration's requested budget as well as on the priorities identified by the Committee. The authorization levels also reflect areas identified by the Committee in which reductions in spending can be achieved. Decreases in the bill are consistent with the Views and Estimates

provided by the Committee to the Senate Budget Committee in April 1995.

S. 1142 contains specific measures to achieve cost savings, including: personnel reductions within NOAA and the NOAA Corps, the downsizing of the NOAA fleet, and the consolidation of facilities. The Committee also has addressed the issue of regulatory streamlining in S. 1142 by requiring the elimination of duplicative and obsolete regulations and a reduction in Congressionally-mandated reporting requirements.

Finally, the National Sea Grant College Program Act and the CZM Act are reauthorized for three years at funding levels consistent with current appropriations, and NURP is authorized at a base level of \$12 million in FY 1996, with a three percent adjustment for inflation in the out-years. This FY 1996 authorization level represents a reduction of \$6 million from FY 1995 appropriations.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 25, 1995.

Hon. LARRY PRESSLER,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1142, the National Oceanic and Atmospheric Administration Act of 1995.

Enacting S. 1142 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1142.
2. Bill title: National Oceanic and Atmospheric Administration Act of 1995.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation on August 10, 1995.
4. Bill purpose: S. 1142 would authorize appropriations for the National Oceanic and Atmospheric Administration (NOAA) for fiscal years 1996 through 1998. In addition, the bill would permit NOAA to retain and spend without appropriation the fees it collects from foreign ground stations and from Landsat 7 data sales as well as funds received from a possible judgment against the vessel that collided with the NOAA vessel *Discoverer*. The bill would

require the Administrator of NOAA, by the end of fiscal year 1999, to reduce the number of full-time equivalent positions by 2,318 from the fiscal year 1993 base.

The bill also would limit the amount of loan guarantees under the Fishing Vessel Obligation Guarantee Program (FVOG) to no more than \$25 million annually. The bill also would prohibit NOAA from guaranteeing loans for the construction of any vessels that would increase the fish harvesting capacity within the United States exclusive economic zone for fiscal years 1996 through 2001.

5. Estimated cost to the Federal Government: CBO estimates that enacting S. 1142 would result in direct spending totaling about \$17 million and new discretionary spending totaling about \$5.7 billion over the 1996–2000 period, assuming appropriation of the authorized amounts. The estimated budgetary impact of the bill is summarized in the following table.

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under current law:						
Authorization level ¹	1,772	59	21	15	15	2
Estimated outlays	1,837	742	290	133	22	8
Proposed changes:						
Authorization level		1,792	2,014	2,026		
Estimated outlays		1,055	1,668	1,875	814	287
Spending under S. 1142:						
Authorization level ¹	1,772	1,851	2,035	2,041	15	2
Estimated outlays	1,837	1,797	1,958	2,008	836	295
CHANGES IN DIRECT SPENDING						
Estimated budget authority						2 14
Estimated outlays		(²)	(²)		2	14

¹ The 1995 amount represents appropriations for the activities authorized in this bill.

² Less than \$500,000.

The costs of this bill fall within budget functions 300 and 370.
6. Basis of estimate:

Spending subject to appropriations action

Assuming appropriation of the authorized amounts, S. 1142 would result in discretionary spending totaling about \$6.9 billion over the 1996–2000 period for programs of the National Weather Service, the Office of Oceanic and Atmospheric Research, the National Environmental Satellite, Data, and Information Service, the National Ocean Service, and the National Marine Fisheries Service that are within the jurisdiction of the committee. Of that total, approximately \$5.7 billion in outlays would be attributed to amounts authorized by S. 1142, with the remainder coming from amounts already appropriated or authorized under current law. Outlays are estimated based on historical spending rates for these activities.

Provisions in this bill would result in a significant reduction in the number of full-time civilian and corps personnel and in the size of the NOAA fleet over the 1996–1999 period. While these provisions could result in a reduction in expenses for salaries, benefits, and the upkeep of vessels, CBO estimates that these cost reductions would be offset by an increased need for contractual employees and services. CBO also estimates that staff reductions could be achieved through normal attrition and that any nominal separation

expenses could be paid for through existing or future appropriations. In sum, CBO estimates that the streamlining provisions contained in this bill would have no significant net budgetary impact.

CBO estimates that provisions related to the Fishing Vessel Obligation Guarantee Program also would have no significant budgetary impact. The bill would not reduce or increase the guarantee fees, which, along with the default rates, determine the subsidy rate for the program. Hence, we estimate that the current subsidy rate of 1 percent would continue to apply so that the annual loan limitation of \$25 million would limit new subsidies to \$250,000 per year.

Direct spending

S. 1142 would allow NOAA to retain and spend without appropriation the fees collected from foreign ground stations and from Landsat 7 data sales. Under current law, such fees are classified as offsetting receipts and cannot be spent without appropriation. S. 1142 would convert receipts that are expected to occur in 1999 and later years into offsetting collections and make them available to offset the costs of operating the Landsat system. The effect of this provision would be to increase direct spending by the amount of the receipts. CBO estimates these amounts at roughly \$2 million in 1999 and \$14 million every year thereafter.

The bill also would permit NOAA to retain up to \$519,000 from a judgment against the vessel that collided with the NOAA vessel *Discoverer*, and to spend the retained funds on marine services. Funds collected from judgments are usually categorized as revenues in the Federal budget. This provision would have the effect of converting revenues into offsetting collections and making them available for spending. Under Congressional scorekeeping rules, reclassifications of spending or revenues are not scored, so the only effect of this provision would be an increase in direct spending. CBO estimates that this increase would be equal to the amount of the judgment payment and that it would be spent over two or more years beginning in fiscal year 1996.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting S. 1142 would affect direct spending because it allows NOAA to retain and spend without appropriation the funds which NOAA is expected to receive from a judgment against the vessel that collided with the NOAA vessel *Discoverer*. CBO estimates that this provision would result in direct spending of about \$500,000, spread over fiscal years 1996 and 1997. The bill also would allow NOAA to retain and spend without appropriation the fees it expects to receive from operation of the Landsat 7 system. Fees will not be collected until 1999, however, and are therefore not subject to current pay-as-you-go provisions.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in receipts	(¹)	(¹)

¹ Not applicable.

8. **Estimated cost to State and local governments:** The bill would ease the eligibility criteria for several of NOAA's grant programs for states, allowing them to receive federal grants for longer periods of time. It would also exempt from state and local taxation certain contractor activities related to the modernization of the National Weather Service (NWS), leading to a loss of tax revenues for some states.

The bill would ease eligibility criteria for grants that states receive to develop and implement coastal zone management programs. In particular, the bill would allow states to receive grants while they are still developing programs to control nonpoint water pollution in coastal areas. Current law requires states to have such programs in place before receiving some grants. For fiscal year 1996, the House-passed appropriation bill would provide about \$42 million for this program, while the Senate-passed bill includes \$47 million.

The bill would exempt from state and local taxation certain contractor activities related to the modernization of the NWS. CBO is uncertain about what types of taxes would be affected by the bill. One interpretation is that it would prevent states or localities from levying taxes on contractors based on the value of facilities that they are constructing or on the value of the contracts signed with NWS. According to NWS staff, during fiscal year 1995, three states submitted tax bills of this kind totaling \$200,000 to contractors building Nexrad radar facilities for NWS. Several more states contacted NWS about assessing similar taxes in the future.

Another interpretation of the tax provision is that it would also exempt contractors from paying other kinds of state and local taxes. For instance, the bill might also exempt contractors from paying state sales taxes. It might also partially exempt them from paying state corporate income taxes, since states use sales volume and property holdings to help determine the level of corporate income that is taxable. Therefore, the bill could reduce state tax revenues to a much greater extent than if the provision were more narrowly interpreted as described above.

Without knowing which states, which contractors, and which taxes would be affected by the bill, it is impossible to estimate how much state revenue would be lost because of this provision. The construction activity associated with the NWS modernization includes the Nexrad radar system, the Automated Surface Observation System, and new weather forecast offices. The House has voted to appropriate \$90 million and the Senate about \$86 million for these purposes in fiscal year 1996.

9. **Estimate comparison:** None.

10. **Previous CBO estimate:** On September 27, 1995, CBO provided an estimate for H.R. 1815, the National Oceanic and Atmospheric Administration Authorization Act of 1995, as ordered reported by the House Committee on Resources on September 13, 1995. For that bill, CBO estimated new discretionary spending of

about \$810 million over the 1996–2000 period for programs in the National Ocean Service and the National Marine Fisheries Service that are within the jurisdiction of the House Committee on Resources. We also estimated that H.R. 1815, as approved by the Resources Committee, would result in direct spending as it would allow NOAA to retain and spend without appropriation funds received from a possible judgment against the vessel that collided with the NOAA vessel *Discoverer*.

On July 24, 1995, CBO provided an estimate for H.R. 1815, as ordered reported by the House Committee on Science on June 18, 1995. That version of H.R. 1815 would authorize fiscal year 1996 spending for programs in the National Weather Service, the Office of Oceanic and Atmospheric Research, the National Environmental Satellite, Data, and Information Service, and the National Ocean Service that are within the jurisdiction of the Science Committee. CBO estimated that enactment of the bill would result in new discretionary spending totaling about \$1.3 billion over the 1996–2000 period, assuming appropriation of the authorized amounts. The Science Committee's version of H.R. 1815 also would result in direct spending by allowing NOAA to retain and spend without appropriation funds received from a possible judgment against the vessel that collided with the NOAA vessel *Discoverer*. Enacting the Science Committee version would also affect direct spending by terminating the National Undersea Research Program and prohibiting the use of appropriated funds for any costs related to that program, including termination expenses. Finally, another provision would establish a civil penalty for tampering with weather data buoys; but CBO estimated that the provision would result in an increase in revenues of less than \$500,000 a year.

11. Estimate prepared by: Federal Cost Estimate: Gary Brown and Rachel Forward. State and Local Estimate: Pepper Santalucia.

12. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

Number of Persons Covered.—This legislation provides an authorization level of appropriations for FY 1996 through FY 1998 to enable NOAA to continue key existing programs. S. 1142 also calls for the NOAA Administrator to review all regulations that were issued by the Administrator before January 1, 1995. The purpose of this review is to identify and eliminate redundant and obsolete regulations, which should reduce the number of persons affected by NOAA regulations.

Economic Impact.—The legislation authorizes appropriations of \$1,800,490,000 for FY 1996; \$2,006,091,000 for FY 1997; and \$2,018,134,000 for FY 1998. Authorizations for FY 1996 are 11 percent below the Administration request. These funding levels are not expected to have an inflationary impact on the economy.

Privacy.—The Committee anticipates that S. 1142 will have no adverse impact on the personal privacy of any individual.

Paperwork.—The bill would require both regulatory streamlining and a reduction in reporting requirements. To the extent this is consistent with NOAA's statutory obligations, the review of all regulations issued prior to January 1, 1995, and the elimination of any redundant and obsolete regulations are intended to reduce the volume of regulations by 45 percent. Similarly, the bill calls for a 50 percent reduction of Congressionally-mandated reporting requirements that should substantially reduce paperwork requirements for the agency.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the short title of the bill as the National Oceanic and Atmospheric Authorization Act of 1995.

Sec. 2. Table of contents

This section provides a table of contents of the provisions in the legislation.

Sec. 3. Definitions

This section defines three terms used throughout the bill: (1) the "Act of 1890", (2) the "Act of 1947", and (3) the "Administrator".

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

Sec. 101. National Weather Service operations and research.

This section authorizes \$477,207,000 for FY 1996, \$491,523,000 for FY 1997, and \$484,278,000 for FY 1998 for NWS operations and research activities. Activities supported by this authorization include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

The funding levels in this section are for activities requested by the administration and for restoration of the proposed reduction for the regional climate centers. Of the amounts authorized under this section, \$3,000,000 is provided to continue funding climate services and research being conducted at the existing regional climate centers.

The Committee believes the dissemination of marine weather forecasts and warnings via marine radiofax is vital to the protection of life and property and central to the mission of the NWS. The Committee intends that funds authorized for NWS operations and research be used to pay for marine radiofax and encourages the NWS to continue this program.

Sec. 102. Public warning and forecast systems

This section authorizes \$131,335,000 for FY 1996, \$222,500,000 for FY 1997, and \$225,000,000 for FY 1998 to enable NOAA to improve its public warning and forecast systems and to allow for the development, acquisition, and implementation of major public warning and forecast technologies. These systems include: (1) NEXRAD; (2) ASOS; (3) AWIPS; and (4) advanced computer technology to allow development of improved computer weather forecast models. Included in this authorization level for FY 1996 are

\$53,335,000 for NEXRAD, \$16,000,000 for ASOS, \$50,000,000 for AWIPS, and \$12,000,000 for computer facility upgrades.

Subsection (b) would exempt from state and local taxation, activities (such as the purchase, transportation, receiving, and installation of property and materials) of the contractor when acting on behalf of NOAA pursuant to the modernization of NWS as authorized under P.L. 102-567. It is the Committee's understanding that as many as 20 States and localities have sought to impose a percentage tax or "use tax" on the installation and value of equipment being installed by the general contractor with NOAA on the NEXRAD project. The Department of Commerce estimates such taxes add between \$2 million and \$7 million to the cost of the NEXRAD program. This subsection would allow the NWS to make maximum use of the funds available for weather service modernization.

Sec. 103. Climate and air quality research

This section authorizes \$113,252,000 for FY 1996, \$115,918,000 for FY 1997, and \$119,396,000 for FY 1998 for climate and air quality research activities, including studies of tropical ocean and global atmospheric interactions, trace gases which contribute to greenhouse warming, global climate change, interannual and seasonal climate variability, sea floor spreading, and high performance computing.

Of the amounts authorized by this section, \$78,752,000 is available for the continuation of NOAA's interannual and seasonal climate research activities, including \$71,000,000 for NOAA's climate and global change activities. The Committee recognizes the critical role NOAA plays in the interagency U.S. Global Change Research Program and supports efforts to improve knowledge of the natural variability in the climate system on all time scales and to develop new climate prediction capabilities. One proposal for accomplishing this is the establishment of an International Research Institute for Seasonal and Interannual Climate Prediction which would implement a program of research aimed at extending current prediction skills.

Sec. 104. Atmospheric research

This section authorizes \$46,850,000 for each of FY 1996, FY 1997, and FY 1998 for the atmospheric research programs of OAR, which include research to develop improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial research and services. The Committee concurs with the President's FY 1996 budget proposal to eliminate NOAA's Southeastern Storm Research program. However, the authorizations provided by this section assume a funding level of \$3,000,000 annually for weather modification grants.

Sec. 105. Satellite observing systems

This section authorizes \$449,000,000 for FY 1996, and \$535,000,000 for each of FY 1997 and FY 1998, for NESDIS activities related to NOAA satellite observing systems. These activities include spacecraft procurement, launch operation, and associated ground station systems involving polar orbiting environmental sat-

ellites (POES), geostationary weather satellites (GOES), and land remote-sensing satellites (Landsat). The authorization provided by this section would continue funding for the ongoing procurement and launch of replacement satellites. Of the amounts authorized by this section, \$5,000,000 would be available in each of FY 1996, FY 1997, and FY 1998 for the ocean remote sensing program.

Sec. 106. Environmental data management systems

This section authorizes \$40,000,000 for each of FY 1996, FY 1997, and FY 1998 for the environmental data and information services of NESDIS. These activities include climate, ocean, and geophysical data services, as well as environmental data and information management that is used by virtually all of NOAA's programs.

Sec. 107. Duties of the National Weather Service

This section describes the four core responsibilities of the NWS pertaining to its duties to protect life and property and enhance the national economy. The section mandates that the NWS serve as the sole official source of weather warnings and be responsible for: (1) forecasts; (2) the issuance of storm warnings; (3) the collection, exchange, and distribution of meteorological, hydrological, climatic, and oceanographic data and information; and (4) the preparation of hydrometeorological guidance and core forecast information.

Sec. 108. Satellite procurement

This section authorizes the Administrator to procure up to four additional GOES-NEXT (GOES I-M) satellites and support systems to ensure continuity of satellite observations. The Committee recognizes that, in general, the most cost effective means of procuring satellites is in an open competition. Therefore, the Committee anticipates that the Administrator will explore an effective competitive procurement on a fixed price basis of up to four additional GOES-NEXT spacecraft and the necessary supporting ground and launch services. If the Administrator determines no timely or cost-effective option exists for competitive procurement of spacecraft and instruments that could ensure continuity of satellite observations, the Administrator is authorized to certify that determination to the Congress and to enter into firm fixed price contracts and amendments or modifications of the current GOES I-M satellite contract in order to procure additional GOES clones without regard to provisions of law requiring a competitive procurement.

Sec. 109. Landsat

This section provides authority for NOAA to carry out its responsibilities relating to Landsat. Subsection (a) would amend the Land Remote Sensing Act of 1992 to direct the Landsat Program Management Member to retain fees collected from foreign ground stations and for Landsat 7 data sales to offset the Landsat 7 system's operating costs.

Subsection (b) would require the Administrator to develop a plan for the operation of the Landsat 7 spacecraft and for the processing, archiving, and distribution of its data. The plan would examine and provide a cost-benefit analysis of the potential for a ground

station and a command and control facility, and the potential commercial interest in leasing and operating such facility.

Subsection (c) would authorize \$10,000,000 for each of FY 1996, FY 1997, and FY 1998 for procurement and operation of the Landsat 7 ground segment and for operation of the Landsat 7 spacecraft.

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

Sec. 201. National Ocean Service

This section authorizes \$111,508,000 for FY 1996, \$114,864,000 for FY 1997, and \$118,298,000 for FY 1998 for the NOS programs other than CZM and marine sanctuaries. Subsection (a) authorizes \$44,917,000 for FY 1996, \$46,275,000 for FY 1997, and \$47,652,000 for FY 1998 for mapping, charting, and geodesy activities, including geodetic data collection and analysis. The amount authorized for these activities in FY 1996 is \$8,000,000 below the appropriation provided in FY 1995. This reduction in funding assumes enactment of section 501 transferring functions performed by NOAA's Aeronautical Charting and Cartography Office to the FAA. Of the sums authorized by this subsection, \$5,000,000 is to be used to reduce the backlog of critical survey needs in U.S. waters. In addition, this subsection would provide the Secretary with the authority to contract for hydrographic surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.). Given the public safety implications of hydrographic surveying and mapping, this authority will permit NOAA to seek best-qualified bidders rather than accepting the lowest-cost bid for a contract.

Subsection (b) authorizes \$66,591,000 for FY 1996, \$68,589,000 for FY 1997, and \$70,646,000 for FY 1998 for observation and assessment activities. Of the sums authorized by this subsection, \$10,943,000 for FY 1996, \$11,271,000 for FY 1997, and \$11,609,000 for FY 1998 are earmarked to carry out COP. The goal of this program is to improve predictions of: (1) fish stocks for better conservation and management of living marine resources; (2) coastal ocean pollution to help correct and prevent degradation; and (3) coastal hazards to protect human life and personal property.

Sec. 202. Ocean and Great Lakes research

This section authorizes \$9,506,000 for FY 1996, \$9,791,000 for FY 1997, and \$10,085,000 for FY 1998 for ocean and Great Lakes research activities. These funds support two of NOAA's primary mission areas: (1) improving the prediction and assessment of ocean, coastal, and Great Lakes processes, phenomena, and resources; and (2) promoting the stewardship of these resources.

Sec. 203. Reauthorization of the National Sea Grant College Program Act

This section authorizes \$53,300,000 for FY 1996, \$54,899,000 for FY 1997, and \$56,546,000 for FY 1998 for the National Sea Grant College Program. This funding supports the network of 29 Sea Grant institutions engaged in research, education, and advisory/extension services. Subsection (b) authorizes not more than five per-

cent of the annual appropriation for the administrative costs of the Sea Grant program. NOAA management has raised a concern that the use of administrative monies to fund Small Business Innovation Research (SBIR) Program contracts is increasingly restricting the portion of funds intended for administrative purposes.

Sec. 204. National Undersea Research Program

This section, titled the National Undersea Research Program Act of 1995, would require the Administrator to establish and maintain NURP for the purpose of increasing scientific knowledge essential for the wise use and preservation of oceanic, coastal, and large lake resources.

This section also would require: (1) the Administrator to designate a Director of NURP; (2) the research activities of the program to be conducted by regional National Undersea Research Centers; and (3) each regional center to receive not less than 13 percent of the annual federal appropriations for the program. Currently, NURP is comprised of six regional centers: the northeastern and Great Lakes center at the University of Connecticut; the southeastern and Gulf of Mexico center at the University of North Carolina in Wilmington; the Caribbean center in Covington, Virginia; the Pacific and polar regions center at the University of Alaska, Fairbanks; the Hawaii and other Pacific Islands center at the University of Hawaii in Manoa; and the Mid-Atlantic Bight center at Rutgers University.

Section 204 authorizes NURP appropriations of \$12,000,000 for FY 1996, \$12,360,000 for FY 1997, and \$12,731,000 for FY 1998. These authorizations reflect a reduction from the current level of funding. The Committee is aware the reduced authorization levels will result in a decrease in funding for some of the six existing regional research centers. In order to minimize the impact on current research projects, the Committee directs that the centers which receive the greatest decreases and that have undersea research projects that will not otherwise be completed be given priority in the allocation of NURP funds after each center has received the 13 percent minimum.

Finally, this section would authorize up to \$500,000 annually for program administration. This section additionally authorizes the Director to spend up to five percent of the authorized amount (\$600,000 in FY 1996, if \$12,000,000 is appropriated) to fund research activities identified by the Director. The Committee supports the continuation of undersea research currently funded by the NURP administrative office at the Woods Hole Institute in Massachusetts and intends that, within the amount authorized to fund research activities identified by the Director, full funding continue to be provided for operation of the submersible ALVIN.

Sec. 205. Reauthorization of the Coastal Zone Management Act

This section reauthorizes the CZM Act of 1972 for three years and amends certain program requirements relating to development and enhancement grants. Subsection (a) amends the CZM Act to: (1) reauthorize grants to states not to exceed \$200,000 for the purposes of developing state CZM programs in FY 1996, FY 1997, and FY 1998; (2) increase the number of total development grants a

state is eligible to receive from two to four; (3) defer the deadline for states developing management programs to come into compliance with the published final guidelines for the Coastal Nonpoint Source Pollution Control program until 30 months after approval of their management program; and (4) enable the Secretary to use monies from the CZM Fund for administrative expenses and other purposes defined in the statute. Because the four states currently developing their core CZM programs have expressed difficulty in simultaneously meeting the multiple requirements of both the CZM program and the Nonpoint Source Pollution Control Program, subsection (a)(3) would provide those states which are in the process of developing a CZM program the same timetable for complying with the requirements of the Nonpoint Source Pollution Control program as those states with approved CZM programs.

Subsection (b) would extend to coastal states that are participating in the Enhancement Grants program the authority to use funds from those grants to develop program refinements and to begin actual implementation of program changes and program refinements for up to two years.

Subsection (c) authorizes \$5,000,000 for each of FY 1996, FY 1997, and FY 1998 for implementing and developing section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b).

Subsection (d) authorizes: (1) \$750,000 for each of FY 1996, FY 1997, and FY 1998 for grants to assist and guide states in the development of CZM programs; (2) \$45,500,000 for FY 1996, \$46,865,000 for FY 1997, \$48,271,000 for FY 1998 for grants relating to program administration and enhancement; (3) \$3,350,000 for FY 1996, \$3,451,000 for FY 1997, \$3,554,000 for FY 1998 for grants relating to the National Estuarine Research Reserve System; (4) no more than \$10,000,000 for each of FY 1996, FY 1997, and FY 1998 for technical assistance grants; and (5) such sums not to exceed the lesser of either \$5,000,000 or eight percent of the total annual CZM Act appropriation for each of FY 1996, FY 1997, and FY 1998 for administrative expenses. Subsection (d) also would prohibit any funding for technical assistance grants from being used to augment funding for the other grants authorized by this section.

TITLE III—NOAA MARINE FISHERY PROGRAMS

Sec. 301. Authorization of appropriations

This section authorizes appropriations for a number of NOAA's marine fisheries programs. Subsection (a) authorizes \$49,340,000 for FY 1996, \$50,820,000 for FY 1997, and \$52,345,000 for FY 1998 for fisheries information collection and analysis activities. Subsection (b) authorizes \$28,183,000 for FY 1996, \$29,028,000 for FY 1997, and \$29,899,000 for FY 1998 for fisheries conservation and management operations. Subsection (c) authorizes \$22,405,000 for FY 1996, \$23,077,000 for FY 1997, and \$23,769,000 for FY 1998 for State and industry cooperative programs. These authorizations are primarily for responsibilities established under the Fish and Wildlife Act of 1956 and laws implementing international fishery agreements. The authorizations in this section are in addition to author-

izations in such other laws as the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Endangered Species Act, the Anadromous Fish Conservation Act, and the Interjurisdictional Fisheries Act of 1986.

Sec. 302. Fisheries research facilities

Subsections (a) and (b) authorize the construction of new NOAA facilities at Fort Johnson, South Carolina and on Auke Cape near Juneau, Alaska. Subsection (a) requires that the annual cost of leasing the required land for the Fort Johnson facility not exceed one dollar. Subsection (b) requires that property for the Auke Cape facility be transferred to NOAA from the U.S. Coast Guard or the City of Juneau. The Committee recognizes the need for these two new facilities, but intends that the property and land on which they are built be made available to NOAA at a nominal cost.

The facility at Fort Johnson is needed to support the development of innovative research programs that will provide fishery managers with the information necessary to rebuild and sustain fishery resources of the South Atlantic Bight and adjacent areas. The expanded facility will allow NOAA to build on an almost 20-year foundation of Federal, State, and university cooperation to address relationships affecting marine ecosystems and human health. The facility also will enhance NOAA's ability to conduct cost-effective, interdisciplinary research without requiring a major commitment of additional Federal personnel.

The NOAA facility on Auke Cape is needed because NOAA currently does not have adequate facilities in Juneau. NOAA personnel in Juneau currently work in crowded offices at various locations, and the lack of adequate space and a centralized NOAA facility hinders the agency's ability to effectively carry out its responsibilities. These responsibilities include, among other things, management and research activities critical to North Pacific fisheries which account for over half of the nation's annual commercial harvest. The facility on Auke Cape will provide office and laboratory space for all NOAA personnel currently located in Juneau as well as for reasonable growth planned by NOAA in the number of personnel located in Juneau.

Subsection (c) requires that the architectural and engineering work for the Fort Johnson and Auke Cape facilities be completed by May 1, 1996 using funds previously appropriated for such work.

Sec. 303. Fisheries loan guarantee reform

This section amends title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271-1279) to modify the conditions under which NOAA provides loan guarantees to the fishing industry through the Fishing Vessel Obligation Guarantee (FVOG) program.

Subsections (a) and (b) include basic findings related to the FVOG program and explain the purposes of section 303.

Subsection (c) amends section 1104A(b)(2) of the Merchant Marine Act, 1936, to allow obligations related to fishing vessels and fishery facilities to be placed through the Federal Financing Bank, unless such placement is not reasonably available or placement elsewhere is available at a lower annual yield. Fishery loan guarantees currently are the only type of federal guarantee not allowed

to be placed through the Federal Financing Bank. Placement of FVOG loan guarantees through the Federal Financing Bank will allow for a reduction in the interest costs of the guarantees.

Subsection (d) limits the level of loans that may be guaranteed by the FVOG program to \$25,000,000 annually. In setting a cap, the Committee intends to allow for the necessary refinancing and construction of fishing vessels and fishery facilities without increasing U.S. harvesting capacity.

Subsection (e) would allow FVOG fees to be adjusted so that fees paid by loan guarantee applicants are kept roughly the same as the current amounts being paid, even though savings have been achieved by placing obligations through the Federal Financing Bank.

Subsection (f) would allow NOAA to use these savings to pay for the direct administrative costs of the FVOG program. Specifically, subsection (f) authorizes the Secretary to use up to \$1 million annually of the money generated by the fees to pay for such administrative costs.

Subsection (g) would prohibit the Federal government from guaranteeing any new loans until October 1, 2001 for the construction of new fishing vessels if the construction would increase the U.S. harvesting capacity within the U.S. exclusive economic zone.

TITLE IV—PROGRAM ADMINISTRATION AND SUPPORT

Sec. 401. Program support

This section authorizes \$196,510,000 for FY 1996, \$198,695,000 for FY 1997, and \$200,946,000 for FY 1998 for program support and construction.

Subsection (a) includes \$72,847,000 for FY 1996, \$75,032,000 for FY 1997, and \$77,283,000 for FY 1998 for administration and services, including management activities, administrative support, the provision of retired pay to NOAA commissioned officers, and policy development.

Subsection (b) authorizes \$54,163,000 for each of FY 1996, FY 1997, and FY 1998 for the acquisition, construction, maintenance, and operation of NOAA facilities, including the construction authorized in section 302.

Subsection (c) authorizes \$60,000,000 for each of FY 1996, FY 1997, and FY 1998 for marine services activities, including ship operations, maintenance, and support.

Subsection (d) authorizes \$9,500,000 for each of FY 1996, FY 1997, and FY 1998 for aircraft service activities, including aircraft operations, maintenance, and support.

Sec. 402. Personnel reductions

This section addresses efforts to downsize the NOAA workforce consistent with overall efforts to downsize the federal government. Subsection (a) would require the Administrator by the end of FY 1999 to cut at least 2,318 full time equivalent (FTE) positions from NOAA's FY 1993 base, a 16 percent reduction in the overall NOAA FTE level. The Committee believes this reduction will not adversely affect the agency's ability to carry out its functions and responsibilities.

Subsection (b) would authorize an end-of-year personnel strength for commissioned officers of 383 as of September 30, 1996, 345 as of September 30, 1997, 311 as of September 30, 1998, and 285 as of September 30, 1999. This strength level reflects a 25 percent reduction in force over the next four years. Subsection (b)(2)(A) is a conforming amendment changing existing law to reflect the reductions required, and subsection (b)(2)(B) increases the statutory limit on reductions in the number of NOAA officers that may be made annually from four percent to ten percent.

Subsection (b)(3) would require the Secretary to implement a separation benefits program and an early retirement program for members of the NOAA Corps in order to achieve the reductions required by this section. These two programs will allow the Secretary to achieve the reductions in a manner that is both fair and equitable to NOAA Corps members, and cost efficient for the agency. Specifically, this subsection would make the special separation benefits program created for members of the armed forces applicable in the same manner and to the same extent to NOAA Corps members who have served with the Corps for six or more years. Section 1174a(b) of title 10, United States Code, establishes the formula for separation pay these NOAA Corps members would be eligible to receive if the Secretary approves their separation application. This subsection also would make the DoD early retirement program applicable in the same manner and to the same extent to NOAA Corps members who have served for at least 15 years, but less than 20 years. The formula for early retirement pay which these NOAA Corps members would be eligible to receive if the Secretary approves their retirement application is found in subsection (e) of the note which accompanies section 1293 of title 10, United States Code.

Additional guidelines for the separation and retirement programs, including eligibility requirements, application guidelines, and termination dates for the two programs, are contained in section 1174a and the note accompanying section 1293 of title 10, United States Code. The Committee intends that the Secretary have reasonable discretion and flexibility in applying the provisions of these sections of title 10. However, the Secretary should seek additional authority from Congress in order to continue the separation and retirement programs past September 30, 1999 and October 1, 1999, respectively. This section does not authorize DoD funds to be used for the NOAA Corps separation or early retirement programs, nor is this section intended to involve DoD in any way with NOAA Corps programs.

TITLE V—COST SAVINGS AND STREAMLINING

Sec. 501. Transfer of aeronautical charting

This section would transfer NOAA's aeronautical charting responsibilities to FAA, effective October 1, 1995. Subsection (a) provides for the transfer to the FAA of the functions vested in the Secretary: (1) relating to aeronautical surveys and the compilation, printing, and distribution of aeronautical charts; (2) relating to the establishment of prices at which aeronautical charts and related

products may be sold; and (3) that are incidental or necessary to these functions.

Subsection (b) requires that personnel, property, records, and available funds connected to NOAA's aeronautical charting functions be transferred to the FAA. The Director of the Office of Management and Budget is charged with determining what incidentals should be transferred under this section and with determining other measures that may be necessary to effectuate the transfer of functions under this section.

Sec. 502. Regulatory streamlining

This section directs the Administrator to review all regulations issued by NOAA prior to January 1, 1995 and to identify and eliminate redundant and obsolete regulations in order to achieve a 45 percent reduction in the volume of regulations to the extent that such reduction is not inconsistent with the statutory obligations of NOAA. This review is to be completed by December 31, 1997.

Sec. 503. Reduction in NOAA fleet

NOAA fleet activities currently are authorized through FY 1997. However, this section would require the Secretary to submit a revised fleet modernization plan to the appropriate Committees of the Senate and the House of Representatives by March 1, 1996. The revised plan would provide for: (1) a 50 percent reduction in the current size of the NOAA fleet, including the elimination of six existing vessels by the end of FY 1998; (2) a 50 percent reduction in the construction cost estimates contained in the 1993 fleet modernization plan; (3) greater use of chartering and contracting out for activities currently conducted by the NOAA fleet; and (4) the sale of decommissioned vessels where feasible. It is the Committee's intent that high priority programs continue while the streamlining and downsizing of the NOAA fleet is accomplished. In order to maintain continuity of high priority programs such as mapping and charting and fisheries research, the Secretary is encouraged to pursue chartering and contracting out of services where available and cost effective.

Sec. 504. Reduction in reporting requirements

This section directs the Administrator to review all Congressionally-mandated reporting requirements and to recommend legislation by March 31, 1996 to eliminate at least 50 percent of the reporting requirements in effect on January 1, 1995.

Sec. 505. Laboratory consolidation study

This section requires the Secretary to develop a laboratory consolidation plan, including an implementation schedule, for NOAA facilities. The plan is required to consider the following factors: (1) the age and physical condition of the facility, including the costs of keeping the facility functioning; (2) the relationship of the research performed at the facility to NOAA's core missions; and (3) the proximity of similar non-Federal research facilities that carry out similar research functions. The Secretary is required to provide the plan to the Congress by March 1, 1996.

Sec. 506. Conveyances

This section authorizes the Secretary to convey the NMFS laboratory located in Gloucester, Massachusetts to the Commonwealth of Massachusetts for use by the Commonwealth's Division of Marine Fisheries resource management program. The Secretary is authorized to enter into a memorandum of understanding with the Commonwealth to allow NMFS to continue to occupy a portion of the laboratory for a period not to exceed five years. A reversionary clause is included.

Subsection (b) authorizes conveyance to NOAA of Pier Quebec located on the Charleston Navy Base in South Carolina. The subsection amends a provision in the 1994 reauthorization of the Marine Mammal Protection Act which conveyed property adjacent to the pier to NOAA for the agency's Coastal Environmental Health Center. In conjunction with Center activities, NOAA recently stationed two research vessels, the FERREL and the RELENTLESS, in Charleston. However, in the event of a hurricane, these vessels are not large enough to go to sea and survive rough seas, and the current Center pier is not suitable for mooring vessels during such a severe weather event. Pier Quebec, which would be conveyed to NOAA without payment or other consideration, is larger and meets all of NOAA's operational requirements.

Sec. 507. Pribilof Islands

This section authorizes the Secretary to clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants— including petroleum products and their derivatives— in the course of fulfilling obligations under Federal and State law on the lands NOAA transferred to local entities on the Pribilof Islands, Alaska pursuant to the Fur Seal Act of 1966 and other applicable law. The intent of this provision is to ensure lands turned over to the residents of the Pribilofs are completely clean of contamination, waste, or debris left by NOAA.

Subsection (b) requires that, in carrying out the cleanup activities, the Secretary shall: (1) execute agreements to the maximum extent practicable with the State of Alaska and local entities; (2) manage activities with minimal overhead, delay, and duplication of work; (3) receive approval from the State of Alaska for agreements with the State of Alaska or local entities for activities required by State law; and (4) receive approval from local entities and landowners before conducting cleanup activities on their property.

Subsection (c) requires the Secretary to carry out the cleanup activities through agreements, such as contracts and grants, with local entities and residents to the maximum extent practicable, notwithstanding any other law that might prevent such agreements. Subsections (b) and (c) are intended to ensure full input from, and participation by, the State of Alaska and local residents and entities in the cleanup activities for which NOAA has responsibility, and to ensure local residents and entities do the clean up work to the maximum extent practicable through grants, contracts, or other agreements.

Sec. 508. Reimbursement of expenses

This section requires amounts received by the United States in settlement of, or judgement for, damage claims arising from a past accident where a moored NOAA vessel was hit by another vessel to be deposited as offsetting collections in the NOAA Operations, Research, and Facilities account. Such funds may not exceed \$518,757.09.

Sec. 509 Certain National Weather Service field stations

This section amends section 706(e) of the Weather Service Modernization Act, adding a new paragraph to the provision identifying special circumstances the Secretary must address before closing or relocating certain NWS field offices. In June 1995, the National Research Council released a report entitled "Assessment of NEXRAD Coverage and Associated Weather Services" that identified 32 areas where proposed weather office closures raised substantial public concern. The change made by this section would require the Secretary to reevaluate the proposed closings in these identified "areas of concern" to ensure weather services to users are maintained at an equivalent level.

The Committee points out the term "weather services" encompasses not only the actual services provided by NWS to local users, but also the quality and extensiveness of the weather information disseminated through these services. Weather services are only as good as the information disseminated through them, and the Committee expects that, in the course of a certification conducted in accordance with this section, NWS will make a determination that the quality and scope of the meteorological data, spotter reports, and other kinds of weather information now developed for the areas of concern will, at the least, not be diminished by a field office closure or relocation in these areas.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 15, COMMERCE AND TRADE**CHAPTER 9—NATIONAL WEATHER SERVICE****§ 313. Duties of Secretary of Commerce**

The Chief of the Weather Bureau, under the direction of the Secretary of Agriculture, shall have charge of the forecasting of weather, the issue of storm warnings, the display of weather and flood signals for the benefit of agriculture, commerce, and navigation, the gauging and reporting of rivers, the maintenance and operation of seacoast telegraph lines and the collection and transmission of marine intelligence for the benefit of commerce and navigation, the reporting of temperature and rain-fall conditions for the cotton interests, the display of frost and cold-wave signals, the distribution

of meteorological information in the interests of agriculture and commerce, and the taking of such meteorological observations as may be necessary to establish and record the climatic conditions of the United States, or as are essential for the proper execution of the foregoing duties.

**WEATHER SERVICE MODERNIZATION ACT (15 U.S.C. 313
NOTE)**

SEC. 706. RESTRUCTURING FIELD OFFICES.

(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.

(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.]** *remain; or*

(3) *which is located in, or serves, an area identified as an area of geographic concern in chapter 4 of the report entitled "Assessment of NEXRAD Coverage and Associated Weather Services" published in June, 1995, by the National Research Council, unless, prior to closing or relocating the field office, the Secretary—*

(A) evaluates, as part of the certification process, the effect of that closing or relocation on all weather information and services provided to users served by that field office (including State agencies, civil defense officials, local public safety officials, farmers, and other local citizens serviced by that field office); and

(B) includes in a certification made by the Secretary under subsection (b) a determination that, after the closing or relocation, an equivalent level of weather services provided to the users referred to in subparagraph (A) before the closing or relocation will be provided to those users.

(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.

CHAPTER 82—LAND REMOTE SENSING POLICY LANDSAT

§ 5611. Landsat program management

(a) **ESTABLISHMENT.**—The Administrator and the Secretary of Defense shall be responsible for management of the Landsat program. Such responsibility shall be carried out by establishing an integrated program management structure for the Landsat system.

(b) **MANAGEMENT PLAN.**—The Administrator, the Secretary of Defense, and any other United States Government official the President designates as responsible for part of the Landsat program, shall establish, through a management plan, the roles, responsibilities, and funding expectations for the Landsat Program of the appropriate United States Government agencies. The management plan shall—

(1) specify that the fundamental goal of the Landsat Program Management is the continuity of unenhanced Landsat data through the acquisition and operation of a Landsat 7 satellite as quickly as practicable which is, at a minimum, functionally equivalent to the Landsat 6 satellite, with the addition of a tracking and data relay satellite communications capability;

(2) include a baseline funding profile that—

(A) is mutually acceptable to the National Aeronautics and Space Administration and the Department of Defense for the period covering the development and operation of Landsat 7; and

(B) provides for total funding responsibility of the National Aeronautics and Space Administration and the Department of Defense, respectively, to be approximately equal to the funding responsibility of the other as spread across the development and operational life of Landsat 7;

(3) specify that any improvements over the Landsat 6 functional equivalent capability for Landsat 7 will be funded by a specific sponsoring agency or agencies, in a manner agreed to by the Landsat Program Management, if the required funding exceeds the baseline funding profile required by paragraph (2), and that additional improvements will be sought only if the improvements will not jeopardize data continuity; and

(4) provide for a technology demonstration program whose objective shall be the demonstration of advanced land remote sensing technologies that may potentially yield a system which is less expensive to build and operate, and more responsive to data users, than is the current Landsat system.

(c) RESPONSIBILITIES.—The Landsat Program Management shall be responsible for—

(1) Landsat 7 procurement, launch, and operations;

(2) ensuring that the operation of the Landsat system is responsive to the broad interests of the civilian, national security, commercial, and foreign users of the Landsat system;

(3) ensuring that all unenhanced Landsat data remain unclassified and that, except as provided in section 506 (a) and (b) [15 U.S.C. 5656(a), (b)], no restrictions are placed on the availability of unenhanced data;

(4) ensuring that land remote sensing data of high priority locations will be acquired by the Landsat 7 system as required to meet the needs of the United States Global Change Research Program, as established in the Global Change Research Act of 1990 [15 U.S.C. 2921 et seq.], and to meet the needs of national security users;

(5) Landsat data responsibilities pursuant to this Act;

(6) oversight of Landsat contracts entered into under sections 102 and 103 [15 U.S.C. 5612, 5613];

(7) coordination of a technology demonstration program, pursuant to section 303 [15 U.S.C. 5633]; and

(8) ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

(d) *AUTHORITY TO RETAIN FEES.*—*The Landsat Program Management Member responsible for operation of the Landsat 7 system is directed to retain the fees collected from foreign ground stations and for Landsat 7 data sales to offset the costs of operating the Landsat 7 system.*

[(d)] (e) *AUTHORITY TO CONTRACT.*—The Landsat Program Management may, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, enter into contracts with the private sector for services such as, but not limited to, satellite operations and data preprocessing.

[(e)] (f) *LANDSAT ADVISORY PROCESS.*—

(1) *ESTABLISHMENT.*—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data;

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public, and

(C) a broad diversity of age groups, sexes, and races.

(2) *REPORTS.*—Within 1 year after the date of the enactment of this Act and biennially thereafter, the Landsat Program Management shall prepare and submit a report to the Congress which—

(A) reports the public comments received pursuant to paragraph (1); and

(B) includes—

(i) a response to the public comments received pursuant to paragraph (1);

(ii) information on the volume of use, by category, of data from the Landsat system; and

(iii) any recommendations for policy or programmatic changes to improve the utility and operation of the Landsat system.

TITLE 16, CONSERVATION

CHAPTER 33—COASTAL ZONE MANAGEMENT

§ 1454. Management program development grants

(a) In fiscal years [1991, 1992, and 1993] *1996, 1997, and 1998*, the Secretary may make a grant annually to any coastal State without an approved program if the coastal State demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set

forth in section 306 [16 U.S.C. 1455]. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. [After an initial grant is made to a coastal State pursuant to this subsection, no subsequent grant shall be made to that coastal State pursuant to this subsection unless the Secretary finds that the coastal State is satisfactorily developing its management program. No coastal State is eligible to receive more than two grants pursuant to this subsection.] *A coastal State is eligible to receive a total of four grants, beginning in fiscal year 1991, pursuant to this subsection: Provided, That the Secretary finds the State is making substantial progress in developing its management program.*

(b) Any coastal State which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306 [16 U.S.C. 1455].

§ 1455. Administrative grants

(a) The Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 1 to 1 for any fiscal year.

(2) For programs approved after enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

(b) The Secretary may make a grant to a coastal State under subsection (a) only if the Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

(c) Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

(d) Before approving a management program submitted by a coastal State, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 [16 U.S.C. 1452].

(2) The management program includes each of the following required program elements:

- (A) An identification of the boundaries of the coastal zone subject to the management program.
 - (B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.
 - (C) An inventory and designation of areas of particular concern within the coastal zone.
 - (D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.
 - (E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.
 - (F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interState agencies in the management process.
 - (G) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.
 - (H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.
 - (I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.
- (3) The State has—
- (A) coordinated its program with local, areawide, and interState plans applicable to areas within the coastal zone—
 - (i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and
 - (ii) which have been developed by a local government, an areawide agency, a regional agency, or an interState agency; and
 - (B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interState agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—
 - (i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program

decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interState energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interState agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

- (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.
 - (B) Direct State land and water use planning and regulation.
 - (C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.
- (12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.
- (13) The management program provides for—
- (A) the inventory and designation of areas that contain one or more coastal resources of national significance; and
 - (B) specific and enforceable standards to protect such resources.
- (14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.
- (15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.
- (16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 6217 of the Coastal Zone Act Reauthorization Amendments of [1990 [16 U.S.C. 1455b].] 1990, *in accordance with the deadlines established by section 6206(b) of that Act.*
- (e) A coastal State may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:
- (1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.
 - (2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal State that the Secretary approves or disapproves the amendment within that period,

then the amendment shall be conclusively presumed as approved.

(3) (A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 307 [16 U.S.C. 1456].

**COASTAL ZONE REAUTHORIZATION AMENDMENTS OF
1990 (16 U.S.C. 1455 NOTE)**

SEC. 6206. ADMINISTRATIVE GRANTS.

* * * * *

[(b) **ADDITIONAL PROGRAM REQUIREMENTS.**—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act), shall demonstrate to the Secretary—

[(1) that the program complies with section 306(d)(14) and (15) of that Act [subsec. (d)(14), (15) of this section], by not later than 3 years after the date of the enactment of this Act; and

[(2) that the program complies with section 306(d)(16) of that Act [subsec. (d)(16) of this section], by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)].]

(b) *ADDITIONAL PROGRAM REQUIREMENTS.*—

(1) *Each State which submitted on or before November 5, 1990, a management program for approval under section 306 of the Coastal Zone Management Act of 1972 shall demonstrate to the Secretary that the program complies with section 306(d)(16) of that Act not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act.*

(2) *Each State which submits after November 5, 1990, a management program for approval under section 306 of the Coastal Zone Management Act of 1972 shall demonstrate to the Secretary that the program complies with section 306(d)(16) of that Act by not later than 30 months after the date of approval of the management program.*

§ 1455b. Protecting coastal waters

(a) IN GENERAL.—

(1) PROGRAM DEVELOPMENT.—Not later than 30 months after the date of the publication of final guidance under subsection (g), each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455] shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) PROGRAM COORDINATION.—A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330) and with State plans developed pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1651 et seq.], as amended by this Act. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329], as the program under that section relates to land and water uses affecting coastal waters.

(b) PROGRAM CONTENTS.—Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g), to protect coastal waters generally, and shall also contain the following:

(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g).

(3) MANAGEMENT MEASURES.—The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) and protect designated uses.

(4) TECHNICAL ASSISTANCE.—The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) STATE COASTAL ZONE BOUNDARY MODIFICATION.—A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMENTATION.—

(1) REVIEW AND APPROVAL.—Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) IMPLEMENTATION OF APPROVED PROGRAM.—If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b), through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329]; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as amended by this Act.

(3) WITHHOLDING COASTAL MANAGEMENT ASSISTANCE.—If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as follows:

- (A) 10 percent for fiscal year 1996.
- (B) 15 percent for fiscal year 1997.
- (C) 20 percent for fiscal year 1998.
- (D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

(4) WITHHOLDING WATER POLLUTION CONTROL ASSISTANCE.—If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329], for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

- (A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.
- (B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.
- (C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.
- (D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) TECHNICAL ASSISTANCE.—The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

- (1) methods for assessing water quality impacts associated with coastal land uses;
- (2) methods for assessing the cumulative water quality effects of coastal development;
- (3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and
- (4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) INLAND COASTAL ZONE BOUNDARIES.—

(1) REVIEW.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within

18 months after the effective date of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) RECOMMENDATION.—If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing *and implementing* a State program under this section.

(2) AMOUNT.—The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing *and implementing* a program under this section.

(3) STATE SHARE.—The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) ALLOCATION.—Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) GUIDANCE FOR COASTAL NONPOINT SOURCE POLLUTION CONTROL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) CONTENT.—Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) PUBLICATION.—The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after the date of the enactment of this Act; and

(B) final guidance pursuant to this subsection not later than 18 months after such effective date.

(4) NOTICE AND COMMENT.—The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) MANAGEMENT MEASURES.—For purposes of this subsection, the term “management measures” means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) ADMINISTRATOR.—There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$1,000,000 for each of fiscal years [1992, 1993, and 1994.] *1996, 1997, and 1998.*

(2) SECRETARY.—

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1464(a)(4)], as amended by this Act, not more than \$1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f).

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) not more than—

[(i) \$6,000,000 for fiscal year 1992;

[(ii) \$12,000,000 for fiscal year 1993;

[(iii) \$12,000,000 for fiscal year 1994; and]
 [(iv)] (i) \$12,000,000 for fiscal year 1995[.]; and
 (ii) \$5,000,000 for each of fiscal years 1996, 1997,
 and 1998.

(i) DEFINITIONS.—In this section—

(1) the term “Administrator” means the Administrator of the Environmental Protection Agency;

(2) the term “coastal State” has the meaning given the term “coastal State” under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms “coastal waters” and “coastal zone” has the meaning that term has in the Coastal Zone Management Act of 1972 [16 U.S.C. 1651 et seq.];

(4) the term “coastal management agency” means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(d)(6)];

(5) the term “land use” includes a use of waters adjacent to coastal waters; and

(6) the term “Secretary” means the Secretary of Commerce.

§ 1456a. Coastal Zone Management Fund

(a)(1) The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to this title as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).

(b)(1) The Secretary shall establish and maintain a fund, to be known as the “Coastal Zone Management Fund”, which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 307(i)(3) [16 U.S.C. 1456(i)(3)].

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

[(A) Expenses incident to the administration of this title, in an amount not to exceed—

- [(i) \$5,000,000 for fiscal year 1991;
- [(ii) \$5,225,000 for fiscal year 1992;
- [(iii) \$5,460,125 for fiscal year 1993;
- [(iv) \$5,705,830 for fiscal year 1994; and
- [(v) \$5,962,593 for fiscal year 1995.]

(A) *Expenses incident to the administration of this title.*

(B) After use under subparagraph (A)—

- (i) projects to address management issues which are regional in scope, including interstate projects;
- (ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;
- (iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;
- (iv) appropriate awards recognizing excellence in coastal zone management as provided in section 314 [16 U.S.C. 1460];
- (v) program development grants as authorized by section 305 [16 U.S.C. 1454]; and
- (vi) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306 [16 U.S.C. 1455].

(3) On December 1, of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

§ 1456b. Coastal zone enhancement grants

(a) For purposes of this section, the term “coastal zone enhancement objective” means any of the following objectives:

- (1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.
- (2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.
- (3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.
- (4) Reducing marine debris entering the Nation’s coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.
- (5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.
- (6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(b) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal States to provide funding for **[development and submission for Federal approval of program changes]** *development, submission for Federal approval, and implementation for up to 2 years of program changes and program refinements* that support attainment of one or more coastal zone enhancement objectives.

(c) The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Within 12 months following the date of enactment of this section, and consistent with the notice and participation requirements established in section 317 [16 U.S.C. 1463], the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal State (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal States; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 306 and 306A of this title [16 U.S.C. 1455, 1455a] shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

(g) If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

TITLE 16, CONSERVATION

CHAPTER 33—COASTAL ZONE MANAGEMENT

§ 1464. Authorization of appropriations

[(a) SUMS APPROPRIATED TO SECRETARY.—There are authorized to be appropriated to the Secretary—

[(1) such sums, not to exceed \$750,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1993, as may be necessary for grants under section 305 [16 U.S.C. 1454], to remain available until expended;

[(2) such sums, not to exceed \$42,000,000 for the fiscal year ending September 30, 1991, \$48,890,000 for the fiscal year ending September 30, 1992, \$58,870,000 for the fiscal year ending September 30, 1993, \$67,930,000 for the fiscal year ending September 30, 1994, and \$90,090,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under sections 306, 306A, and 309 [16 U.S.C. 1455, 1455a, 1456b], to remain available until expended;

[(3) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1991, \$6,270,000 for the fiscal year ending September 30, 1992, \$6,552,000 for the fiscal year ending September 30, 1993, \$6,847,000 for the fiscal year ending September 30, 1994, and \$7,155,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under section 315 [16 U.S.C. 1461], to remain available until expended; and

[(4) such sums, not to exceed \$10,000,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1995, as may be necessary for activities under section 310 [16 U.S.C. 1456c] and for administrative expenses incident to the administration of this title; except that expenditures for such administrative expenses shall not exceed \$5,000,000 in any such fiscal year.

[(5) [Deleted]

[(6) [Redesignated]]

(a) *SUMS APPROPRIATED TO THE SECRETARY.—There are authorized to be appropriated to the Secretary—*

(1) such sums, not to exceed \$750,000 for each of the fiscal years occurring during the period beginning October 1, 1996, and ending September 30, 1998, as may be necessary for grants under section 305, to remain available until expended;

(2) not to exceed \$45,500,000 for the fiscal year ending September 30, 1996, \$46,865,000 for the fiscal year ending September 30, 1997, and \$48,271,000 for the fiscal year ending September 30, 1998, as may be necessary for grants under sections 306, 306A, and 309 to remain available until expended;

(3) not to exceed \$3,350,000 for the fiscal year ending September 30, 1996, \$3,451,000 for the fiscal year ending September 30, 1997, and \$3,554,000 for the fiscal year ending September 30, 1998, for grants under section 315 to remain available until expended;

(4) such sums, not to exceed \$10,000,000 for each of the fiscal years occurring during the period beginning October 1,

1996, and ending September 30, 1998, as may be necessary for grants under section 310, to remain available until expended, but no sums authorized under this paragraph may be used to augment grants made under any other section of this Act; and (5) such sums not to exceed the lesser of—

(A) \$5,000,000; or

(B) 8 percent of the total amount appropriated under this Act for each of the fiscal years occurring during the period beginning October 1, 1996, and ending September 30, 1998, for administrative expenses incident to the administration of this title, to remain available until expended.

(b) SUMS APPROPRIATED TO FUND.—There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of carrying out the provisions of section 308 [16 U.S.C. 1456a], other than subsection (b) [16 U.S.C. 1456a(b)], of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section [16 U.S.C. 1456a(c)(1–3)].

(c) LIMITATIONS.—Federal funds received from other sources shall not be used to pay a coastal State's share of costs under section 306 or 309 [16 U.S.C. 1455, 1456b].

(d) REVERSION OF GRANTS TO SECRETARY.—The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

TITLE 33, NAVIGATION AND NAVIGABLE WATERS

CHAPTER 17—NATIONAL OCEAN SURVEY

GENERAL PROVISIONS

§ 851. Commissioned officers; authorized number

There are authorized in the National Oceanic and Atmospheric Administration 439 commissioned officers on the active list.

PUBLIC LAW 103–317

TITLE II—DEPARTMENT OF COMMERCE

* * * * *

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
OPERATIONS, RESEARCH, AND FACILITIES
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; [not to exceed 439 commissioned officers on the active list;] *not to exceed the number of commissioned officers on the active list provided for by section 402(b)(1) of the National Oceanic and Atmospheric Administration Act of 1995; as authorized by 31 U.S.C. 1343 and 1344; . . .*

* * * * *

§853g. Transfer of officers to retired list; separation from service; computations; effective date of retirements and separations

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by the personnel board—

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

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

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

(c) EFFECTIVE DATE OF RETIREMENTS OR SEPARATIONS.—Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

CHAPTER 22—SEA GRANT COLLEGES AND MARINE SCIENCE DEVELOPMENT

NATIONAL SEA GRANT COLLEGE PROGRAM

§ 1131. Authorization of appropriations

[(a) There is authorized to be appropriated to carry out the provisions of sections 205 and 208 of this Act [33 U.S.C. 1124, 1127], and section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a), an amount—

[(1) for fiscal year 1991, not to exceed \$44,398,000;

[(2) for fiscal year 1992, not to exceed \$46,014,000;

[(3) for fiscal year 1993, not to exceed \$47,695,000;

[(4) for fiscal year 1994, not to exceed \$49,443,000; and

[(5) for fiscal year 1995, not to exceed \$51,261,000.]

(a) *IN GENERAL.*—*There are authorized to be appropriated to carry out sections 205 and 208 of this title not more than—*

- (1) \$53,300,000 for fiscal year 1996;
- (2) \$54,899,000 for fiscal year 1997; and
- (3) \$56,546,000 for fiscal year 1998.

(b)(1) There is authorized to be appropriated for administration of this Act, including section 209 [33 U.S.C. 1128], by the National Sea Grant Office and the Administration, an [amount—

- [(A) for fiscal year 1991, not to exceed \$2,500,000;
- [(B) for fiscal year 1992, not to exceed \$2,600,000;
- [(C) for fiscal year 1993, not to exceed \$2,700,000;
- [(D) for fiscal year 1994, not to exceed \$2,800,000; and
- [(E) for fiscal year 1995, not to exceed \$2,900,000.]

amount for each of the fiscal years 1996 through 1998 equal to not more than 5 percent of the amount appropriated for that fiscal year under subsection (a).

(2) Sums appropriated under the authority of subsections (a) and (c) shall not be available for administration of this Act by the National Sea Grant Office, or for Administration program or administrative expenses.

(c) In addition to sums authorized under subsection (a), there is authorized to be appropriated for priority oyster disease research under section 205 of this Act [33 U.S.C. 1124], an amount—

- (1) for fiscal year 1992, not to exceed \$1,400,000;
- (2) for fiscal year 1993, not to exceed \$3,000,000;
- (3) for fiscal year 1994, not to exceed \$3,000,000; and
- (4) for fiscal year 1995, not to exceed \$3,000,000.

(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.

TITLE 46, APPENDIX—SHIPPING

CHAPTER 27—MERCHANT MARINE ACT, 1936

FEDERAL SHIP MORTGAGE INSURANCE

§ 1274. Eligibility for guarantee

(a) PURPOSE OF OBLIGATIONS.—Pursuant to the authority granted under section 1103(a) [46 U.S.C. App. 1273(a)], the Secretary upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in—

- (1) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel), which is designed principally for research, or for commercial use (A) in the coastwise or intercoastal trade; (B) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of

the United States; (C) in foreign trade as defined in section 905 of this Act for purposes of title V of this Act; or (D) as an ocean thermal energy conversion facility or plantship; (E) with respect to floating drydocks in the construction, reconstruction, reconditioning, or repair of vessels; or (F) with respect to an eligible export vessel, in world-wide trade; Provided, however, That no guarantee shall be entered into pursuant to this paragraph (a)(1) later than one year after delivery, or redelivery in the case of reconstruction or reconditioning of any such vessel unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or vessels, or facilities or equipment pertaining to marine operations;

(2) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, reconditioning, or purchase of a vessel or vessels owned by citizens or nationals of the United States or citizens of the Northern Mariana Islands which are designed principally for research, or for commercial use in the fishing trade or industry;

(3) financing the purchase, reconstruction, or reconditioning of vessels or fishery facilities for which obligations were guaranteed under this title [46 U.S.C. App. 1271 et seq.] that, under the provisions of section 1105 [46 U.S.C. App. 1275]:

(A) are vessels or fishery facilities for which obligations were accelerated and paid;

(B) were acquired by the Fund; or

(C) were sold at foreclosure instituted by the Secretary;

(4) financing, in whole or in part, the repayment to the United States of any amount of construction-differential subsidy paid with respect to a vessel pursuant to title V of this Act [46 U.S.C. App. 1151 et seq.], as amended;

(5) refinancing existing obligations issued for one of the purposes specified in (1), (2), (3), or (4) whether or not guaranteed under this title [46 U.S.C. App. 1271 et seq.], including, but not limited to, short-term obligations incurred for the purpose of obtaining temporary funds with the view to refinancing from time to time; or

(6) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for, the construction, reconstruction, reconditioning, or purchase of fishery facilities.

Any obligation guaranteed under paragraph (6) shall be treated, for purposes of this title [46 U.S.C. App. 1271 et seq.], in the same manner and to the same extent as an obligation guaranteed under this title [46 U.S.C. App. 1271 et seq.] which aids in the construction, reconstruction, reconditioning, or purchase of a vessel; except with respect to provisions of this title [46 U.S.C. App. 1271 et seq.] that by their nature can only be applied to vessels.

(b) CONTENTS OF OBLIGATIONS.—Obligations guaranteed under this title [46 U.S.C. App. 1271 et seq.]—

(1) shall have an obligor approved by the Secretary as responsible and possessing the ability, experience, financial resources, and other qualifications necessary to the adequate op-

eration and maintenance of the vessel or vessels which serve as security for the guarantee of the Secretary;

(2) subject to the provisions of subsection (c)(1) and subsection (i), shall be in an aggregate principal amount which does not exceed 75 per centum of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel which is used as security for the guarantee of the Secretary: *Provided*, however, That in the case of a vessel, the size and speed of which are approved by the Secretary, and which is or would have been eligible for mortgage aid for construction under section 509 of this Act [46 U.S.C. App. 1159] (or would have been eligible for mortgage aid under section 509 of this Act [46 U.S.C. App. 1159] except that the vessel was built with the aid of construction-differential subsidy and said subsidy has been repaid) and in respect of which the minimum downpayment by the mortgagor required by that section would be or would have been 12 1/2 per centum of the cost of such vessel, such obligations may be in an amount which does not exceed 87 1/2 per centum of such actual cost or depreciated actual cost: *Provided*, further, That the obligations which relate to a barge which is constructed without the aid of construction-differential subsidy, or, if so subsidized, on which said subsidy has been repaid, may be in an aggregate principal amount which does not exceed 87 1/2 per centum of the actual cost or depreciated actual cost thereof: *Provided* further, That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount [equal to] *not to exceed* 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, [except that no debt may be placed under this proviso through the Federal Financing Bank:] *and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual yield than placement through the Federal Financing Bank: Provided* further, That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87 1/2 percent of the actual cost or depreciated actual cost of the facility or plantship: *Provided* further, That in the case of an eligible export vessel, such obligations may be in an aggregate principal amount which does not exceed 87 1/2 [percent] of the actual cost or depreciated actual cost of the eligible export vessel;

(3) shall have maturity dates satisfactory to the Secretary but, subject to the provisions of paragraph (2) of subsection (c) of this section, not to exceed twenty-five years from the date of the delivery of the vessel which serves as security for the guarantee of the Secretary or, if the vessel has been reconstructed or reconditioned, not to exceed the later of (i) twenty-five years from the date of delivery of the vessel and (ii) the remaining years of the useful life of the vessel as determined by the Secretary;

(4) shall provide for payments by the obligor satisfactory to the Secretary;

(5) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such per centum per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

(6) shall provide, or a related agreement shall provide, that if the vessel used as security for the guarantee of the Secretary is a delivered vessel, the vessel shall be in class A-1, American Bureau of Shipping, or shall meet such other standards as may be acceptable to the Secretary, with all required certificates, including but not limited to, marine inspection certificates of the United States Coast Guard or, in the case of an eligible export vessel, of the appropriate national flag authorities under a treaty, convention, or other international agreement to which the United States is a party, with all outstanding requirements and recommendations necessary for retention of class accomplished, unless the Secretary permits a deferment of such repairs, and shall be tight, staunch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, and in all respects fit for service; and

(7) may provide, or a related agreement may provide, if the vessel used as security for the guarantee of the Secretary is a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in title V of this Act [46 U.S.C. App. 1151 et seq.], as amended, and if the Secretary approves, that the sole recourse against the obligor by the United States for any payments under the guarantee shall be limited to repossession of the vessel and the assignment of insurance claims and that the liability of the obligor for any payments of principal and interest under the guarantee shall be satisfied and discharged by the surrender of the vessel and all right, title, and interest therein to the United States: Provided, That the vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever except the security interest conveyed to the Secretary under this title [46 U.S.C. App. 1271 et seq.], (ii) in class, and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the obligor, except that any deficiencies with respect to freedom from encumbrances, condition and class may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the Secretary of claims of the obligor under such policies.

The Secretary may not establish, as a condition of eligibility for guarantee under this title [46 U.S.C. App. 1271 et seq.], a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this title [46 U.S.C. App. 1271 et seq.], the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

(c) SECURITY.—

(1) The security for the guarantee of an obligation by the Secretary under this title [46 U.S.C. App. 1271 et seq.] may relate to more than one vessel and may consist of any combination of types of security. The aggregate principal amount of obligations which have more than one vessel as security for the guarantee of the Secretary under this title [46 U.S.C. App. 1271 et seq.] may equal, but not exceed, the sum of the principal amount of obligations permissible with respect to each vessel.

(2) If the security for the guarantee of an obligation by the Secretary under this title [46 U.S.C. App. 1271 et seq.] relates to more than one vessel, such obligation may have the latest maturity date permissible under subsection (b) of this section with respect to any of such vessels: Provided, That the Secretary may require such payments of principal, prior to maturity, with respect to all related obligations as he deems necessary in order to maintain adequate security for his guarantee.

(d) RESTRICTIONS.—

(1) (A) No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary of Transportation unless the Secretary finds that the property or project with respect to which the obligation will be executed will be economically sound. In making that determination, the Secretary shall consider—

(i) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this title [46 U.S.C. App. 1271 et seq.] is in effect;

(ii) the market potential for the employment of the vessel over the life of the guarantee;

(iii) projected revenues and expenses associated with employment of the vessel;

(iv) any charters, contracts of affreightment, transportation agreements, or similar agreements or undertakings relevant to the employment of the vessel;

(v) other relevant criteria; and

(vi) for inland waterways, the need for technical improvements, including but not limited to increased fuel efficiency, or improved safety.

(B) No commitment to guarantee, or guarantee of, and obligation shall be made by the Secretary of Commerce unless the Secretary finds, at or prior to the time such commitment is made or guarantee becomes effective, that the property or project with respect to which the obligation will be executed will be, in the Secretary's opinion, economically sound and in the case of fishing vessels, that the purpose of the financing or refinancing is consistent with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources, or with the need for technical improvements including but not limited to increased fuel efficiency or improved safety.

(2) No commitment to guarantee, or guarantee of an obligation may be made by the Secretary under this title [46 U.S.C. App. 1271 et seq.] for the purchase of a used fishing vessel or used fishery facility unless—

(A) the vessel or facility will be reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

(B) the vessel or facility will be used in the harvesting of fish from, or for a purpose described in section 1101(k) [46 U.S.C. App. 1271(k)] with respect to, an underutilized fishery.

(3) No commitment to guarantee, or guarantee of an obligation may be made by the Secretary under this title for the construction, reconstruction, or reconditioning of an eligible export vessel unless—

(A) the Secretary finds that the construction, reconstruction, or reconditioning of that vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency, and

(B) the owner of the vessel agrees with the Secretary of Transportation that the vessel shall not be transferred to any country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

(e) GUARANTEE FEES.—The Secretary is authorized to fix a fee for the guarantee of an obligation under this title [46 U.S.C. App. 1271 et seq.]. If the security for the guarantee of an obligation under this title [46 U.S.C. App. 1271 et seq.] relates to a delivered vessel, such fee shall not be less than one-half of 1 per centum per annum nor more than 1 per centum per annum of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this Act [46 U.S.C. App. 1279a]. If the security for the guarantee of an obligation under this title [46 U.S.C. App. 1271 et seq.] relates to a vessel to be constructed, reconstructed, or reconditioned, such fee shall not be less than one-quarter of 1 per centum per annum nor more than one-half of 1 per centum per annum of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this Act [46 U.S.C. App. 1279a]. For purposes of this subsection (e), if the security for the guarantee of an obligation under this title [46 U.S.C. App. 1271 et seq.] relates both to a delivered vessel or vessels and to a vessel or vessels to be constructed, reconstructed, or reconditioned, the principal amount of such obligation shall be prorated in accordance with regulations prescribed by the Secretary. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least sixty days prior to each anniversary date thereafter. All fees shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe. Such regulations shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on

the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).

(f) INVESTIGATION OF APPLICATIONS.—The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, for the issuance of commitments, for services in connection with the escrow fund authorized by section 1108 [46 U.S.C. App. 1279a] and for the inspection of such properties during construction, reconstruction, or reconditioning: Provided, That such charges shall not aggregate more than one-half of 1 per centum of the original principal amount of the obligations to be guaranteed.

(g) DISPOSITION OF MONEYS.—All moneys received by the Secretary under the provisions of sections 1101–1107 of this title [46 U.S.C. App. 1271–1276, 1279] shall be deposited in the Fund.

(h) ADDITIONAL REQUIREMENTS.—Obligations guaranteed under this title [46 U.S.C. App. 1271 et seq.] and agreements relating thereto shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration, assumptions, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may, in his discretion, prescribe.

(i) LIMITATION ON ESTABLISHMENT OF PERCENTAGE.—The Secretary may not, with respect to—

(1) the general 75 percent or less limitation in subsection (b)(2);

(2) the 87½ percent or less limitation in the 1st, 2nd, 4th, or 5th proviso to subsection (b)(2) or section 1112(b) [46 U.S.C. App. 1279e(b)]; or

(3) the 80 percent or less limitation in the 3rd proviso to such subsection;

establish by rule, regulation, or procedure any percentage within any such limitation that is, or is intended to be, applied uniformly to all guarantees or commitments to guarantee made under this section that are subject to the limitation.

(j) PROCEDURE UPON RECEIVING LOAN GUARANTEE APPLICATION.—

(1) Upon receiving an application for a loan guarantee for an eligible export vessel, the Secretary shall promptly provide to the Secretary of Defense notice of the receipt of the application. During the 30-day period beginning on the date on which the Secretary of Defense receives such notice, the Secretary of Defense may disapprove the loan guarantee based on the assessment of the Secretary of the potential use of the vessel in a manner that may cause harm to United States national security interests. The Secretary of Defense may not disapprove a loan guarantee under this section solely on the basis of the type of vessel to be constructed with the loan guarantee. The authority of the Secretary to disapprove a loan guarantee under this section may not be delegated to any official other than a civilian officer of the Department of Defense appointed

by the President, by and with the advice and consent of the Senate.

(2) The Secretary of Transportation may not make a loan guarantee disapproved by the Secretary of Defense under paragraph (1).

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—(1) Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper river, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as 200 and NS—16. Such property shall include Pier R, the buildings known as the RTC-1, RTC-4, 200, and 1874, all towers and out-buildings on that property, and all walkways and parking areas associated with such buildings and Pier R.

(2) *Not later than March 30, 1996, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the property line located 70 feet northwest of and parallel to the centerline of Pier Q, and the northwest property line of the parking area associated with Pier R. The property shall include Pier Q, all towers and outbuildings on that property, and walkways and parking areas associated with those buildings and Pier Q.*

* * * * *

