

(b) The Secretary shall decide an issue arising out of the computation made under subsection (a) of this section.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 596, §13105; Pub. L. 98-369, div. A, title X, §1011(e), July 18, 1984, 98 Stat. 1013; Pub. L. 101-595, title III, §312(c), Nov. 16, 1990, 104 Stat. 2987; renumbered §13106, Pub. L. 109-304, §16(b)(1), Oct. 6, 2006, 120 Stat. 1705.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
13105	46:1478

Section 13105 prescribes what amounts expended or obligated by a State will be counted toward the State's share. This section also authorizes the Secretary to settle any dispute over the computations required by this section.

PRIOR PROVISIONS

A prior section 13106 was renumbered section 13107 of this title.

AMENDMENTS

2006—Pub. L. 109-304 renumbered section 13105 of this title as this section.

1990—Subsec. (a). Pub. L. 101-595 struck out “or obligated” after “expended” in provisions preceding par. (1).

1984—Subsec. (a). Pub. L. 98-369 struck out “and facilities improvement” after “boating safety” in provisions preceding par. (1).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, to apply with respect to fiscal years beginning after Sept. 30, 1984, see section 1013 of Pub. L. 98-369, set out as a note under section 13101 of this title.

§ 13107. Authorization of appropriations

(a)(1) Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount made available from the Boat Safety Account for that fiscal year under section 15 of the Dingell-Johnson Sport Fish Restoration Act and (B) the amount transferred to the Secretary under subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f)). The amount shall be allocated as provided under section 13104 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

(2) The Secretary shall use not more than two percent of the amount available each fiscal year

for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.

(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes shall include—

(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

(5) conducting boating safety inspections and marine casualty investigations;

(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

(8) providing State recreational vessel numbering and titling programs.

(c)(1) Of the amount transferred to the Secretary under subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2)), \$5,500,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.

(2) No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section.

(3) Amounts made available by this subsection shall remain available during the 2 succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

(4) The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 596, §13106; Pub. L. 98-369, div. A, title X, §1012, July 18, 1984, 98 Stat. 1013; Pub. L. 99-626, §4(c), Nov. 7, 1986, 100 Stat. 3505; Pub. L. 99-640, §7(b), (c), Nov. 10, 1986, 100 Stat. 3548; Pub. L. 100-448, §6(b)(1)(A), (2), (6), Sept. 28, 1988, 102 Stat. 1839, 1840; Pub. L. 105-178, title VII, §7405(b), (c)(1), June 9, 1998, 112 Stat. 487, 488; Pub. L. 108-88, §9(c), Sept. 30, 2003,

117 Stat. 1126; Pub. L. 108–202, §7(c), Feb. 29, 2004, 118 Stat. 484; Pub. L. 108–224, §6(c), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §6(c), June 30, 2004, 118 Stat. 704; Pub. L. 108–280, §6(c), July 30, 2004, 118 Stat. 882; Pub. L. 108–310, §9(c), Sept. 30, 2004, 118 Stat. 1159; Pub. L. 109–14, §8(c), May 31, 2005, 119 Stat. 335; Pub. L. 109–20, §8(c), July 1, 2005, 119 Stat. 357; Pub. L. 109–35, §8(c), July 20, 2005, 119 Stat. 390; Pub. L. 109–37, §8(c), July 22, 2005, 119 Stat. 405; Pub. L. 109–40, §8(c), July 28, 2005, 119 Stat. 421; Pub. L. 109–59, title X, §10143, Aug. 10, 2005, 119 Stat. 1931; Pub. L. 109–74, title I, §102, title II, §203, Sept. 29, 2005, 119 Stat. 2030, 2032; renumbered §13107 and amended Pub. L. 109–304, §16(b)(1), (c)(5), Oct. 6, 2006, 120 Stat. 1705, 1706.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
13106	46:1479

Section 13106 provides the Secretary with liquidating contract authority in an amount equal to the revenues received from the motor boat fuel tax. One third shall be used for State boating safety programs, and 2/3 shall be used for State facilities improvement programs. And as provided in Section 13102(f), the approval of a State's program makes it a contractual obligation of the United States Government to provide the amounts available.

REFERENCES IN TEXT

Section 15 of the Dingell-Johnson Sport Fish Restoration Act, referred to in subsec. (a)(1), is classified to section 777n of Title 16, Conservation.

PRIOR PROVISIONS

A prior section 13107, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 596, established the National Recreational Boating Safety and Facilities Improvement Fund, prior to repeal by Pub. L. 98–369, div. A, title X, §1016(c)(1), July 18, 1984, 98 Stat. 1020. See section 9504 of Title 26, Internal Revenue Code.

AMENDMENTS

2006—Pub. L. 109–304, §16(b)(1), renumbered section 13106 of this title as this section.

Subsec. (a)(1). Pub. L. 109–304, §16(c)(5), substituted “section 13104” for “section 13103”.

2005—Subsec. (a)(1). Pub. L. 109–59, §10143(2), as amended by Pub. L. 109–74, §102(2), substituted “subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f))” for “section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))”.

Pub. L. 109–59, §10143(1), as amended by Pub. L. 109–74, §102(1), substituted “the amount made available from the Boat Safety Account for that fiscal year under section 15 of the Dingell-Johnson Sport Fish Restoration Act” for “the amount appropriated from the Boat Safety Account for that fiscal year”.

Subsec. (a)(2). Pub. L. 109–59, §10143(3), struck out “not less than one percent and” before “not more than two percent”.

Subsec. (c)(1). Pub. L. 109–74, §203, substituted “\$5,000,000” for “\$4,150,685” and “\$2,000,000” for “\$1,660,274”.

Pub. L. 109–59, §10143(4)(D), as amended by Pub. L. 109–74, §102(3)(B), amended par. (1) as amended by Pub. L. 109–74, §203, by inserting “not less than” before “\$2,000,000”. See Effective Date of 2005 Amendments note below.

Pub. L. 109–59, §10143(4)(C), as amended by Pub. L. 109–74, §102(3)(B), amended par. (1) as amended by Pub. L. 109–74, §203, by substituting “\$5,500,000” for “\$5,000,000”. See Effective Date of 2005 Amendments note below.

Pub. L. 109–59, §10143(4)(B), as amended by Pub. L. 109–74, §102(3)(A), substituted “(16 U.S.C. 777c(a)(2))” for “(16 U.S.C. 777c(b))”.

Pub. L. 109–59, §10143(4)(A), substituted “Secretary under subsection (a)(2) of section 4” for “Secretary of Transportation under paragraph (5)(C) of section 4(b)”.

Pub. L. 109–40 substituted “\$4,150,685” for “\$4,100,000” and “\$1,660,274” for “\$1,643,836”.

Pub. L. 109–37 substituted “\$4,100,000” for “\$4,050,000” and “\$1,643,836” for “\$1,620,003”.

Pub. L. 109–35 substituted “\$4,050,000” for “\$4,000,000” and “\$1,620,003” for “\$1,600,000”.

Pub. L. 109–20 substituted “\$4,000,000” for “\$3,750,003” and “\$1,600,000” for “\$1,500,003”.

Pub. L. 109–14 substituted “\$3,750,003” for “\$3,333,336” and “\$1,500,003” for “\$1,333,336”.

Subsec. (c)(3). Pub. L. 109–59, §10143(5), as amended by Pub. L. 109–74, §102(4), substituted “during the 2 succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.” for “until expended.”

2004—Subsec. (c). Pub. L. 108–310 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Of the amount transferred to the Secretary of Transportation under paragraph (4) of section 4(b) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)), \$5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.”

Pub. L. 108–280 substituted “\$5,000,000” for “\$4,166,668” and “\$2,000,000” for “\$1,666,668”.

Pub. L. 108–263 substituted “\$4,166,668” for “\$3,750,001” and “\$1,666,668” for “\$1,500,001”.

Pub. L. 108–224 substituted “\$3,750,001” for “\$2,916,667” and “\$1,500,001” for “\$1,166,667”.

Pub. L. 108–202 substituted “\$2,916,667” for “\$2,083,333” and “\$1,166,667” for “\$833,333”.

2003—Subsec. (c). Pub. L. 108–88 amended first sentence generally. Prior to amendment, first sentence read as follows: “Of the amount transferred for each fiscal year to the Secretary of Transportation under paragraphs (2) and (3) of section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), \$5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.”

1998—Pub. L. 105–178, §7405(c)(1), substituted “appropriations” for “contract spending” in section catchline.

Subsec. (a)(1). Pub. L. 105–178, §7405(b)(1), substituted “Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).” for “Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to 1/2 of the amount transferred for such

fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).”

Subsec. (a)(2). Pub. L. 105-178, §7405(b)(2), substituted “available” for “appropriated”.

Subsec. (c). Pub. L. 105-178, §7405(b)(3), added subsec. (c) and struck out former subsec. (c) which read as follows: “An amount equal to one-half of the amount transferred for each fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a). Amounts made available by this subsection shall remain available until expended.”

1988—Subsec. (a). Pub. L. 100-448, §61(b)(1)(A), designated existing provisions as par. (1), added par. (2), and amended first sentence of par. (1) generally. Prior to amendment, first sentence read as follows: “The Secretary may expend in each of the fiscal years 1985, 1986, 1987, and 1988, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).”

Subsec. (c). Pub. L. 100-448, §6(b)(2)(A), struck out “for Fiscal Year 1987 and one-third for each fiscal year thereafter.” after “An amount equal to one-half” in first sentence.

Pub. L. 100-448, §6(b)(6), substituted “1986” for “1954” in first sentence.

Pub. L. 100-448, §6(b)(2)(B), inserted after first sentence “Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a).”

1986—Subsec. (a). Pub. L. 99-640, §7(c), substituted “one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter” for “two-thirds”.

Subsec. (b). Pub. L. 99-626 substituted “shall” for “may” after “Those purposes” in introductory provisions and substituted “and” for “or” in par. (8).

Subsec. (c). Pub. L. 99-640, §7(b), substituted “one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter.” for “one-third”.

1984—Pub. L. 98-369 amended section generally and, among other changes, struck out all references to a facilities improvement program, inserted provisions directing the Secretary to establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational safety boating programs may be used, and made available to the Secretary an amount equal to one-third of the amount transferred for each fiscal year to the Boat Safety Account under section 9503(c)(4) of title 26 to be used for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, subssecs. (a) and (c)(1), (3) of this section considered to read as immediately before enactment of Pub. L. 109-59, except as provided by the amendments by section 203 of Pub. L. 109-74, see section 101(b) of Pub. L. 109-74, set out as a note under section 777b of Title 16, Conservation.

Amendment by Pub. L. 109-59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109-59, set out as a note under section 777b of Title 16, Conservation.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-448 effective Oct. 1, 1988, see section 6(e) of Pub. L. 100-448, set out as a note under section 777 of Title 16, Conservation.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, to apply with respect to fiscal years beginning after Sept. 30, 1984, see section 1013 of Pub. L. 98-369, set out as a note under section 13101 of this title.

BOATING SAFETY FUND

Pub. L. 99-272, title VI, §6001, Apr. 7, 1986, 100 Stat. 121, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, required that one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under former section 9503(c)(4) of Title 26, be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard was operating and ascribed to Coast Guard activities and that former section 13106(a) of this title be applied with respect to fiscal year 1985 by substituting “one-third” for “two-thirds” in the first sentence.

§ 13108. Computing amounts allocated to States and State records requirements

(a) Amounts allocated and distributed under section 13104 of this title shall be computed and paid to the States as follows:

(1) During the second quarter of a fiscal year and on the basis of computations made under section 13106 of this title and submitted by the States for the preceding fiscal year, the Secretary shall determine the percentage of the amounts available to which each eligible State is entitled for the next fiscal year.

(2) Notice of the percentage and of the dollar amount, if it can be determined, for each State shall be provided to the States at the earliest practicable time.

(3) If the Secretary determines that an amount made available to a State for a prior fiscal year is greater or less than the amount that should have been made available to the State for the prior fiscal year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount.

(b) The Secretary shall schedule the payment of amounts, consistent with the program purposes and applicable regulations prescribed by the Secretary of the Treasury, to minimize the time elapsing between the transfer of amounts from the Treasury and the subsequent disbursement of the amounts by a State.

(c) The Secretary shall notify a State authority or agency that further payments will be made to the State only when the program complies with the prescribed standards or a failure to comply substantially with standards is corrected if the Secretary, after reasonable notice to the designated State authority or agency, finds that—

(1) the State recreational boating safety program submitted by the State and accepted by the Secretary has been so changed that it no longer complies with this chapter or standards prescribed by regulations; or

(2) in carrying out the State recreational boating safety program, there has been a failure to comply substantially with the standards prescribed by regulations.

(d) The Secretary shall provide for the accounting, budgeting, and other fiscal procedures that are necessary and reasonable to carry out