Public Law 107–372
107th Congress

An Act

Dec. 19, 2002
[H.R. 4883]

To reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

Sec. 101. Short title; references.
Sec. 102. Definitions.
Sec. 103. Functions of Administrator.
Sec. 104. Quality assurance program.
Sec. 105. Hydrographic Services Review Panel.
Sec. 106. Authorization of appropriations.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

Sec. 211. Commissioned officer corps.
Sec. 212. Definitions.
Sec. 213. Authorized number on the active list.
Sec. 214. Strength and distribution in grade.
Sec. 215. Authorized number for fiscal years 2003 through 2005.

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

Sec. 221. Original appointments.
Sec. 222. Personnel boards.
Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).
Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).
Sec. 225. Length of service for promotion purposes.
Sec. 226. Appointments and promotions to permanent grades.
Sec. 227. General qualification of officers for promotion to higher permanent grade.
Sec. 228. Positions of importance and responsibility.
Sec. 229. Temporary appointments and promotions generally.
Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
Sec. 231. Pay and allowances; date of acceptance of promotion.
Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.
Sec. 233. Suspension during war or emergency.

SUBTITLE C—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 241. Involuntary retirement or separation.
Sec. 242. Separation pay.
Sec. 243. Mandatory retirement for age.
Sec. 244. Retirement for length of service.
Sec. 245. Computation of retired pay.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Sec. 246. Retired grade and retired pay.
Sec. 247. Retired rank and pay held pursuant to other laws unaffected.
Sec. 248. Continuation on active duty; deferral of retirement.
Sec. 249. Recall to active duty.

SUBTITLE D—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

Sec. 251. Cooperation with and transfer to military departments.
Sec. 252. Relative rank of officers when serving with Army, Navy, or Air Force.
Sec. 253. Rules and regulations when cooperating with military departments.

SUBTITLE E—RIGHTS AND BENEFITS

Sec. 261. Applicability of certain provisions of title 10, United States Code.
Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
Sec. 263. Medical and dental care.
Sec. 264. Commissary privileges.
Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.
Sec. 266. Presentation of United States flag upon retirement.

SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

Sec. 271. Repeals.
Sec. 272. Conforming amendments.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

Sec. 301. Short title.
Sec. 302. Reauthorization and amendment of the Interjurisdictional Fisheries Act of 1986.
Sec. 303. Reauthorization and amendment of the Anadromous Fish Conservation Act.
Sec. 304. Reauthorization of the Atlantic Tunas Convention Act of 1975.
Sec. 305. Reauthorization of the Northwest Atlantic Fisheries Convention Act of 1995.
Sec. 306. Extension of deadline.

TITLE IV—MISCELLANEOUS

Sec. 401. Chesapeake Bay Office.
Sec. 402. Conveyance of NOAA laboratory in Tiburon, California.
Sec. 403. Emergency assistance for subsistence whale hunters.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

Hydrographic Services Improvement Act Amendments of 2002.

SEC. 101. SHORT TITLE; REFERENCES.

33 USC 851 note.

(a) SHORT TITLE.—This title may be cited as the "Hydrographic Services Improvement Act Amendments of 2002".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.).

SEC. 102. DEFINITIONS.

Section 302 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting ", geospatial, or geomagnetic" after "geodetic"; and

(2) in paragraph (4) by inserting "geospatial, geomagnetic," after "geodetic,".

SEC. 103. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read as follows:

"(4) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.".

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a) is further amended by adding at the end the following:

"(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.".

SEC. 104. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) (33 U.S.C. 892b(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Administrator—

Deadline.

"(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

"(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

"(C) may charge a fee for such certification and use.".

SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 (33 U.S.C. 892c) is amended to read as follows:

"SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

Deadline.

"(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

"(b) DUTIES.—

"(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

"(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in

one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

"(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

"(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

"(2) TERMS.—

"(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

"(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

"(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

"(4) CHAIRMAN AND VICE CHAIRMAN.—

"(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

"(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

"(d) COMPENSATION.—Voting members of the panel shall—

"(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

"(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

"(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

"(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 306 (33 U.S.C. 892d) is amended to read as follows:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following:

"(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

"(A) $50,000,000 for fiscal year 2003;

"(B) $55,000,000 for fiscal year 2004;

"(C) $60,000,000 for fiscal year 2005;
"(D) $65,000,000 for fiscal year 2006; and
"(E) $70,000,000 for fiscal year 2007.

"(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—
"(A) $40,000,000 for fiscal year 2003;
"(B) $42,500,000 for fiscal year 2004;
"(C) $45,000,000 for fiscal year 2005;
"(D) $47,500,000 for fiscal year 2006; and
"(E) $50,000,000 for fiscal year 2007.

"(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—
"(A) $14,000,000 for fiscal year 2003;
"(B) $18,000,000 for fiscal year 2004; and
"(C) $21,000,000 for fiscal years 2005 through 2007.

"(4) To carry out geodetic functions under this title—
"(A) $27,500,000 for fiscal year 2003;
"(B) $30,000,000 for fiscal year 2004;
"(C) $32,500,000 for fiscal year 2005;
"(D) $35,000,000 for fiscal year 2006; and
"(E) $35,500,000 for fiscal year 2007.

"(5) To carry out tide and current measurement functions under this title—
"(A) $25,000,000 for fiscal year 2003;
"(B) $27,500,000 for fiscal year 2004;
"(C) $30,000,000 for fiscal year 2005;
"(D) $32,500,000 for fiscal year 2006; and
"(E) $35,000,000 for fiscal year 2007.

"(6) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, $20,000,000.".

National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

33 USC 3001 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002".

Subtitle A—General Provisions

33 USC 3001.

SEC. 211. COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

33 USC 3002.

SEC. 212. DEFINITIONS.

(a) APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) ADDITIONAL DEFINITIONS.—In this title:

(1) ACTIVE DUTY.—The term "active duty" means full-time duty in the active service of a uniformed service.

(2) GRADE.—The term "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) OFFICER.—The term "officer" means an officer of the commissioned corps.

(4) FLAG OFFICER.—The term "flag officer" means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(6) ADMINISTRATION.—The term "Administration" means the National Oceanic and Atmospheric Administration.

SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST. 33 USC 3003.

(a) ANNUAL STRENGTH ON ACTIVE LIST.—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) LINEAL LIST.—The Secretary shall maintain a list, known as the "lineal list", of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE. 33 USC 3004.

(a) RELATIVE RANK; PROPORTION.—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

(1) 8 in the grade of captain.

(2) 14 in the grade of commander.

(3) 19 in the grade of lieutenant commander.

(4) 23 in the grade of lieutenant.

(5) 18 in the grade of lieutenant (junior grade).

(6) 18 in the grade of ensign.

(b) COMPUTATION OF NUMBER IN GRADE.—

(1) IN GENERAL.—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) LIMITATION ON INCREASE IN TOTAL NUMBER.—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) PRESERVATION OF GRADE AND PAY, ETC.—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) FILLING OF VACANCIES; ADDITIONAL NUMBERS.—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number

on that list during that fiscal year does not exceed the authorized number.

33 USC 3005.

SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003 THROUGH 2005.

There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

(1) 270 officers for fiscal year 2003;

(2) 285 officers for fiscal year 2004; and

(3) 299 officers for fiscal year 2005.

Subtitle B—Appointment and Promotion of Officers

33 USC 3021.

SEC. 221. ORIGINAL APPOINTMENTS.

(a) IN GENERAL.—

(1) GRADES.—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) QUALIFICATIONS.—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) EXAMINATION.—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) LINEAL LIST.—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.—

(1) IN GENERAL.—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) HIGHER CREDIT UNDER OTHER LAW.—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

SEC. 222. PERSONNEL BOARDS. 33 USC 3022.

(a) CONVENING.—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) DUTIES.—Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subtitle and subtitle C.

(c) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.

SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE). 33 USC 3023.

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE). 33 USC 3024.

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. LENGTH OF SERVICE FOR PROMOTION PURPOSES. 33 USC 3025.

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES. 33 USC 3026.

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE. 33 USC 3027.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

33 USC 3028.

SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) GRADE.—

(1) TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

(2) REVERSION TO PERMANENT GRADE.—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) NUMBER OF OFFICERS APPOINTED.—

(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

(2) LIMIT BY GRADE.—The number of officers serving on active duty under appointments under this section may not exceed—

(A) one in the grade of vice admiral;

(B) two in the grade of rear admiral; and

(C) two in the grade of rear admiral (lower half).

(f) PAY AND ALLOWANCES.—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) EFFECT OF APPOINTMENT.—An appointment of an officer under this section—

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

(2) creates a vacancy on the active list.

SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY. 33 USC 3029.

(a) ENSIGN.—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

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

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

SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY. 33 USC 3030.

(a) IN GENERAL.—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) LIMITATIONS.—Subsection (a) shall be applied subject to the following limitations: Applicability.

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION. 33 USC 3031.

(a) ACCEPTANCE AND DATE OF PROMOTION.—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) OATH OF OFFICE.—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

33 USC 3032.

SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

33 USC 3033.

SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

Subtitle C—Separation and Retirement of Officers

33 USC 3041.

SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(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 4 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 AND SEPARATIONS.—A 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 approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

33 USC 3042.

SEC. 242. SEPARATION PAY.

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) THREE TO SIX YEARS.—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section. Applicability.

SEC. 243. MANDATORY RETIREMENT FOR AGE. 33 USC 3043.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. RETIREMENT FOR LENGTH OF SERVICE. 33 USC 3044.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. COMPUTATION OF RETIRED PAY. 33 USC 3045.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

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

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

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

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

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

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

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

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

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

33 USC 3046.

SEC. 246. RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

33 USC 3047.

SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

33 USC 3048.

SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

33 USC 3049.

SEC. 249. RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

Subtitle D—Service of Officers With the Military Departments

33 USC 3061.

SEC. 251. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.

(a) TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.—

(1) TRANSFERS AUTHORIZED.—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of

the Administration as the President considers to be in the best interest of the country.

(2) RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) RETURN OF TRANSFERRED RESOURCES AND OFFICERS.—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) LIMITATION ON TRANSFER OF OFFICERS.—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE. 33 USC 3062.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS. 33 USC 3063.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE. 33 USC 3071.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions

of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

(3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) Section 1035, relating to deposits of savings.

(5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(6) Section 1052, relating to reimbursement for adoption expenses.

(7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(8) Chapter 61, relating to retirement or separation for physical disability.

(9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(10) Chapter 71, relating to computation of retired pay.

(11) Chapter 73, relating to annuities based on retired or retainer pay.

(12) Subchapter II of chapter 75, relating to death benefits.

(13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(14) Sections 2731 and 2735, relating to property loss incident to service.

(15) Section 2771, relating to final settlement of accounts of deceased members.

(16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary's designee.

33 USC 3072.

SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) IN GENERAL.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

(1) Laws administered by the Secretary of Veterans Affairs.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

(3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the

Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. MEDICAL AND DENTAL CARE. 33 USC 3073.

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

SEC. 264. COMMISSARY PRIVILEGES. 33 USC 3074.

(a) EXTENSION OF PRIVILEGE.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

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

(c) SURVIVING SPOUSES' RIGHTS.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS. 33 USC 3075.

(a) TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT. 33 USC 3076.

(a) PRESENTATION OF FLAG UPON RETIREMENT.—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—An officer is not eligible for presentation of a flag under subsection (a) if the

officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

Subtitle F—Repeals and Conforming Amendments

SEC. 271. REPEALS.

The following provisions of law are repealed:

(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.).

(2) Section 3 of the Act of August 10, 1956 (33 U.S.C. 857a).

(3) Public Law 91–621 (33 U.S.C. 857–1 et seq.).

(4) Section 16 of the Act of May 22, 1917 (33 U.S.C. 854, 855, 856, 857, and 858).

(5) Section 1 of the Act of July 22, 1947 (33 U.S.C. 874).

(6) Section 11 of the Act entitled "An Act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service", enacted May 18, 1920 (33 U.S.C. 864).

(7) Section 636(a)(17) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(17)).

SEC. 272. CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 1406(g) of title 10, United States Code, is amended by striking "section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)" and inserting "section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002".

(b) PUBLIC LAW 104–106.—Section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293 note) is amended by striking "the Coast and Geodetic Survey Commissioned Officers' Act of 1948" and inserting "the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002".

Fisheries Conservation Act of 2002.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

16 USC 757a note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Conservation Act of 2002".

SEC. 302. REAUTHORIZATION AND AMENDMENT OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $5,400,000 for each of fiscal years 2003 and 2004; and

"(2) $5,900,000 for each of fiscal years 2005 and 2006."; and

(2) in subsection (c) by striking "$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000" and inserting "$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006".

(b) PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.—Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking "and" after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting "; and", and adding at the end the following:

"(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.".

SEC. 303. REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.

(a) REAUTHORIZATION.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,750,000 for each of fiscal years 2003 and 2004; and

"(B) $5,000,000 for each of fiscal years 2005 and 2006.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

(b) RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO CONSERVATION AND MANAGEMENT.—The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting "(1)" after "(b)", and by adding at the end the following:

"(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.".

SEC. 304. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

"(1) For each of fiscal years 2003 and 2004, $5,480,000.

"(2) For each of fiscal years 2005 and 2006, $5,495,000.

"(b) ALLOCATION.—Of amounts available under this section for each fiscal year—

"(1) $150,000 are authorized for the advisory committee established under section 4 and the species working groups established under section 4A; and

"(2) $4,240,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).".

SEC. 305. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking "2001" and inserting "2006".

SEC. 306. EXTENSION OF DEADLINE.

(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106–256) is amended—

33 USC 857–19 note.

(1) in section 3(i) (114 Stat. 648) by striking "30 days" and inserting "90 days"; and

(2) in section 4(a) (114 Stat. 648; 33 U.S.C. 857–19 note) by striking "120 days" and inserting "90 days".

33 USC 857–19 note.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking "$6,000,000" and inserting "$8,500,000".

33 USC 857–19 note.

(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

(2) by inserting immediately after such period the following:

"(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—"; and

(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.

TITLE IV—MISCELLANEOUS

SEC. 401. CHESAPEAKE BAY OFFICE.

(a) REAUTHORIZATION OF OFFICE.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended to read as follows:

"SEC. 307. CHESAPEAKE BAY OFFICE.

"(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Office (in this section referred to as the 'Office').

"(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Executive Council. Any individual appointed as

Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

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

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

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

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

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

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

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

"(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration, the Chesapeake Bay Regional Sea Grant Programs, and the Chesapeake Bay units of the National Estuarine Research Reserve System, including—

"(A) programs and activities in—

"(i) coastal and estuarine research, monitoring, and assessment;

"(ii) fisheries research and stock assessments;

"(iii) data management;

"(iv) remote sensing;

"(v) coastal management;

"(vi) habitat conservation and restoration; and

"(vii) atmospheric deposition; and

"(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

"(i) nonindigenous species;

"(ii) estuarine and marine species pathology;

"(iii) human pathogens in estuarine and marine environments; and

"(iv) ecosystem health;

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

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

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

Reports.

"(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay, which report shall include an action plan consisting of—

"(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

"(B) proposals for—

"(i) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

"(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.

"(c) CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL WATERSHED GRANTS PROGRAM.—

"(1) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (in this section referred to as the 'Director'), in cooperation with the Chesapeake Executive Council, shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

"(2) PROJECTS.—

"(A) SUPPORT.—The Director shall make grants under this subsection to pay the Federal share of the cost of projects that are carried out by entities eligible under paragraph (3) for the restoration of fisheries and habitats in the Chesapeake Bay.

"(B) FEDERAL SHARE.—The Federal share under subparagraph (A) shall not exceed 75 percent.

"(C) TYPES OF PROJECTS.—Projects for which grants may be made under this subsection include—

"(i) the improvement of fish passageways;

"(ii) the creation of natural or artificial reefs or substrata for habitats;

"(iii) the restoration of wetland or sea grass;

"(iv) the production of oysters for restoration projects; and

"(v) the prevention, identification, and control of nonindigenous species.

"(3) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under this subsection:

"(A) The government of a political subdivision of a State in the Chesapeake Bay watershed, and the government of the District of Columbia.

"(B) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization)—

"(i) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; and

"(ii) that will administer such grants in coordination with a government referred to in subparagraph (A).

"(4) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this subsection.

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

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of fiscal years 2002 through 2006.".

(b) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended by striking subsection (e).

(c) MULTIPLE SPECIES MANAGEMENT STRATEGY.—

15 USC 1511d note. Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall begin a 5-year study, in cooperation with the scientific community of the Chesapeake Bay, appropriate State and interstate resource management entities, and appropriate Federal agencies—

(A) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

(B) to develop a multiple species management strategy for the Chesapeake Bay.

(2) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under paragraph (1)(B), the study shall—

(A) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay and its tributaries and are selected for study;

(B) evaluate and assess interactions among the fish and shellfish referred to in subparagraph (A) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

(C) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

SEC. 402. CONVEYANCE OF NOAA LABORATORY IN TIBURON, CALIFORNIA.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Commerce shall convey to the Board of Trustees of the California State University, by suitable instrument, in accordance with this section, by as soon as practicable, but not later than 180 days after the date of the enactment of this Act, and without consideration, all right, title, and interest of the United

States in the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California, as described in Exhibit A of the notarized, revocable license between the Administration and Romberg Tiburon Center for Environmental Studies at San Francisco State University dated November 5, 2001 (license number 01ABF779–N).

(b) CONDITIONS.—As a condition of any conveyance by the Secretary under this section the Secretary shall require the following:

(1) The property conveyed shall be administered by the Romberg Tiburon Center for Environmental Studies at San Francisco State University and used only for the following purposes:

(A) To enhance estuarine scientific research and estuary restoration activities within San Francisco Bay.

(B) To administer and coordinate management activities at the San Francisco Bay National Estuarine Research Reserve.

(C) To conduct education and interpretation and outreach activities to enhance public awareness and appreciation of estuary resources, and for other purposes.

(2) The Board shall—

(A) take title to the property as is;

(B) assume full responsibility for all facility maintenance and repair, security, fire prevention, utilities, signs, and grounds maintenance;

(C) allow the Secretary to have all necessary ingress and egress over the property of the Board to access Department of Commerce building and related facilities, equipment, improvements, modifications, and alterations; and

(D) not erect or allow to be erected any structure or structures or obstruction of whatever kind that will interfere with the access to or operation of property retained for the United States under subsection (c)(1), unless prior written consent has been provided by the Secretary to the Board.

(c) RETAINED INTERESTS.—The Secretary shall retain for the United States—

(1) all right, title, and interest in and to the portion of the property referred to in subsection (a) comprising Building 86, identified as Parcel C on Exhibit A of the license referred to in subsection (a), including all facilities, equipment, fixtures, improvements, modifications, or alterations made by the Secretary;

(2) rights-of-way and easements that are determined by the Secretary to be reasonable and convenient to ensure all necessary ingress, egress, utilities, drainage, and sewage disposal for the property retained under paragraph (1), including access to the existing boat launch ramp (or equivalent) and parking that is suitable to the Secretary;

(3) the exclusive right to install, maintain, repair, replace, and remove its facilities, fixtures, and equipment on the retained property, and to authorize other persons to take any such action;

(4) the right to grade, condition, and install drainage facilities, and to seed soil on the retained property, if necessary; and

(5) the right to remove all obstructions from the retained property that may constitute a hindrance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of the Board or its operatives in the operation of its facilities; or

(B) shall be the responsibility of the Board, if the Secretary's request for an equivalent alternative was in response to changes or modifications made by the Board or its operatives that adversely affected the Secretary's interest in the property retained under subsection (c).

(e) ADDITIONAL CONDITIONS.—As conditions of any conveyance under subsection (a)—

(1) the Secretary shall require that—

(A) the Board remediate, or have remediated, at its sole cost, all hazardous or toxic substance contamination found on the property conveyed under subsection (a), whether known or unknown at the time of the conveyance or later discovered; and

(B) the Board of Trustees hold harmless the Secretary for any and all costs, liabilities, or claims by third parties that arise out of any hazardous or toxic substance contamination found on the property conveyed under subsection (a) that are not directly attributable to the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations;

(2) the Secretary shall remediate, at the sole cost of the United States, all hazardous or toxic substance contamination on the property retained under subsection (c) that is found to have occurred as a direct result of the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations; and

(3) if the Secretary decides to terminate future occupancy and interest of the property retained under subsection (c), the Secretary shall—

(A) provide written notice to the Board at least 60 days prior to the scheduled date when the property will be vacated;

(B) remove facilities, equipment, fixtures, improvements, modifications, or alterations and restore the property to as good a condition as existed at the time the property was retained under subsection (c), taking into account ordinary wear and tear and exposure to natural elements or phenomena; or

(C) surrender all facilities, equipment, fixtures, improvements, modifications, or alterations to the Board in lieu of restoration, whereupon title shall vest in the Board of Trustees, and whereby all obligations of restoration under this subsection shall be waived, and all interests retained under subsection (c) shall be revoked.

(f) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interest in and to all property and interests conveyed by the United States under this section shall revert to the United States on the date on which the Board uses any of the property for any purpose other than the purposes described in subsection (b)(1).

(2) ADMINISTRATION OF REVERTED PROPERTY.—Any property that reverts to the United States under this subsection shall be under the administrative jurisdiction of the Administrator of General Services.

(3) ANNUAL CERTIFICATION.—One year after the date of a conveyance made pursuant to subsection (a), and annually thereafter, the Board shall certify to the Administrator of General Services or his or her designee that the Board and its designees are in compliance with the conditions of conveyance under subsections (b) and (e).

(g) DEFINITIONS.—In this section:

(1) BOARD.—The term "Board" means the Board of Trustees of the California State University.

(2) CENTER.—The term "Center" means the Romberg Tiburon Center for Environmental Studies at San Francisco State University.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

16 USC 916c note.

SEC. 403. EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS.

Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government,

or made by a member of such an organization, to prevent the loss of a whale.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4883:

HOUSE REPORTS: No. 107–621 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 148 (2002):
Nov. 14, considered and passed House.
Nov. 20, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):
Dec. 19, Presidential statement.