

(2) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency; and¹

(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

(4) where appropriate, may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining mission assignments (as defined in section 741 of title 6);

(5) may create, support, and maintain such joint centers with other Federal agencies and other entities as the Administrator deems appropriate or necessary to carry out the purposes of this subchapter; and

(6) notwithstanding the existence of such joint centers, shall award contracts for the acquisition of hydrographic data in accordance with subchapter VI of chapter 10 of title 40.²

(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.

(Pub. L. 105-384, title III, §303, Nov. 13, 1998, 112 Stat. 3454; Pub. L. 107-372, title I, §103, Dec. 19, 2002, 116 Stat. 3079; Pub. L. 110-386, §3, Oct. 10, 2008, 122 Stat. 4107.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original “this Act”, and was translated, to reflect the probable intent of Congress, as reading “this title”, meaning title III of Pub. L. 105-384, Nov. 13, 1998, 112 Stat. 3454, known as the Hydrographic Services Improvement Act of 1998, which is classified principally to this subchapter. For complete classification of title III to the Code, see Short Title of 1998 Amendment note set out under section 851 of this title and Tables.

Subchapter VI of chapter 10 of title 40, referred to in subsec. (b)(6), probably means title IX of the Federal Property and Administrative Services Act of 1949, act June 30, 1949, ch. 288, as added Pub. L. 92-582, Oct. 27, 1972, 86 Stat. 1278. Title IX of the Act, which was classified generally to subchapter VI (§541 et seq.) of chapter 10 of former Title 40, Public Buildings, Property, and Works, was repealed and reenacted by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapter 11 (§1101 et seq.) of Title 40, Public Buildings, Property, and Works. For disposition of sections of former Title 40 to revised Title 40, see Table preceding section 101 of Title 40. For complete classification of act June 30, 1949, to the Code, see Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-386, §3(1), substituted “the Coast and Geodetic Survey Act, promote safe, effi-

cient and environmentally sound marine transportation, and otherwise fulfill the purposes of this subchapter,” for “the Act of 1947,” in introductory provisions.

Subsec. (a)(1). Pub. L. 110-386, §3(2), substituted “data and provide hydrographic services;” for “data;”.

Subsec. (b). Pub. L. 110-386, §3(3), added subsec. (b) and struck out former subsec. (b) which related to actions of Administrator to fulfill data gathering and dissemination duties of the Administration under the Act of 1947.

2002—Subsec. (b)(4). Pub. L. 107-372, §103(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “may design and install where appropriate Physical Oceanographic Real-Time Systems to enhance navigation safety and efficiency.”

Subsec. (c). Pub. L. 107-372, §103(b), added subsec. (c).

HYDROGRAPHIC SURVEY

Pub. L. 106-541, title V, §554, Dec. 11, 2000, 114 Stat. 2679, provided that: “The Secretary [of the Army] shall enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration—

“(1) to require the Secretary, not later than 60 days after the Corps of Engineers completes a project involving dredging of a channel, to provide data to the Administration in a standard digital format on the results of a hydrographic survey of the channel conducted by the Corps of Engineers; and

“(2) to require the Administrator to provide the final charts with respect to the project to the Secretary in digital format, at no charge, for the purpose of enhancing the mission of the Corps of Engineers of maintaining Federal navigation projects.”

§ 892b. Quality assurance program

(a) Definition

For purposes of this section, the term “hydrographic product” means any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.

(b) Program

(1) In general

The Administrator—

(A) by not later than 2 years after December 19, 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 892a(a)(3) of this title;

(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.

(2) Limitation on fee amount

Any fee under paragraph (1)(C) shall not exceed the costs of conducting the quality assurance testing, evaluation, or studies necessary to determine whether the hydrographic product satisfies the standards adopted under section 892a(a)(3) of this title, including the cost of administering such a program.

(c) Limitation on liability

The Government of the United States shall not be liable for any negligence by a person that produces hydrographic products certified under this section.

¹ So in original. The word “and” probably should not appear.

² See References in Text note below.

(d) Hydrographic Services Account**(1) Establishment**

There is established in the Treasury a separate account, which shall be known as the "Hydrographic Services Account".

(2) Content

The account shall consist of—

(A) amounts received by the United States as fees charged under subsection (b)(1)(C) of this section; and

(B) such other amounts as may be provided by law.

(3) Use

Amounts in the account shall be available to the Administrator, without further appropriation, for hydrographic services.

(e) Limitation on new fees and increases in existing fees for hydrographic services

After November 13, 1998, the Administrator may not—

(1) establish any fee or other charge for the provision of any hydrographic service except as authorized by this section; or

(2) increase the amount of any fee or other charge for the provision of any hydrographic service except as authorized by this section and section 1307 of title 44.

(Pub. L. 105-384, title III, §304, Nov. 13, 1998, 112 Stat. 3455; Pub. L. 107-372, title I, §104(a), Dec. 19, 2002, 116 Stat. 3080.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-372 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The Administrator may—

"(A) 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 892a(a)(3) of this title;

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

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

§ 892c. Hydrographic Services Review Panel**(a) Establishment**

No later than 1 year after December 19, 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 892a of this title 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 Adminis-

trator. The Co-directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center 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 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.

(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 subchapter 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 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.