

“regional consortium, institution of higher education, institute, or laboratory”. Former par. (11) redesignated (13).

Pars. (12) to (17). Pub. L. 105-174, §10003(1), redesignated pars. (13) to (17) as (12) to (16), respectively. Former par. (12) redesignated (11).

Pub. L. 105-160, §4(a)(5), added pars. (12) to (17) and struck out former pars. (12) to (17) which defined “sea grant college”, “sea grant program”, “sea grant regional consortium”, “Secretary”, “State”, and “Under Secretary”, respectively.

Pub. L. 105-160, §4(a)(3), redesignated pars. (10) to (15) as (12) to (17), respectively.

1992—Par. (6)(F), (G). Pub. L. 102-251, §307(a), which directed addition of subpar. (F) and redesignation of former subpar. (F) as (G), was repealed by section 4(b) of Pub. L. 110-394. See Effective Date of 1992 Amendment note below.

1991—Par. (4). Pub. L. 102-186 inserted “marine affairs and resource management,” after “education.”

1987—Pars. (2), (3). Pub. L. 100-220, §3104(a)(1), (2), added par. (3), redesignated former par. (3) as (2), and struck out former par. (2) which read as follows: “The term ‘Administrator’ means the Administrator of the National Oceanic and Atmospheric Administration.”

Par. (4). Pub. L. 100-220, §3104(b)(1)(C), substituted “ocean, coastal, and Great Lakes resources” for “ocean and coastal resources” in two places.

Par. (6). Pub. L. 100-220, §3104(a)(3), added par. (6) and struck out former par. (6) which read as follows: “The term ‘marine environment’ means the coastal zone, as defined in section 1453(1) of title 16; the seabed, subsoil, and waters of the Great Lakes and the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf.”

Par. (7). Pub. L. 100-220, §3104(a)(3), added par. (7) and struck out former par. (7) which read as follows: “The term ‘ocean and coastal resource’ means any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.”

Par. (11). Pub. L. 100-220, §3104(b)(1)(C), substituted “ocean, coastal, and Great Lakes resources” for “ocean and coastal resources”.

Par. (15). Pub. L. 100-220, §3104(a)(4), added par. (15). 1980—Par. (6). Pub. L. 96-289 extended term “marine environment” to include waters of Great Lakes.

1978—Pub. L. 95-428 substituted “national sea grant college program” for “national sea grant program”.

1976—Pub. L. 94-461 substituted provisions defining terms used in this subchapter for provisions designating Secretary of Commerce as administering authority for national sea grant program and authorizing appropriations through fiscal 1976.

1973—Subsec. (a). Pub. L. 93-73, §1(5), substituted “Secretary of Commerce” and “Secretary” for “National Science Foundation” and “Foundation”, respectively.

Subsec. (b)(1). Pub. L. 93-73, §1(1), (5), authorized appropriations of \$30,000,000; \$40,000,000; and \$50,000,000 for fiscal years ending June 30, 1974, 1975, and 1976, and substituted “Secretary” for “Foundation”.

1970—Subsec. (b)(1). Pub. L. 91-349 authorized appropriations for fiscal year ending June 30, 1971, not to exceed the sum of \$20,000,000, for fiscal year ending June 30, 1972, not to exceed the sum of \$25,000,000, and for fiscal year ending June 30, 1973, not to exceed the sum of \$30,000,000.

1968—Subsec. (b)(1). Pub. L. 90-477 authorized appropriations for fiscal year ending June 30, 1969, not to exceed the sum of \$6,000,000, and for fiscal year ending June 30, 1970, not to exceed the sum of \$15,000,000.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of Title 16, Conservation.

#### TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

### § 1123. National sea grant college program

#### (a) Program maintenance

The Secretary shall maintain within the Administration a program to be known as the national sea grant college program. The national sea grant college program shall be administered by a national sea grant office within the Administration.

#### (b) Program elements

The national sea grant college program shall consist of the financial assistance and other activities authorized in this subchapter, and shall provide support for the following elements—

(1) sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs;

(2) administration of the national sea grant college program and this subchapter by the national sea grant office and the Administration;

(3) the fellowship program under section 1127 of this title; and

(4) any regional or national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed in consultation with the Board and with the approval of the sea grant colleges and the sea grant institutes.

#### (c) Responsibilities of Secretary

(1) The Secretary, in consultation with the Board, sea grant colleges, and sea grant institutes, shall develop at least every 4 years a strategic plan that establishes priorities for the national sea grant college program, provides an appropriately balanced response to local, regional, and national needs, and is reflective of integration with the relevant portions of the strategic plans of the Department of Commerce and of the Administration.

(2) The Secretary, in consultation with the Board, sea grant colleges, and sea grant institutes, shall establish guidelines related to the activities and responsibilities of sea grant colleges and sea grant institutes. Such guidelines shall include requirements for the conduct of merit review by the sea grant colleges and sea grant institutes of proposals for grants and con-

tracts to be awarded under section 1124 of this title, providing, at a minimum, for standardized documentation of such proposals and peer review of all research projects.

(3) The Secretary shall by regulation prescribe the qualifications required for designation of sea grant colleges and sea grant institutes under section 1126 of this title.

(4) To carry out the provisions of this subchapter, the Secretary may—

(A) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

(B) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5;

(C) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other offices and programs in the Administration and without regard to section 501 of title 44, any information of research, educational, training or other value in fields related to ocean, coastal, or Great Lakes resources;

(D) enter into contracts, cooperative agreements, and other transactions without regard to section 6101 of title 41;

(E) notwithstanding section 1342 of title 31, accept donations and voluntary and uncompensated services;

(F) accept funds from other Federal departments and agencies, including agencies within the Administration, to pay for and add to grants made and contracts entered into by the Secretary; and

(G) promulgate such rules and regulations as may be necessary and appropriate.

**(d) Director of National Sea Grant College Program**

(1) The Secretary shall appoint, as the Director of the National Sea Grant College Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to ocean, coastal, and Great Lakes resources. The Director shall be appointed and compensated, without regard to the provisions of title 5 governing appointments in the competitive service, at a rate payable under section 5376 of title 5.

(2) Subject to the supervision of the Secretary, the Director shall administer the national sea grant college program and oversee the operation of the national sea grant office. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

(A) facilitate and coordinate the development of a strategic plan under subsection (c)(1);

(B) advise the Secretary with respect to the expertise and capabilities which are available within or through the national sea grant college program and encourage the use of such expertise and capabilities, on a cooperative or other basis, by other offices and activities within the Administration, and other Federal departments and agencies;

(C) advise the Secretary on the designation of sea grant colleges and sea grant institutes, and, if appropriate, on the termination or suspension of any such designation; and

(D) encourage the establishment and growth of sea grant programs, and cooperation and coordination with other Federal activities in fields related to ocean, coastal, and Great Lakes resources.

(3) With respect to sea grant colleges and sea grant institutes, the Director shall—

(A) evaluate and assess the performance of the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary under subsection (c), and determine which of the programs are the best managed and carry out the highest quality research, education, extension, and training activities;

(B) subject to the availability of appropriations, allocate funding among sea grant colleges and sea grant institutes so as to—

(i) promote healthy competition among sea grant colleges and institutes;

(ii) encourage collaborations among sea grant colleges and sea grant institutes to address regional and national priorities established under subsection (c)(1);

(iii) ensure successful implementation of sea grant programs;

(iv) to the maximum extent consistent with other provisions of this subchapter, provide a stable base of funding for sea grant colleges and institutes;

(v) encourage and promote coordination and cooperation between the research, education, and outreach programs of the Administration and those of academic institutions; and

(vi) encourage cooperation with Minority Serving Institutions to enhance collaborative research opportunities and increase the number of such students graduating in NOAA science areas; and

(C) ensure compliance with the guidelines for merit review under subsection (c)(2).

(Pub. L. 89-454, title II, §204, as added Pub. L. 89-688, §1, Oct. 15, 1966, 80 Stat. 999; amended Pub. L. 90-477, §1(2), Aug. 11, 1968, 82 Stat. 704; Pub. L. 93-73, §1(2)-(7), July 10, 1973, 87 Stat. 170; Pub. L. 94-461, §2, Oct. 8, 1976, 90 Stat. 1963; Pub. L. 95-428, §§2(b), 3(1), Oct. 7, 1978, 92 Stat. 999; Pub. L. 96-289, §1(2), June 28, 1980, 94 Stat. 605; Pub. L. 100-220, title III, §§3104(b)(1)(D), (2), (c), 3105(b), Dec. 29, 1987, 101 Stat. 1470, 1471; Pub. L. 102-186, §§2, 4(b)(1)(A), Dec. 4, 1991, 105 Stat. 1282, 1283; Pub. L. 105-160, §5, Mar. 6, 1998, 112 Stat. 22; Pub. L. 107-299, §3(a), (b)(1), (c), Nov. 26, 2002, 116 Stat. 2345, 2346; Pub. L. 110-394, §§5, 9(a)(4)(C)(i), Oct. 13, 2008, 122 Stat. 4206, 4208.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (d)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

This subchapter, referred to in subsec. (d)(3)(B)(iv), was in the original “this Act” and was translated as reading “this title” meaning title II of Pub. L. 89-454, which enacted this subchapter, to reflect the probable intent of Congress.

CODIFICATION

In subsec. (c)(4)(D), “section 6101 of title 41” substituted for “section 5 of title 41, United States Code”

on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-394, §5(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “sea grant programs which comprise a national sea grant college program network, including international projects conducted within such programs;”.

Subsec. (b)(2). Pub. L. 110-394, §5(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “administration of the national sea grant college program and this subchapter by the national sea grant office, the Administration, and the panel;”.

Subsec. (b)(4). Pub. L. 110-394, §5(a)(3), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “any national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed with the approval of the panel, the sea grant colleges, and the sea grant institutes.”

Subsec. (c)(1). Pub. L. 110-394, §9(a)(4)(C)(i), substituted “Board” for “panel”.

Subsec. (c)(2). Pub. L. 110-394, §§5(b), 9(a)(4)(C)(i), substituted “The” for “Within 6 months of March 6, 1998, the” and “Board” for “panel”.

Subsec. (d)(2)(A). Pub. L. 110-394, §5(c)(1), which directed the striking out of “long range”, was executed by striking out “long-range” before “strategic plan” to reflect the probable intent of Congress.

Subsec. (d)(3)(A). Pub. L. 110-394, §5(c)(2), substituted “evaluate and assess” for “evaluate” and “activities;” for “activities; and”, struck out cl. (i) designation before “evaluate”, and struck out cl. (ii) which read as follows: “rate the programs according to their relative performance (as determined under clause (i)) into no less than 5 categories, with each of the 2 best-performing categories containing no more than 25 percent of the programs;”.

Subsec. (d)(3)(B)(ii). Pub. L. 110-394, §5(c)(3)(A), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (d)(3)(B)(iii). Pub. L. 110-394, §5(c)(3)(A), (B), redesignated cl. (ii) as (iii) and substituted “ensure” for “encourage”. Former cl. (iii) redesignated (iv).

Subsec. (d)(3)(B)(iv), (v). Pub. L. 110-394, §5(c)(3)(A), redesignated cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (d)(3)(B)(vi). Pub. L. 110-394, §5(c)(3)(C), (D), added cl. (vi).

2002—Subsec. (c)(1). Pub. L. 107-299, §3(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop a long-range strategic plan which establishes priorities for the national sea grant college program and which provides an appropriately balanced response to local, regional, and national needs.”

Subsec. (d)(3)(A). Pub. L. 107-299, §3(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “evaluate the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary;”.

Subsec. (d)(3)(B)(iv). Pub. L. 107-299, §3(c), added cl. (iv).

1998—Pub. L. 105-160 amended section catchline and text generally. Prior to amendment text consisted of subssecs. (a) to (d) relating to maintenance within the Administration of the National Sea Grant College Program, appointment and compensation of a Director of the program, duties of the Director, and powers of the Secretary to carry out the provisions of this subchapter.

1991—Subsec. (a). Pub. L. 102-186, §2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary shall maintain, within the Administration, a program to be known as the national sea grant college program. The national sea grant college program shall consist of the financial assistance and other activities provided for in this subchapter.

The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.”

Subsec. (c)(3). Pub. L. 102-186, §4(b)(1)(A), substituted “section 1124” for “sections 1124 and 1125”.

Subsec. (c)(8). Pub. L. 102-186, §2(b), added par. (8).

Subsec. (d)(6). Pub. L. 102-186, §2(c), inserted “and add” after “to pay for”.

1987—Subsec. (b)(1)(A). Pub. L. 100-220, §3104(b)(1)(D), substituted “ocean, coastal, and Great Lakes resources” for “ocean and coastal resources”.

Subsec. (c). Pub. L. 100-220, §3104(c), substituted “Under Secretary” for “Administrator” wherever appearing in introductory provisions and par. (2).

Subsec. (c)(5). Pub. L. 100-220, §3104(b)(2), substituted “ocean, coastal, and Great Lakes resources” for “ocean and coastal resource”.

Subsec. (d)(3). Pub. L. 100-220, §3104(b)(1)(D), substituted “ocean, coastal, and Great Lakes resources” for “ocean and coastal resources” in two places.

Subsec. (d)(6). Pub. L. 100-220, §3105(b), struck out “under section 1124(a) of this title” after “Secretary”.

1980—Subsec. (c)(5) to (7). Pub. L. 96-289 added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

1978—Subsecs. (a) to (c). Pub. L. 95-428, §2(b), substituted “national sea grant college program” for “national sea grant program” wherever appearing.

Subsec. (d)(6), (7). Pub. L. 95-428, §3(1)(B), (C), added par. (6) and redesignated former par. (6) as (7).

1976—Pub. L. 94-461 substituted provisions covering the establishment and administration of the national sea grant program for provisions covering the marine resource development programs.

1973—Subsec. (a). Pub. L. 93-73, §1(2), (5), deleted item (1) designation for provision respecting consultation with experts and Federal agencies, deleted item (2) provision for seeking advice and counsel from the National Council on Marine Resources and Engineering Development, and substituted “Secretary” for “Foundation”.

Subsec. (b). Pub. L. 93-73, §1(5), substituted “Secretary” for “Foundation” and “his authority” for “its authority”.

Subsec. (d)(1). Pub. L. 93-73, §1(3), (5), authorized Federal contributions exceeding percentage limitation to programs limited to one percent of appropriations for the fiscal year when reducing or eliminating matching payments by a participant when Secretary determines it would be inequitable relevant to the benefits derived by the participant from the program to require the participant to make a one-third payment of the cost, and substituted “Secretary” for “Foundation” in last sentence.

Subsec. (d)(2). Pub. L. 93-73, §1(4), (5), made prohibitions of paragraph inapplicable to non-self-propelled habitats, buoys, platforms, or other similar devices or structures, used principally for research purposes and substituted “Secretary” for “foundation”.

Subsecs. (d)(3), (e). Pub. L. 93-73, §1(5), substituted “Secretary” for “Foundation”.

Subsec. (f). Pub. L. 93-73, §1(5), substituted “Secretary” for “Foundation” and “his functions” for “its functions”.

Subsec. (g). Pub. L. 93-73, §1(6), substituted provisions for exercise of powers and authority under this subchapter by the Secretary rather than the Foundation under the powers and authority of the National Science Foundation Act of 1950, as amended.

Subsec. (h). Pub. L. 93-73, §1(5), substituted “Secretary” for “Foundation” and “his functions” for “its functions”.

Subsec. (i)(3). Pub. L. 93-73, §1(7), inserted “and which is so designated by the Secretary” after “marine resources”.

Subsec. (i)(4)(A) to (C). Pub. L. 93-73, §1(5), substituted “Secretary” for “Foundation”.

1968—Subsec. (d)(1). Pub. L. 90-477 struck out “in any fiscal year” after “The total amount of payments” and “by any participants”.

#### REVIEW OF EVALUATION AND RATING PROCESS

Pub. L. 107-299, §3(b)(2), Nov. 26, 2002, 116 Stat. 2346, provided that:

“(A) After 3 years after the date of the enactment of this Act [Nov. 26, 2002], the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall contract with the National Academy of Sciences—

“(i) to review the effectiveness of the evaluation and rating system under the amendment made by paragraph (1) [amending this section] in determining the relative performance of programs of sea grant colleges and sea grant institutes;

“(ii) to evaluate whether the sea grant programs have improved as a result of the evaluation process; and

“(iii) to make appropriate recommendations to improve the overall effectiveness of the evaluation process.

“(B) The National Academy of Sciences shall submit a report to the Congress on the findings and recommendations of the panel under subparagraph (A) by not later than 4 years after the date of the enactment of this Act [Nov. 26, 2002].”

#### NOTICE OF REORGANIZATION

Pub. L. 105-160, §9(d), Mar. 6, 1998, 112 Stat. 27, provided that: “The Secretary of Commerce shall provide notice to the Committees on Science [now Science, Space, and Technology], Resources [now Natural Resources], and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 45 days before any major reorganization of any program, project, or activity of the National Sea Grant College Program.”

### § 1124. Program or project grants and contracts

#### (a) Authorization; purposes; limitation on amount

The Secretary may make grants and enter into contracts under this subsection to assist any sea grant program or project if the Secretary finds that such program or project will—

- (1) implement the objective set forth in section 1121(b) of this title; and
- (2) be responsive to the needs or problems of individual States or regions.

The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the sea grant program or project involved; except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Secretary under section 1123(c)(4)(F) of this title or that are appropriated under section 1127(b) of this title.

#### (b) Special grants; maximum amount; prerequisites

The Secretary may make special grants under this subsection to implement the objective set forth in section 1121(b) of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection unless the Secretary finds that—

- (1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a);
- (2) the probable benefit of such project outweighs the public interest in such matching requirement; and
- (3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a).

The total amount that may be provided for grants under this subsection during any fiscal

year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year under section 1131 of this title.

#### (c) Eligibility and procedure

Any person may apply to the Secretary for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received.

#### (d) Terms and conditions

(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2), (3), and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate. Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirement of prior Federal approval.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase or rental of any land; or

(B) the purchase, rental, construction, preservation, or repair of any building, dock, or vessel;

except that payment under any such grant or contract may be applied to the short-term rental of buildings or facilities for meetings which are in direct support of any sea grant program or project and may, if approved by the Secretary, be applied to the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under any sea grant program or project.

(3) The total amount which may be obligated for payment pursuant to grants made to, and contracts entered into with, persons under this section within any one State in any fiscal year shall not exceed an amount equal to 15 percent of the total funds appropriated for such year pursuant to section 1131 of this title.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for 3 years after the completion of such a program or project. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to such grants and contracts.

(Pub. L. 89-454, title II, §205, as added Pub. L. 89-688, §1, Oct. 15, 1966, 80 Stat. 1001; amended