

§ 888. Omitted

CODIFICATION

Section, R.S. §§ 264, 4690; acts Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 235, § 1, 41 Stat. 929, relating to an annual statement on coast surveys by the Coast and Geodetic Survey [now the National Ocean Survey], was partially repealed by acts May 29, 1928, ch. 901, § 1(104), 45 Stat. 994; Aug. 7, 1946, ch. 770, § 1(5), 60 Stat. 866; and Aug. 30, 1954, ch. 1076, § 1(13), 68 Stat. 967.

§§ 889, 890. Repealed. June 21, 1955, ch. 172, § 5(5), 69 Stat. 170

Section 889, acts Mar. 4, 1909, ch. 313, § 1, 35 Stat. 1064; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, authorized cooperation with North Carolina State Fish Commission in survey of waters of State.

Section 890, acts Mar. 4, 1909, ch. 313, § 2, 35 Stat. 1065; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for marking triangulation points of North Carolina survey.

SUBCHAPTER III—NOAA FLEET
MODERNIZATION**§ 891. Definitions**

In this subchapter, the term—

(1) “NOAA” means the National Oceanic and Atmospheric Administration within the Department of Commerce.

(2) “NOAA fleet” means the fleet of research vessels owned or operated by NOAA.

(3) “Plan” means the NOAA Fleet Replacement and Modernization Plan described in section 891b of this title.

(4) “Secretary” means the Secretary of Commerce.

(5) “UNOLS” means University-National Oceanographic Laboratory System.

(Pub. L. 102-567, title VI, § 602, Oct. 29, 1992, 106 Stat. 4299.)

SHORT TITLE

For short title of this subchapter as the “NOAA Fleet Modernization Act”, see section 601 of Pub. L. 102-567, set out as a Short Title of 1992 Amendment note under section 851 of this title.

§ 891a. Fleet replacement and modernization program

The Secretary is authorized to implement, subject to the requirements of this subchapter, a 15-year program to replace and modernize the NOAA fleet.

(Pub. L. 102-567, title VI, § 603, Oct. 29, 1992, 106 Stat. 4300.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”, meaning title VI of Pub. L. 102-567, which enacted this subchapter, to reflect the probable intent of Congress.

§ 891b. Fleet replacement and modernization Plan**(a) In general**

To carry out the program authorized in section 891a of this title, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering

the years authorized under section 891h of this title.

(b) Timing

The Plan required in subsection (a) shall be submitted to Congress within 30 days of October 29, 1992, and updated on an annual basis.

(c) Plan elements

The Plan required in subsection (a) shall include the following—

(1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;

(2) the number of vessels proposed to be constructed, leased, or chartered;

(3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;

(4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal¹ official, and the terms and conditions for their availability;

(5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and

(6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

(d) Contracting limitation

The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a).

(Pub. L. 102-567, title VI, § 604, Oct. 29, 1992, 106 Stat. 4300.)

FISHERY SURVEY VESSEL ACQUISITION

Pub. L. 106-450, title III, Nov. 7, 2000, 114 Stat. 1945, provided that:

“SEC. 301. SHORT TITLE.

“This title may be cited as the ‘Fisheries Survey Vessel Authorization Act of 2000’.

“SEC. 302. ACQUISITION OF FISHERY SURVEY VESSELS.

“(a) IN GENERAL.—The Secretary, subject to the availability of appropriations, may in accordance with this section acquire, by purchase, lease, lease-purchase, or charter, and equip up to six fishery survey vessels in accordance with this section.

“(b) VESSEL REQUIREMENTS.—Any vessel acquired and equipped under this section must—

“(1) be capable of—

“(A) staying at sea continuously for at least 30 days;

“(B) conducting fishery population surveys using hydroacoustic, longlining, deep water, and pelagic trawls, and other necessary survey techniques; and

“(C) conducting other work necessary to provide fishery managers with the accurate and timely data needed to prepare and implement fishery management plans; and

“(2) have a hull that meets the International Council for Exploration of the Sea standard regarding acoustic quietness.

¹ So in original. Probably should be capitalized.

“(c) AUTHORIZATION.—To carry out this section there are authorized to be appropriated to the Secretary \$60,000,000 for each of fiscal years 2002 and 2003.”

DEACTIVATION OF NOAA RESEARCH VESSELS

Pub. L. 102-567, title IV, §401(b)(4), Oct. 29, 1992, 106 Stat. 4291, provided that:

“(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

“(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries [now Committee on Science, Space, and Technology] of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.”

§ 891c. Design of NOAA vessels

(a) Design requirement

Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

(1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and

(2) contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

(b) Exception

The Secretary shall—

(1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after October 29, 1992, and shall promptly advise the Congress of any modification of these designs; and

(2) submit to Congress as part of the annual update of the Plan required in section 891b of this title, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

(Pub. L. 102-567, title VI, §605, Oct. 29, 1992, 106 Stat. 4300.)

§ 891d. Contract authority

(a) Multiyear contracts

(1) In general

Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31 and subsections (a) and (b) of section 6301 of title 41, the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) Required findings

The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Con-

gress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

(3) Required contract provisions

The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

(b) Service contracts

Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

(1) the Secretary finds that it is in the public interest to do so;

(2) the contract is for not more than 7 years; and

(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

(B) NOAA vessels are not available or cannot provide those services.

(c) Bonding authority

Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

(Pub. L. 102-567, title VI, §606, Oct. 29, 1992, 106 Stat. 4301.)

CODIFICATION

In subsec. (a)(1), “subsections (a) and (b) of section 6301 of title 41” substituted for “section 3732 of the Re-