

AMENDMENT TO RULES COMMITTEE PRINT 117-

31

OFFERED BY MS. PINGREE OF MAINE

Page 1668, after line 13, insert the following:

1 **TITLE XII—KEEP AMERICA’S**
2 **WATERFRONTS WORKING**

3 **SEC. 71201. WORKING WATERFRONTS GRANT PROGRAM.**

4 The Coastal Zone Management Act of 1972 (16
5 U.S.C. 1451 et seq.) is amended by adding at the end
6 the following:

7 **“SEC. 320. WORKING WATERFRONTS GRANT PROGRAM.**

8 “(a) WORKING WATERFRONT TASK FORCE.—

9 “(1) ESTABLISHMENT AND FUNCTIONS.—The
10 Secretary of Commerce shall establish a task force
11 to work directly with coastal States, user groups,
12 and coastal stakeholders to identify and address crit-
13 ical needs with respect to working waterfronts.

14 “(2) MEMBERSHIP.—The members of the task
15 force shall be appointed by the Secretary of Com-
16 merce, and shall include—

17 “(A) experts in the unique economic, so-
18 cial, cultural, ecological, geographic, and re-
19 source concerns of working waterfronts; and

1 “(B) representatives from the National
2 Oceanic and Atmospheric Administration’s Of-
3 fice of Coastal Management, the United States
4 Fish and Wildlife Service, the Department of
5 Agriculture, the Environmental Protection
6 Agency, the United States Geological Survey,
7 the Navy, the National Marine Fisheries Serv-
8 ice, the Economic Development Agency, and
9 such other Federal agencies as the Secretary
10 considers appropriate.

11 “(3) FUNCTIONS.—The task force shall—

12 “(A) identify and prioritize critical needs
13 with respect to working waterfronts in States
14 that have a management program approved by
15 the Secretary of Commerce pursuant to section
16 306, in the areas of—

17 “(i) economic and cultural importance
18 of working waterfronts to communities;

19 “(ii) changing environments and
20 threats working waterfronts face from en-
21 vironment changes, trade barriers, sea level
22 rise, extreme weather events, ocean acidifi-
23 cation, and harmful algal blooms; and

24 “(iii) identifying working waterfronts
25 and highlighting them within communities;

1 “(B) outline options, in coordination with
2 coastal States and local stakeholders, to address
3 such critical needs, including adaptation and
4 mitigation where applicable;

5 “(C) identify Federal agencies that are re-
6 sponsible under existing law for addressing such
7 critical needs; and

8 “(D) recommend Federal agencies best
9 suited to address any critical needs for which
10 no agency is responsible under existing law.

11 “(4) INFORMATION TO BE CONSIDERED.—In
12 identifying and prioritizing policy gaps pursuant to
13 paragraph (3), the task force shall consider the find-
14 ings and recommendations contained in section VI of
15 the report entitled ‘The Sustainable Working Water-
16 fronts Toolkit: Final Report’, dated March 2013.

17 “(5) REPORT.—Not later than 18 months after
18 the date of the enactment of this section, the task
19 force shall submit a report to Congress on its find-
20 ings.

21 “(6) IMPLEMENTATION.—The head of each
22 Federal agency identified in the report pursuant to
23 paragraph (3)(C) shall take such action as is nec-
24 essary to implement the recommendations contained

1 in the report by not later than 1 year after the date
2 of the issuance of the report.

3 “(b) WORKING WATERFRONT GRANT PROGRAM.—

4 “(1) The Secretary shall establish a Working
5 Waterfront Grant Program, in cooperation with ap-
6 propriate State, regional, and other units of govern-
7 ment, under which the Secretary may make a grant
8 to any coastal State for the purpose of implementing
9 a working waterfront plan approved by the Secretary
10 under subsection (c).

11 “(2) Subject to the availability of appropria-
12 tions, the Secretary shall award matching grants
13 under the Working Waterfronts Grant Program to
14 coastal States with approved working waterfront
15 plans through a regionally equitable, competitive
16 funding process in accordance with the following:

17 “(A) The Governor, or the lead agency
18 designated by the Governor for coordinating the
19 implementation of this section, where appro-
20 priate in consultation with the appropriate local
21 government, shall determine that the applica-
22 tion is consistent with the State’s or territory’s
23 approved coastal zone plan, program, and poli-
24 cies prior to submission to the Secretary.

1 “(B) In developing guidelines under this
2 section, the Secretary shall consult with coastal
3 States, other Federal agencies, and other inter-
4 ested stakeholders with expertise in working
5 waterfront planning.

6 “(C) Coastal States may allocate grants to
7 local governments, Indian Tribes, agencies, or
8 nongovernmental organizations eligible for as-
9 sistance under this section.

10 “(3) In awarding a grant to a coastal State, the
11 Secretary shall consider—

12 “(A) the economic, cultural, and historical
13 significance of working waterfront to the coast-
14 al State;

15 “(B) the demonstrated working waterfront
16 needs of the coastal State as outlined by a
17 working waterfront plan approved for the coast-
18 al State under subsection (c), and the value of
19 the proposed project for the implementation of
20 such plan;

21 “(C) the ability to successfully leverage
22 funds among participating entities, including
23 Federal programs, regional organizations, State
24 and other government units, landowners, cor-
25 porations, or private organizations;

1 “(D) the potential for rapid turnover in
2 the ownership of working waterfront in the
3 coastal State, and where applicable the need for
4 coastal States to respond quickly when prop-
5 erties in existing or potential working water-
6 front areas or public access areas as identified
7 in the working waterfront plan submitted by
8 the coastal State come under threat or become
9 available; and

10 “(E) the impact of the working waterfront
11 plan approved for the coastal State under sub-
12 section (c) on the coastal ecosystem and the
13 users of the coastal ecosystem.

14 “(4) The Secretary shall approve or reject an
15 application for such a grant within 60 days after re-
16 ceiving an application for the grant.

17 “(c) WORKING WATERFRONT PLANS.—

18 “(1) To be eligible for a grant under subsection
19 (b), a coastal State must submit and have approved
20 by the Secretary a comprehensive working water-
21 front plan in accordance with this subsection, or be
22 in the process of developing such a plan and have an
23 established working waterfront program at the State
24 or local level, or the Secretary determines that an

1 existing coastal land use plan for that State is in ac-
2 cordance with this subsection.

3 “(2) Such plan—

4 “(A) must provide for preservation and ex-
5 pansion of access to coastal waters to persons
6 engaged in commercial fishing, recreational
7 fishing and boating businesses, aquaculture,
8 boatbuilding, or other water-dependent, coastal-
9 related business;

10 “(B) shall include one or more of—

11 “(i) an assessment of the economic,
12 social, cultural, and historic value of work-
13 ing waterfront to the coastal State;

14 “(ii) a description of relevant State
15 and local laws and regulations affecting
16 working waterfront in the geographic areas
17 identified in the working waterfront plan;

18 “(iii) identification of geographic
19 areas where working waterfronts are cur-
20 rently under threat of conversion to uses
21 incompatible with commercial and rec-
22 reational fishing, recreational fishing and
23 boating businesses, aquaculture,
24 boatbuilding, or other water-dependent,

1 coastal-related business, and the level of
2 that threat;

3 “(iv) identification of geographic areas
4 with a historic connection to working wa-
5 terfronts where working waterfronts are
6 not currently available, and, where appro-
7 priate, an assessment of the environmental
8 impacts of any expansion or new develop-
9 ment of working waterfronts on the coastal
10 ecosystem;

11 “(v) identification of other working
12 waterfront needs including improvements
13 to existing working waterfronts and work-
14 ing waterfront areas;

15 “(vi) a strategic and prioritized plan
16 for the preservation, expansion, and im-
17 provement of working waterfronts in the
18 coastal State;

19 “(vii) for areas identified under
20 clauses (iii), (iv), (v), and (vi), identifica-
21 tion of current availability and potential
22 for expansion of public access to coastal
23 waters;

1 “(viii) a description of the degree of
2 community support for such strategic plan;
3 and

4 “(ix) a contingency plan for properties
5 that revert to the coastal State pursuant to
6 determinations made by the coastal State
7 under subsection (g)(4)(C);

8 “(C) may include detailed environmental
9 impacts on working waterfronts, including haz-
10 ards, sea level rise, inundation exposure, and
11 other resiliency issues;

12 “(D) may be part of the management pro-
13 gram approved under section 306;

14 “(E) shall utilize to the maximum extent
15 practicable existing information contained in
16 relevant surveys, plans, or other strategies to
17 fulfill the information requirements under this
18 paragraph; and

19 “(F) shall incorporate the policies and reg-
20 ulations adopted by communities under local
21 working waterfront plans or strategies in exist-
22 ence before the date of the enactment of this
23 section.

24 “(3) A working waterfront plan—

1 “(A) shall be effective for purposes of this
2 section for the 5-year period beginning on the
3 date it is approved by the Secretary;

4 “(B) must be updated and re-approved by
5 the Secretary before the end of such period; and

6 “(C) shall be complimentary to and incor-
7 porate the policies and objectives of regional or
8 local working waterfront plans as in effect be-
9 fore the date of enactment of this section or as
10 subsequently revised.

11 “(4) The Secretary may—

12 “(A) award planning grants to coastal
13 States for the purpose of developing or revising
14 comprehensive working waterfront plans; and

15 “(B) award grants consistent with the pur-
16 poses of this section to States undertaking the
17 working waterfront planning process under this
18 section, for the purpose of preserving and pro-
19 tecting working waterfronts during such proc-
20 ess.

21 “(5) Any coastal State applying for a working
22 waterfront grant under this title shall—

23 “(A) develop a working waterfront plan,
24 using a process that involves the public and
25 those with an interest in the coastal zone;

1 “(B) coordinate development and imple-
2 mentation of such a plan with other coastal
3 management programs, regulations, and activi-
4 ties of the coastal State; and

5 “(C) if the coastal State allows qualified
6 holders (other than the coastal State) to enter
7 into working waterfront covenants, provide as
8 part of the working waterfront plan under this
9 subsection a mechanism or procedure to ensure
10 that the qualified holders are complying their
11 duties to enforce the working waterfront cov-
12 enant.

13 “(d) USES, TERMS, AND CONDITIONS.—

14 “(1) Each grant made by the Secretary under
15 this section shall be subject to such terms and condi-
16 tions as may be appropriate to ensure that the grant
17 is used for purposes consistent with this section.

18 “(2) A grant under this section may be used—

19 “(A) to acquire a working waterfront, or
20 an interest in a working waterfront;

21 “(B) to make improvements to a working
22 waterfront, including the construction or repair
23 of wharfs, boat ramps, or related facilities; or

24 “(C) for necessary climate adaptation miti-
25 gation.

1 “(e) PUBLIC ACCESS REQUIREMENT.—A working
2 waterfront project funded by grants made under this sec-
3 tion must provide for expansion, improvement, or preser-
4 vation of reasonable and appropriate public access to
5 coastal waters at or in the vicinity of a working water-
6 front, except for commercial fishing or other industrial ac-
7 cess points where the coastal State determines that public
8 access would be unsafe.

9 “(f) LIMITATIONS.—

10 “(1) Except as provided in paragraph (2), a
11 grant awarded under this section may be used to
12 purchase working waterfront or an interest in work-
13 ing waterfront, including an easement, only from a
14 willing seller and at fair market value.

15 “(2) A grant awarded under this section may
16 be used to acquire working waterfront or an interest
17 in working waterfront at less than fair market value
18 only if the owner certifies to the Secretary that the
19 sale is being entered into willingly and without coer-
20 cion.

21 “(3) No Federal, State, or local entity may ex-
22 ercise the power of eminent domain to secure title to
23 any property or facilities in connection with a
24 project carried out under this section.

1 “(g) ALLOCATION OF GRANTS TO LOCAL GOVERN-
2 MENTS AND OTHER ENTITIES.—

3 “(1) The Secretary shall encourage coastal
4 States to broadly allocate amounts received as
5 grants under this section among working water-
6 fronts identified in working waterfront plans ap-
7 proved under subsection (c).

8 “(2) Subject to the approval of the Secretary,
9 a coastal State may, as part of an approved working
10 waterfront plan, designate as a qualified holder any
11 unit of State or local government or nongovern-
12 mental organization, if the coastal State is ulti-
13 mately responsible for ensuring that the property
14 will be managed in a manner that is consistent with
15 the purposes for which the land entered into the pro-
16 gram.

17 “(3) A coastal State or a qualified holder des-
18 igned by a coastal State may allocate to a unit of
19 local government, nongovernmental organization,
20 fishing cooperative, or other entity, a portion of any
21 grant made under this section for the purpose of
22 carrying out this section, except that such an alloca-
23 tion shall not relieve the coastal State of the respon-
24 sibility for ensuring that any funds so allocated are

1 applied in furtherance of the coastal State's ap-
2 proved working waterfront plan.

3 “(4) A qualified holder may hold title to or in-
4 terest in property acquired under this section, except
5 that—

6 “(A) all persons holding title to or interest
7 in working waterfront affected by a grant under
8 this section, including a qualified holder, private
9 citizen, private business, nonprofit organization,
10 fishing cooperative, or other entity, shall enter
11 into a working waterfront covenant;

12 “(B) such covenant shall be held by the
13 coastal State or a qualified holder designated
14 under paragraph (2);

15 “(C) if the coastal State determines, on
16 the record after an opportunity for a hearing,
17 that the working waterfront covenant has been
18 violated—

19 “(i) all right, title, and interest in and
20 to the working waterfront covered by such
21 covenant shall, except as provided in sub-
22 paragraph (D), revert to the coastal State;
23 and

1 “(ii) the coastal State shall have the
2 right of immediate entry onto the working
3 waterfront;

4 “(D) if a coastal State makes a determina-
5 tion under subparagraph (C), the coastal State
6 may convey or authorize the qualified holder to
7 convey the working waterfront or interest in
8 working waterfront to another qualified holder;
9 and

10 “(E) nothing in this subsection waives any
11 legal requirement under any Federal or State
12 law.

13 “(h) MATCHING CONTRIBUTIONS.—

14 “(1) Except as provided in paragraph (2), the
15 Secretary shall require that each coastal State that
16 receives a grant under this section, or a qualified
17 holder designated by that coastal State under sub-
18 section (g), shall provide matching funds in an
19 amount equal to at least 25 percent of the total cost
20 of the project carried out with the grant.

21 “(2) The Secretary may waive the application
22 of paragraph (1) for any qualified holder that is an
23 underserved community, a community that has an
24 inability to draw on other sources of funding because
25 of the small population or low income of the commu-

1 nity, or for other reasons the Secretary considers ap-
2 propriate.

3 “(3) A local community designated as a quali-
4 fied holder under subsection (g) may utilize funds or
5 other in-kind contributions donated by a nongovern-
6 mental partner to satisfy the matching funds re-
7 quirement under this subsection.

8 “(4) As a condition of receipt of a grant under
9 this section, the Secretary shall require that a coast-
10 al State provide to the Secretary such assurances as
11 the Secretary determines are sufficient to dem-
12 onstrate that the share of the cost of each eligible
13 project that is not funded by the grant awarded
14 under this section has been secured.

15 “(5) If financial assistance under this section
16 represents only a portion of the total cost of a
17 project, funding from other Federal sources may be
18 applied to the cost of the project. Each portion shall
19 be subject to match requirements under the applica-
20 ble provision of law.

21 “(6) The Secretary shall treat as non-Federal
22 match the value of a working waterfront or interest
23 in a working waterfront, including conservation and
24 other easements, that is held in perpetuity by a
25 qualified holder, if the working waterfront or inter-

1 est is identified in the application for the grant and
2 acquired by the qualified holder within 3 years of
3 the grant award date, or within 3 years after the
4 submission of the application and before the end of
5 the grant award period. Such value shall be deter-
6 mined by an appraisal performed at such time before
7 the award of the grant as the Secretary considers
8 appropriate.

9 “(7) The Secretary shall treat as non-Federal
10 match the costs associated with acquisition of a
11 working waterfront or an interest in a working wa-
12 terfront, and the costs of restoration, enhancement,
13 or other improvement to a working waterfront, if the
14 activities are identified in the project application and
15 the costs are incurred within the period of the grant
16 award, or, for working waterfront described in para-
17 graph (6), within the same time limits described in
18 that paragraph. These costs may include either cash
19 or in-kind contributions.

20 “(i) LIMIT ON ADMINISTRATIVE COSTS.—No more
21 than 5 percent of the funds made available to the Sec-
22 retary under this section may be used by the Secretary
23 for planning or administration of the program under this
24 section.

1 “(j) OTHER TECHNICAL AND FINANCIAL ASSIST-
2 ANCE.—

3 “(1) Up to 5 percent of the funds appropriated
4 under this section may be used by the Secretary for
5 purposes of providing technical assistance as de-
6 scribed in this subsection.

7 “(2) The Secretary shall—

8 “(A) provide technical assistance to coastal
9 States and local governments in identifying and
10 obtaining other sources of available Federal
11 technical and financial assistance for the devel-
12 opment and revision of a working waterfront
13 plan and the implementation of an approved
14 working waterfront plan;

15 “(B) provide technical assistance to States
16 and local governments for the development, im-
17 plementation, and revision of comprehensive
18 working waterfront plans, which may include,
19 subject to the availability of appropriations,
20 planning grants and assistance, pilot projects,
21 feasibility studies, research, and other projects
22 necessary to further the purposes of this sec-
23 tion;

24 “(C) assist States in developing other tools
25 to protect working waterfronts;

1 “(D) collect and disseminate to States
2 guidance for best storm water management
3 practices in regards to working waterfronts;

4 “(E) provide technical assistance to States
5 and local governments on integrating resilience
6 planning into working waterfront preservation
7 efforts; and

8 “(F) collect and disseminate best practices
9 on working waterfronts and resilience planning.

10 “(k) REPORTS.—

11 “(1) The Secretary shall—

12 “(A) develop performance measures to
13 evaluate and report on the effectiveness of the
14 program under this section in accomplishing the
15 purpose of this section; and

16 “(B) submit to Congress a biennial report
17 that includes such evaluations, an account of all
18 expenditures, and descriptions of all projects
19 carried out using grants awarded under this
20 section.

21 “(2) The Secretary may submit the biennial re-
22 port under paragraph (1)(B) by including it in the
23 biennial report required under section 316.

24 “(l) DEFINITIONS.—In this section:

1 “(1) The term ‘qualified holder’ means a coast-
2 al State or a unit of local or coastal State govern-
3 ment or a non-State organization designated by a
4 coastal State under subsection (g).

5 “(2) The term ‘Secretary’ means the Secretary,
6 acting through the National Oceanic and Atmos-
7 pheric Administration.

8 “(3) The term ‘working waterfront’ means real
9 property (including support structures over water
10 and other facilities) that provides access to coastal
11 waters to persons engaged in commercial and rec-
12 reational fishing, recreational fishing and boating
13 businesses, boatbuilding, aquaculture, or other
14 water-dependent, coastal-related business and is
15 used for, or that supports, commercial and rec-
16 reational fishing, recreational fishing and boating
17 businesses, boatbuilding, aquaculture, or other
18 water-dependent, coastal-related business.

19 “(4) The term ‘working waterfront covenant’
20 means an agreement in recordable form between the
21 owner of working waterfront and one or more quali-
22 fied holders, that provides such assurances as the
23 Secretary may require that—

24 “(A) the title to or interest in the working
25 waterfront will be held by a grant recipient or

1 qualified holder in perpetuity, except as pro-
2 vided in subparagraph (C);

3 “(B) the working waterfront will be man-
4 aged in a manner that is consistent with the
5 purposes for which the property is acquired
6 pursuant to this section, and the property will
7 not be converted to any use that is inconsistent
8 with the purpose of this section;

9 “(C) if the title to or interest in the work-
10 ing waterfront is sold or otherwise exchanged—

11 “(i) all working waterfront owners
12 and qualified holders involved in such sale
13 or exchange shall accede to such agree-
14 ment; and

15 “(ii) funds equal to the fair market
16 value of the working waterfront or interest
17 in working waterfront shall be paid to the
18 Secretary by parties to the sale or ex-
19 change, and such funds shall, at the dis-
20 cretion of the Secretary, be paid to the
21 coastal State in which the working water-
22 front is located for use in the implementa-
23 tion of the working waterfront plan of the
24 State approved by the Secretary under this
25 section; and

1 “(D) such covenant is subject to enforce-
2 ment and oversight by the coastal State or by
3 another person as determined appropriate by
4 the Secretary.

5 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
6 is authorized to be appropriated to the Grant Program
7 \$15,000,000.”.

