

108TH CONGRESS  
1ST SESSION

# H. R. 984

To improve the conservation and management of coastal and ocean resources by reenacting and clarifying provisions of a reorganization plan authorizing the National Oceanic and Atmospheric Administration.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. GILCHREST introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve the conservation and management of coastal and ocean resources by reenacting and clarifying provisions of a reorganization plan authorizing the National Oceanic and Atmospheric Administration.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Oceanic and  
5       Atmospheric Administration Act of 2003”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) ADMINISTRATION.—The term “Administra-  
2           tion” means the National Oceanic and Atmospheric  
3           Administration.

4           (2) FUNCTION.—The term “function” includes  
5           any duty, obligation, power, authority, responsibility,  
6           right, privilege, activity, or program.

7           (3) OFFICE.—The term “office” includes any  
8           office, institute, council, unit, organizational entity,  
9           or component thereof.

10          (4) SECRETARY.—The term “Secretary” means  
11          the Secretary of Commerce.

12          (5) UNDER SECRETARY.—The term “Under  
13          Secretary” means the Under Secretary of Commerce  
14          for Oceans and Atmosphere appointed under section  
15          102.

16 **SEC. 3. ORGANIZATION OF ADMINISTRATION.**

17          (a) IN GENERAL.—There shall be in the Department  
18          of Commerce an agency known as the National Oceanic  
19          and Atmospheric Administration.

20          (b) PRIMARY MISSIONS.—The primary missions of  
21          the Administration are the following:

22                (1) The provision and certification of hydro-  
23                graphic and geodetic products and data.

24                (2) The conservation and management of the  
25                Nation’s coastal and marine resources.

1           (3) The exploration of the oceans and the Great  
2       Lakes.

3           (4) To further human understanding of—  
4                (A) the oceans and the Great Lakes;  
5                (B) the earth’s atmosphere; and  
6                (C) the functional relationship of the  
7       oceans and the atmosphere.

8           (5) Forecasting the Nation’s weather and cli-  
9       mate.

10       (c) COMPONENTS.—The Secretary shall maintain  
11   within the Administration the following components:

12           (1) The National Coast and Ocean Service.

13           (2) The National Oceanic and Atmospheric Re-  
14       search Service.

15           (3) The National Marine Fisheries Service.

16           (4) The National Weather Service.

17           (5) The National Environmental Satellite and  
18       Data Information Service.

19           (6) The Office of Marine and Aviation Oper-  
20       ations.

21           (7) Such other components as the Secretary  
22       considers necessary.

23       (d) FUNCTIONS.—The Administration shall perform  
24   such functions as were vested in the Administration or any  
25   officer, employee, or office of the Administration imme-

1 diately before the enactment of this Act, except as may  
2 be provided otherwise by law or by a redelegation of au-  
3 thority after that date by the President, the Secretary of  
4 Commerce, or any other officer of the United States who  
5 delegated such function to the Administration before that  
6 date or who is otherwise authorized to make such a redele-  
7 gation.

8 **SEC. 4. UNDER SECRETARY FOR OCEANS AND ATMOS-**  
9 **PHERE.**

10 (a) IN GENERAL.—There shall be at the head of the  
11 Administration the Under Secretary of Commerce for  
12 Oceans and Atmosphere. The Under Secretary shall be ap-  
13 pointed by the President, by and with the advice and con-  
14 sent of the Senate. The Under Secretary shall be paid at  
15 the rate of basic pay for level III of the Executive Sched-  
16 ule.

17 (b) FUNCTIONS.—Subject to the authority, direction,  
18 and control of the Secretary, the Under Secretary shall  
19 perform such functions and exercise such powers with re-  
20 spect to the Administration as the Secretary may pre-  
21 scribe, including the following:

- 22 (1) Serve as the Administrator of the National  
23 Oceanic and Atmospheric Administration.
- 24 (2) General management.
- 25 (3) Policy development and guidance.

1           (4) Budget formulation, guidance, and execu-  
2           tion, and other financial matters.

3           (5) Resource requirements determination and  
4           allocation.

5           (6) Program management and direction.

6           (7) Environment, safety, and health operations.

7           (8) Administration of contracts, real property,  
8           and facilities.

9           (9) Personnel, including the selection, appoint-  
10          ment, distribution, supervision, compensation, and  
11          separation of personnel.

12          (10) Procurement of services of experts and  
13          consultants in accordance with section 3109 of title  
14          5, United States Code.

15          (11) External affairs, including legal, legisla-  
16          tive, and public affairs, and serving as liaison with  
17          other elements of the Department of Commerce and  
18          with other Federal agencies, State, tribal, and local  
19          governments, and the public.

20   **SEC. 5. ASSISTANT SECRETARY FOR OCEANS AND ATMOS-**  
21                   **HERE.**

22          (a) IN GENERAL.—There shall be in the Administra-  
23          tion an Assistant Secretary of Commerce for Oceans and  
24          Atmosphere. The Assistant Secretary shall be appointed  
25          by the President, by and with the advice and consent of

1 the Senate. The Assistant Secretary shall be paid at the  
2 rate of basic pay for level IV of the Executive Schedule.

3 (b) FUNCTIONS.—The Assistant Secretary—

4 (1) shall perform such functions and exercise  
5 such powers as the Secretary or Under Secretary  
6 may prescribe; and

7 (2) shall act as Under Secretary during the ab-  
8 sence or disability of the Under Secretary or in the  
9 event of a vacancy in the office of Under Secretary.

10 **SEC. 6. DEPUTY UNDER SECRETARY.**

11 (a) IN GENERAL.—There shall be in the Administra-  
12 tion a Deputy Under Secretary for Oceans and Atmos-  
13 phere. The Deputy Under Secretary shall be appointed by  
14 the Secretary. The position of Deputy Under Secretary  
15 shall be a Senior Executive Service general position as de-  
16 fined in section 3132(a)(9) of title 5, United States Code,  
17 (for purposes of subchapter II of chapter 31 of title 5,  
18 United States Code).

19 (b) FUNCTIONS.—Subject to the authority, direction,  
20 and control of the Secretary and the Under Secretary, the  
21 Deputy Under Secretary—

22 (1) shall serve as an advisor to the Under Sec-  
23 retary and to the Assistant Secretary on all program  
24 and policy issues;

1           (2) shall be responsible for ensuring the timely  
2           and effective implementation of the Administration  
3           policies and objectives; and

4           (3) in the absence or disability of the Under  
5           Secretary or Assistant Secretary, or in the event of  
6           a vacancy in either such position, shall act in that  
7           position.

8   **SEC. 7. GENERAL COUNSEL.**

9           (a) IN GENERAL.—There shall be in the Administra-  
10          tion a General Counsel. The General Counsel shall be ap-  
11          pointed by the Secretary. The position of General Counsel  
12          shall be a Senior Executive Service general position as de-  
13          fined in section 3132(a)(9) of title 5, United States Code,  
14          (for purposes of subchapter II of chapter 31 of title 5,  
15          United States Code).

16          (b) FUNCTIONS.—Subject to the authority, direction,  
17          and control of the Secretary and the Under Secretary, the  
18          General Counsel—

19               (1) shall serve as the chief legal officer of the  
20          Administration for all legal matters that arise in  
21          connection with the conduct of the functions of the  
22          Administration; and

23               (2) shall perform such other functions and exer-  
24          cise such powers as the Secretary or Under Sec-  
25          retary may prescribe.

1 **SEC. 8. ASSISTANT ADMINISTRATORS.**

2 (a) IN GENERAL.—There shall be in the Administra-  
3 tion the following:

4 (1) An Assistant Administrator for Coastal and  
5 Ocean Services.

6 (2) An Assistant Administrator for Oceanic and  
7 Atmospheric Research.

8 (3) An Assistant Administrator for Fisheries.

9 (4) An Assistant Administrator for Weather.

10 (5) An Assistant Administrator for Environ-  
11 mental Satellite Data and Information.

12 (6) An Assistant Administrator for Program  
13 Planning and Integration.

14 (7) A Director of Marine and Aviation Oper-  
15 ations and the Commissioned Officer Corps.

16 (b) APPOINTMENT.—Each Assistant Administrator  
17 and the Director referred to in subsection (a) shall be ap-  
18 pointed by the Secretary. Each Assistant Administrator  
19 position shall be a Senior Executive Service general posi-  
20 tion as defined in section 3132(a)(9) of title 5, United  
21 States Code (for purposes of subchapter II of chapter 31  
22 of title 5, United States Code).

23 (c) QUALIFICATIONS.—Each Assistant Administrator  
24 and the Director referred to in subsection (a) shall be an  
25 individual who is qualified by reason of background and



1 experience to direct the implementation and administra-  
2 tion of the functions for which they are responsible.

3 (d) FUNCTIONS.—Each Assistant Administrator and  
4 the Director referred to in subsection (a), under the au-  
5 thority, direction, and control of the Under Secretary,  
6 shall perform such functions and exercise such powers as  
7 the Under Secretary may prescribe.

8 **SEC. 9. CONTINUATION OF SERVICE.**

9 Any individual serving on the date of the enactment  
10 of this Act in a position provided for in this Act may con-  
11 tinue to serve in that position until a successor is ap-  
12 pointed under this Act.

13 **SEC. 10. SCIENCE ADVISORY BOARD.**

14 (a) IN GENERAL.—There shall be in the Administra-  
15 tion a Science Advisory Board, which shall report to the  
16 Under Secretary.

17 (b) PURPOSE.—The purpose of the Science Advisory  
18 Board is to advise the Under Secretary on long-range and  
19 short-range strategies for research, education, and appli-  
20 cation of science to resource management and environ-  
21 mental assessment and prediction.

22 (c) MEMBERS.—

23 (1) IN GENERAL.—The Science Advisory Board  
24 shall consist of members appointed by the Under  
25 Secretary to assure a balanced representation among

1 preeminent scientists, engineers, educators, industry,  
2 and science policy experts reflecting the full breadth  
3 of the Administration's areas of responsibility.

4 (2) CRITERIA FOR SELECTION.—The Under  
5 Secretary shall develop and apply standard criteria  
6 for the selection of members of the Science Advisory  
7 Board.

8 (3) TERMS.—(A) Members of the Science Advi-  
9 sory Board shall be appointed for a 3-year term,  
10 may be reappointed once, and shall serve at the dis-  
11 cretion of the Under Secretary.

12 (B) An individual serving a term as a member  
13 of the Science Advisory Board on the date of enact-  
14 ment of this section may complete that term, and  
15 may be reappointed once for another term of 3  
16 years.

17 (4) COMPENSATION AND EXPENSES.—A mem-  
18 ber of the Science Advisory Board shall not be com-  
19 pensated for service on such board, but upon request  
20 by the member may be allowed travel expenses, in-  
21 cluding per diem in lieu of subsistence, in accord-  
22 ance with subchapter I of chapter 57 of title 5,  
23 United States Code.

24 (5) ETHICAL STANDARDS.—Members of the  
25 Science Advisory Board shall be subject to the eth-

1        ical standards applicable to special Government em-  
2        ployees.

3        (d) CHAIRPERSON.—The Under Secretary shall des-  
4        ignate one of the members of the Science Advisory Board  
5        as the Chairperson of such board.

6        (e) MEETINGS.—The Science Advisory Board shall  
7        meet at least twice each year, and at other times at the  
8        call of the Under Secretary or the Chairperson.

9        (f) ADMINISTRATIVE SUPPORT.—The Under Sec-  
10       retary shall provide administrative support to the Science  
11       Advisory Board.

12       **SEC. 11. GENERAL AUTHORITIES.**

13       (a) GRANTS, CONTRACTS, AND COOPERATIVE  
14       AGREEMENTS.—In carrying out the programs and activi-  
15       ties authorized for the Administration, the Secretary—

16                (1) may enter into grants, contracts, or cooper-  
17       ative agreements with Federal agencies, States, local  
18       governments, regional agencies, interstate agencies,  
19       or other persons; and

20                (2) through the Administration, may apply for,  
21       accept, and use grants or funds from such entities.

22       (b) RESOURCE SHARING AGREEMENTS.—The Sec-  
23       retary, in carrying out the functions of the Administra-  
24       tion, and under terms and conditions established by the  
25       Secretary—

1           (1) may enter into resource sharing agreements  
2       with States, local governments, or Federal agencies  
3       to accept or provide for funds and the use of per-  
4       sonnel, services, equipment, or facilities on a reim-  
5       bursable, nonreimbursable, or shared basis; and

6           (2) may enter into resource sharing agreements  
7       with other Federal agencies to accept, or provide,  
8       personnel, services, equipment, facilities, or funds, or  
9       participate in interagency financing with other Fed-  
10      eral agencies, to the extent necessary to fulfill the  
11      objectives of programs or activities of the Adminis-  
12      tration.

13      (c) JOINT AND COOPERATIVE INSTITUTES.—The  
14      Secretary may establish, by cooperative agreement, joint  
15      or cooperative institutes with qualified colleges, univer-  
16      sities, and nonprofit research organizations for the pur-  
17      pose of collaborating on mutually agreed-upon, long-term  
18      research programs in the areas of oceanography, coastal  
19      ocean observing technology, climate change, atmosphere,  
20      meteorology, marine, coastal and estuarine environmental  
21      technology, fisheries, hydrography, and marine spill re-  
22      sponse. The Secretary shall design such research pro-  
23      grams to support the authorized functions of the Adminis-  
24      tration. The Secretary may accept or provide facilities,  
25      personnel, equipment, other property, knowledge, and

1 other scientific research resources and funds on a reim-  
2 bursable or nonreimbursable basis, as determined by the  
3 Secretary, for such institutes.

4 **SEC. 12. PROGRAM SUPPORT.**

5 (a) CORPORATE SERVICES.—There are authorized to  
6 be appropriated to the Secretary of Commerce, to enable  
7 the National Oceanic and Atmospheric Administration to  
8 provide corporate services (including management, admin-  
9 istrative support, and policy development) that support its  
10 program activities, \$95,000,000 for each of fiscal years  
11 2004 through 2008.

12 (b) MARINE OPERATIONS AND MAINTENANCE.—  
13 There are authorized to be appropriated to the Secretary  
14 of Commerce, to enable the National Oceanic and Atmos-  
15 pheric Administration to carry out marine services activi-  
16 ties (including ship operations, maintenance, support and  
17 planning) under the Act of 1947 and any other law involv-  
18 ing those activities, \$90,000,000 for each of fiscal years  
19 2004 through 2008.

20 (c) FACILITIES.—In addition to amounts authorized  
21 under section 3 of Public Law 104–91, there are author-  
22 ized to the Secretary of Commerce, to enable the National  
23 Oceanic and Atmospheric Administration to carry out ac-  
24 tivities related to maintenance, repair, safety, environ-  
25 mental compliance, and project planning and execution of

1 facilities, \$20,000,000 for each of fiscal years 2004  
2 through 2008.

3 **SEC. 13. NOAA FLEET REPLACEMENT AND MODERNIZA-**  
4 **TION.**

5 (a) IN GENERAL.—Section 603 of the NOAA Fleet  
6 Modernization Act (33 U.S.C. 891a) is amended to read  
7 as follows:

8 **“SEC. 603. FLEET REPLACEMENT AND MODERNIZATION**  
9 **PROGRAM.**

10 “(a) IN GENERAL.—The Secretary may implement a  
11 program to replace and modernize the NOAA fleet in ac-  
12 cordance with a plan submitted in accordance with section  
13 604.

14 “(b) NOAA VESSEL CONSTRUCTION.—

15 “(1) PROHIBITION ON FOREIGN CONSTRUC-  
16 TION.—Except as provided in paragraph (2), no  
17 NOAA vessel, and no major component of the hull  
18 or superstructure of a NOAA vessel, may be con-  
19 structed in a foreign shipyard.

20 “(2) EXCEPTIONS.—The President may author-  
21 ize an exception to the prohibition in paragraph (1)  
22 if the President determines that it is in the national  
23 security interest of the United States to do so. The  
24 President shall transmit notice to the Congress of  
25 any such determination. No contract may be made

1       pursuant to such an exception until the end of the  
2       30-day period beginning on the date the notice of  
3       such determination is received by the Congress.”.

4       (b) FLEET MODERNIZATION PLAN.—Section 604 of  
5       the NOAA Fleet Modernization Act (33 U.S.C. 891b) is  
6       amended to read as follows:

7       **“SEC. 604. FLEET MODERNIZATION PLAN.**

8       “(a) IN GENERAL.—No later than 30 days after the  
9       date of the enactment of the National Oceanic and Atmos-  
10      pheric Administration Act of 2003, the Secretary shall  
11      submit to the Committee on Resources and the Committee  
12      on Science of the House of Representatives and the Com-  
13      mittee on Commerce, Science, and Transportation of the  
14      Senate a modernization plan for the NOAA fleet covering  
15      fiscal years 2004 through 2008.

16      “(b) PLAN ELEMENTS.—The Plan required under  
17      subsection (a) shall include the following:

18              “(1) The number of vessels proposed to be  
19              modernized or replaced, the schedule for their mod-  
20              ernization or replacement, and anticipated funding  
21              requirements for such modernization and replace-  
22              ment.

23              “(2) The number of vessels proposed to be con-  
24              structed, leased, or chartered.

1           “(3) The number of vessels, or days at sea, that  
2           can be obtained by using the vessels of the UNOLS.

3           “(4) The number of vessels that will be made  
4           available to NOAA by the Secretary of the Navy, or  
5           any other Federal official, and the terms and condi-  
6           tions for their availability.

7           “(5) The proposed acquisition of modern sci-  
8           entific instrumentation for the NOAA fleet, includ-  
9           ing—

10                   “(A) acoustic systems;

11                   “(B) data transmission positioning and  
12                   communications systems;

13                   “(C) physical, chemical, and meteorological  
14                   oceanographic systems; and

15                   “(D) data acquisition and processing sys-  
16                   tems.”.

17           (c) USE OF UNOLS VESSELS.—Section 605 of the  
18           NOAA Fleet Modernization Act (33 U.S.C. 891c) is  
19           amended to read as follows:

20           **“SEC. 605. USE OF VESSELS.**

21           “‘In carrying out the primary missions of NOAA  
22           under section 3(b) of the National Oceanic and Atmos-  
23           pheric Administration Act of 2003, the Secretary—

24                   “(1) shall use excess capacity of UNOLS ves-  
25                   sels where appropriate; and



1           “(2) may enter into memoranda of agreement  
2           with the operators of those vessels to carry out the  
3           requirement under paragraph (1).”.

4           (d) REPEALS.—Sections 607, 608, 609 and 610 of  
5           the NOAA Fleet Modernization Act (33 U.S.C. 891e–  
6           891h) are repealed.

7   **SEC. 14. CONFORMING AMENDMENTS AND REPEALS.**

8           (a) PAY RATE OF DEPUTY UNDER SECRETARY.—  
9           Section 5315 of title 5, United States Code, is amended  
10          by adding at the end the following:

11                 “Deputy Under Secretary of Commerce for  
12                 Oceans and Atmosphere.”.

13          (b) REORGANIZATION PLAN NUMBER 4 OF 1970.—

14                 (1) REPEAL.—Reorganization Plan Number 4  
15                 of 1970 (5 App. U.S.C.) is repealed.

16                 (2) RELATIONSHIP TO ADMINISTRATION FUNC-  
17                 TIONS.—Subparagraph (A) shall not affect the func-  
18                 tions of the Administration under section 3(d) of  
19                 this Act.

20                 (3) NOTICE OF REPROGRAMMING.—Section 403  
21                 of Public Law 102–567 (106 Stat. 4291) is amend-  
22                 ed by striking “\$250,000 or 5” and inserting  
23                 “\$500,000 or 10”.

○