

111TH CONGRESS
1ST SESSION

H. R. 300

To provide for the National Oceanic and Atmospheric Administration, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2009

Mr. EHLERS introduced the following bill; which was referred to the Committee on Science and Technology, and in addition to the Committee on Natural Resources, 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

A BILL

To provide for the National Oceanic and Atmospheric
Administration, and for other purposes.

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) The term “Administration” means the Na-
9 tional Oceanic and Atmospheric Administration.

1 (2) The term “Administrator” means the Ad-
2 ministrator of the National Oceanic and Atmos-
3 pheric Administration.

4 (3) The term “Secretary” means the Secretary
5 of Commerce.

6 **SEC. 3. NATIONAL OCEANIC AND ATMOSPHERIC ADMINIS-**
7 **TRATION.**

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

11 (b) MISSION.—The mission of the Administration is
12 to understand the systems of the Earth’s oceans and at-
13 mosphere and predict changes in the Earth’s oceans and
14 atmosphere and the effects of such changes on the land
15 environment, to conserve and manage coastal, ocean, and
16 Great Lakes ecosystems to meet national economic, social,
17 and environmental needs, and to educate the public about
18 these topics.

19 (c) FUNCTIONS.—The functions of the Administra-
20 tion shall include—

21 (1) collecting, through observation and other
22 means, communicating, analyzing, processing, and
23 disseminating comprehensive scientific data and in-
24 formation about weather and climate, solar and geo-
25 physical events on the Sun and in the space environ-

1 ment, and about the coasts, oceans, Great Lakes,
2 upper reaches of estuaries, and hydrologic systems;

3 (2) operating and maintaining a system for the
4 storage, retrieval, and dissemination of data relating
5 to weather and climate, solar and geophysical events
6 on the Sun and in the space environment, and about
7 the coasts, oceans, Great Lakes, upper reaches of es-
8 tuaries, and hydrologic systems;

9 (3) using observational data and technologies
10 developed by other Federal agencies to improve the
11 Administration's operations;

12 (4) conducting and supporting basic and ap-
13 plied research, development, and technology transfer
14 as may be necessary to carry out the mission de-
15 scribed in subsection (b);

16 (5) issuing weather, water, climate, space
17 weather, tsunami, and other forecasts and warnings
18 related to Earth's oceans and atmosphere;

19 (6) coordinating efforts of Federal agencies
20 with respect to meteorological services;

21 (7) understanding the science of Earth's cli-
22 mate and related systems, and undertaking research
23 and development to enhance society's ability to plan
24 for and respond to climate variability and change;

1 (8) protecting, restoring, and managing the use
2 of, the coasts, oceans, and Great Lakes through eco-
3 system-based research, development, demonstration,
4 and management;

5 (9) administering public outreach and education
6 programs and services to increase scientific and en-
7 vironmental literacy about weather and climate,
8 solar and geophysical events on the Sun and in the
9 space environment, and the coasts, oceans, Great
10 Lakes, upper reaches of estuaries, and hydrologic
11 systems;

12 (10) providing, as appropriate and in coopera-
13 tion with the Secretary of State, representation at
14 all international meetings and conferences relating
15 to the mission of the Administration, including mete-
16 orological, climate, and Earth and ocean observing
17 issues;

18 (11) any other function assigned to the Admin-
19 istration by law; and

20 (12) such other functions as are necessary to
21 accomplish the mission described in subsection (b).

22 **SEC. 4. ADMINISTRATION LEADERSHIP.**

23 (a) ADMINISTRATOR.—

24 (1) IN GENERAL.—There shall be, as the Ad-
25 ministrator of the Administration, an Under Sec-

1 retary of Commerce for Oceans and Atmosphere.

2 The Administrator shall be appointed by the Presi-
3 dent, by and with the advice and consent of the Sen-
4 ate. The Administrator shall be paid at the rate of
5 basic pay for level III of the Executive Schedule.

6 (2) FUNCTIONS.—The Administrator shall be
7 responsible for—

8 (A) general management;

9 (B) policy development and guidance;

10 (C) budget formulation, guidance, and exe-
11 cution;

12 (D) serving as the Department of Com-
13 merce official for all ocean and atmosphere
14 issues with other elements of the Department of
15 Commerce and with other Federal agencies,
16 State, tribal, and local governments, and the
17 public; and

18 (E) such other duties with respect to the
19 Administration as the Secretary may prescribe.

20 (3) DELEGATION OF AUTHORITY.—The Admin-
21 istrator may, except as otherwise prohibited by
22 law—

23 (A) delegate any functions, powers, or du-
24 ties of the Administrator to such officers and

employees of the Administration as the Administrator may designate; and

(B) authorize such successive redelegations of such functions, powers, or duties within the Administration as the Administrator considers necessary or appropriate.

(4) AUTHORITIES.—

(A) IN GENERAL.—As may be necessary or proper to carry out the Administration's functions under this Act or as otherwise provided by law, the Administrator may—

(i) promulgate rules and regulations;

(ii) enter into and perform contracts, leases, grants, and cooperative agreements with Federal agencies, State and local governments, Indian tribes, international organizations, foreign governments, educational institutions, nonprofit organizations, and commercial organizations;

(iii) use, with their consent, and with or without reimbursement, the services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government; and

1 (iv) conduct education and outreach
2 in direct support of the mission described
3 in section 3(b).

4 (B) EXCEPTION.—The authorities con-
5 ferred on the Administrator by this paragraph
6 do not include the authority to contract for
7 services that are an inherently governmental
8 function as defined in section 5 of the Federal
9 Activities Inventory Reform Act of 1998 (31
10 U.S.C. 501 note).

11 (b) ASSISTANT SECRETARY FOR OCEANS AND AT-
12 MOSPHERE.—

13 (1) IN GENERAL.—There shall be, as Deputy
14 Administrator of the Administration, an Assistant
15 Secretary of Commerce for Oceans and Atmosphere.
16 The Assistant Secretary shall be appointed by the
17 President, by and with the advice and consent of the
18 Senate. The Assistant Secretary shall be the Admin-
19 istrator's first assistant for purposes of subchapter
20 III of chapter 33 of title 5, United States Code. The
21 Assistant Secretary shall be paid at the rate of basic
22 pay for level IV of the Executive Schedule.

23 (2) FUNCTIONS.—The Assistant Secretary shall
24 perform such functions and exercise such powers as
25 the Administrator may prescribe and shall act as

1 Administrator during the absence or disability of the
2 Administrator or in the event of a vacancy in the of-
3 fice of Administrator.

4 (c) DEPUTY UNDER SECRETARY FOR OCEANS AND
5 ATMOSPHERE.—

6 (1) IN GENERAL.—There shall, be as the Chief
7 Operating Officer of the Administration, a Deputy
8 Under Secretary of Commerce for Oceans and At-
9 mosphere. The Deputy Under Secretary shall be ap-
10 pointed by the Secretary. The position of Deputy
11 Under Secretary shall be a Senior Executive Service
12 position authorized under section 3133 of title 5,
13 United States Code.

14 (2) FUNCTIONS.—The Deputy Under Sec-
15 retary—

16 (A) shall ensure the timely and effective
17 implementation of Administration policies and
18 objectives;

19 (B) shall be responsible for all aspects of
20 the Administration's operations and manage-
21 ment, including budget, financial operations, in-
22 formation services, facilities, human resources,
23 procurements, and associated services;

1 (C) in the absence or disability of the As-
2 sistant Secretary, or in the event of a vacancy
3 in such position, shall act in that position; and

4 (D) shall perform such other duties as the
5 Administrator shall prescribe.

6 (d) DEPUTY ASSISTANT SECRETARY FOR SCIENCE
7 AND EDUCATION.—

8 (1) IN GENERAL.—There shall be in the Admin-
9 istration a Deputy Assistant Secretary for Science
10 and Education who shall coordinate and oversee the
11 science and education activities of the Administra-
12 tion and their application to Administration deci-
13 sions and operations. The Deputy Assistant Sec-
14 retary for Science and Education shall be appointed
15 by the Secretary. The position of Deputy Assistant
16 Secretary for Science and Education shall be a Sen-
17 ior Executive Service career reserved position as de-
18 fined in section 3132(a)(8) of title 5, United States
19 Code.

20 (2) FUNCTIONS.—The Deputy Assistant Sec-
21 retary for Science and Education shall—

22 (A) coordinate research and development
23 activities across the Administration;

24 (B) review the Administration's annual
25 budget to ensure that funding for research and

1 development is adequate, properly focused, and
2 carried out by the appropriate entities across
3 the Administration;

4 (C) advise the Administrator on how re-
5 search results can be applied to operational use;

6 (D) advise the Administrator regarding
7 science issues and their relationship to Adminis-
8 tration policies, procedures, and decisions;

9 (E) participate in developing the Adminis-
10 tration's strategic plans and policies and review
11 the science and education aspects of those plans
12 and policies;

13 (F) serve as liaison to the nongovern-
14 mental science community;

15 (G) develop and oversee guidelines for peer
16 review of research sponsored or conducted by
17 the Administration;

18 (H) oversee implementation of the stra-
19 tegic plan for research and development re-
20 quired under section 9(b);

21 (I) oversee management of laboratories in
22 the Administration;

23 (J) oversee the research and education
24 programs of the Administration; and

1 (K) perform such other duties as the Ad-
2 ministrator shall prescribe.

3 (3) QUALIFICATIONS.—An individual appointed
4 under paragraph (1) shall be a person who has an
5 outstanding science and education background, in-
6 cluding research accomplishments, scientific reputa-
7 tion, and public policy experience.

8 (4) CONSULTATION.—Before appointing an in-
9 dividual under paragraph (1), the Secretary shall
10 consult with the National Academy of Sciences, the
11 Science Advisory Board of the Administration, and
12 other appropriate scientific organizations.

13 (e) DEPUTY ASSISTANT SECRETARIES.—There may
14 be in the Administration no more than two additional
15 Deputy Assistant Secretaries whose duties may be des-
16 ignated by the Administrator. The Deputy Assistant Sec-
17 retaries shall be appointed by the Secretary. The positions
18 of Deputy Assistant Secretaries shall be Senior Executive
19 Service positions authorized under section 3133 of title 5,
20 United States Code.

21 (f) GENERAL COUNSEL.—

22 (1) IN GENERAL.—There shall be in the Admin-
23 istration a General Counsel. The General Counsel
24 shall be appointed by the Secretary. The General

1 Counsel shall be paid at the rate of basic pay for
2 level V of the Executive Schedule.

3 (2) FUNCTIONS.—The General Counsel—

4 (A) shall serve as the chief legal officer of
5 the Administration for all legal matters that
6 arise in connection with the conduct of the
7 functions of the Administration; and

8 (B) shall perform such other functions and
9 exercise such powers as the Administrator may
10 prescribe.

11 (g) CONTINUATION OF SERVICE.—Any individual
12 serving on the effective date of this Act in a position pro-
13 vided for in this Act may continue to serve in that position
14 until a successor is appointed under this Act. Nothing in
15 this Act shall be construed to require the appointment of
16 a successor under this Act sooner than would have been
17 required under law as in effect before the effective date
18 of this Act.

19 **SEC. 5. NATIONAL WEATHER SERVICE.**

20 (a) IN GENERAL.—The Secretary shall maintain
21 within the Administration the National Weather Service.

22 (b) MISSION.—The mission of the National Weather
23 Service is to provide weather, water, climate, tsunami, and
24 space weather forecasts and warnings for the United
25 States, its territories, adjacent waters, and ocean areas for

1 the protection of life and property and the enhancement
2 of the national economy. In carrying out the mission of
3 the National Weather Service, the Administrator shall en-
4 sure that the National Weather Service—

5 (1) provides timely and accurate weather,
6 water, climate, tsunami, and space weather fore-
7 casts; and

8 (2) provides timely and accurate warnings of
9 natural hazards related to weather, water, climate,
10 and tsunamis, and of space weather hazards.

11 (c) FUNCTIONS.—The functions of the National
12 Weather Service shall include—

13 (1) maintaining a network of local weather fore-
14 cast offices;

15 (2) maintaining a network of observation sys-
16 tems to collect weather and climate data;

17 (3) operating national centers to deliver guid-
18 ance, forecasts, warnings, and analysis about weath-
19 er, water, climate, tsunami, and space weather phe-
20 nomena for the Administration and the public;

21 (4) providing information to Federal agencies
22 and other organizations responsible for emergency
23 preparedness and response as required by law;

1 (5) conducting and supporting applied research
2 to facilitate the rapid incorporation of weather and
3 climate science advances into operational tools; and
4 (6) other functions to serve the mission of the
5 National Weather Service described in subsection
6 (b).

7 **SEC. 6. OPERATIONS AND SERVICES.**

8 (a) IN GENERAL.—The Secretary shall maintain
9 within the Administration programs to support efforts, on
10 a continuing basis, to collect data and provide information
11 and products regarding satellites, observations, and coast-
12 al, ocean and Great Lakes information.

13 (b) FUNCTIONS.—To accomplish the mission de-
14 scribed in section 3(b), and in addition to the functions
15 described in section 3(c), the operations and service as-
16 pects of the Administration shall include—

17 (1) acquiring, managing, and operating coastal,
18 ocean, and Great Lakes observing systems;

19 (2) contributing to the operation of a global
20 Earth-observing system;

21 (3) integrating Administration remote sensing
22 and in situ assets that provide critical data needed
23 to support the mission of the Administration, and
24 providing that data to decisionmakers and the pub-
25 lic;

1 (4) developing, acquiring, and managing oper-
2 ational environmental satellite programs and associ-
3 ated ground control and data acquisition and deliv-
4 ery facilities to support the mission of the Adminis-
5 tration;

6 (5) managing and distributing atmospheric,
7 geophysical, and marine data and data products for
8 the Administration through national environmental
9 data centers;

10 (6) providing for long-term stewardship of envi-
11 ronmental data, products, and information via data
12 processing, storage, reanalysis, reprocessing, and ar-
13 chive facilities;

14 (7) issuing licenses for private remote sensing
15 space systems under the Land Remote Sensing Pol-
16 icy Act of 1992;

17 (8) administering a national water level obser-
18 vation network, which shall include monitoring of
19 the Great Lakes;

20 (9) providing charts and other information for
21 safe navigation of the oceans and inland waters, as
22 provided by law;

23 (10) maintaining a fleet of ships and aircraft to
24 support the mission of the Administration; and

1 (11) such other operations and services func-
2 tions to serve the mission of the Administration as
3 the Administrator may prescribe.

4 **SEC. 7. RESEARCH AND EDUCATION.**

5 (a) IN GENERAL.—The Secretary shall maintain
6 within the Administration programs to conduct and sup-
7 port research and education and the development of tech-
8 nologies relating to weather, climate, and the coasts,
9 oceans, and Great Lakes.

10 (b) FUNCTIONS.—To accomplish the mission de-
11 scribed in section 3(b), and in addition to the functions
12 described in section 3(c), the research and education as-
13 pects of the Administration shall include—

14 (1) conducting and supporting research and de-
15 velopment to improve the Administration’s capabili-
16 ties to collect, through observation and otherwise,
17 communicate, analyze, process, and disseminate
18 comprehensive scientific data and information about
19 weather, climate, and the coasts, oceans, and Great
20 Lakes;

21 (2) improving ecological prediction and manage-
22 ment capabilities through ecosystem-based research
23 and development;

24 (3) contributing information on the Earth’s cli-
25 mate and related systems, obtained through research

1 and observation, that addresses questions con-
2 fronting policymakers, resources managers, and
3 other users;

4 (4) reducing uncertainty in projections of how
5 the Earth's climate and related systems may change
6 in the future;

7 (5) fostering the public's ability to understand
8 and integrate scientific information into consider-
9 ations of national environmental issues through edu-
10 cation and public outreach activities;

11 (6) administering the National Sea Grant Col-
12 lege Program Act;

13 (7) conducting and supporting research and de-
14 velopment of technology for exploration of the
15 oceans;

16 (8) maintaining a system of laboratories to per-
17 form the functions described in this subsection;

18 (9) supporting extramural peer-reviewed com-
19 petitive grant programs to assist the Administration
20 in performing the functions described in this sub-
21 section; and

22 (10) such other research, development, edu-
23 cation, and outreach functions to serve the mission
24 of the Administration as the Administrator may pre-
25 scribe.

1 **SEC. 8. SCIENCE ADVISORY BOARD.**

2 (a) IN GENERAL.—There shall be within the Admin-
3 istration a Science Advisory Board, which shall provide
4 such scientific advice as may be requested by the Adminis-
5 trator, the Committee on Commerce, Science, and Trans-
6 portation of the Senate, or the Committee on Science and
7 Technology or on Natural Resources of the House of Rep-
8 resentatives.

9 (b) PURPOSE.—The purpose of the Science Advisory
10 Board is to advise the Administrator and Congress on
11 long-range and short-range strategies for research, edu-
12 cation, and the application of science to resource manage-
13 ment and environmental assessment and prediction.

14 (c) MEMBERS.—

15 (1) IN GENERAL.—The Science Advisory Board
16 shall be composed of at least 15 members appointed
17 by the Administrator. Each member of the Board
18 shall be qualified by education, training, and experi-
19 ence to evaluate scientific and technical information
20 on matters referred to the Board under this section.

21 (2) TERMS OF SERVICE.—Members shall be ap-
22 pointed for 3-year terms, renewable once, and shall
23 serve at the discretion of the Administrator. An indi-
24 vidual serving a term as a member of the Science
25 Advisory Board on the date of enactment of this Act
26 may complete that term, and may be reappointed

1 once for another term of 3 years unless the term
2 being served on such date of enactment is the second
3 term served by that individual. Vacancy appoint-
4 ments shall be for the remainder of the unexpired
5 term of the vacancy, and an individual so appointed
6 may subsequently be appointed for 2 full 3-year
7 terms if the remainder of the unexpired term is less
8 than one year.

9 (3) CHAIRPERSON.—The Administrator shall
10 designate a chairperson from among the members of
11 the Board.

12 (4) APPOINTMENT.—Members of the Science
13 Advisory Board shall be appointed as special Gov-
14 ernment employees, within the meaning given such
15 term in section 202(a) of title 18, United States
16 Code.

17 (d) ADMINISTRATIVE PROVISIONS.—

18 (1) REPORTING.—The Science Advisory Board
19 shall report to the Administrator and the appro-
20 priate requesting party.

21 (2) ADMINISTRATIVE SUPPORT.—The Adminis-
22 trator shall provide administrative support to the
23 Science Advisory Board.

24 (3) MEETINGS.—The Science Advisory Board
25 shall meet at least twice each year, and at other

1 times at the call of the Administrator or the Chair-
2 person.

3 (4) COMPENSATION AND EXPENSES.—A mem-
4 ber of the Science Advisory Board shall not be com-
5 pensated for service on such board, but may be al-
6 lowed travel expenses, including per diem in lieu of
7 subsistence, in accordance with subchapter I of
8 chapter 57 of title 5, United States Code.

9 (5) SUBCOMMITTEES.—The Science Advisory
10 Board may establish such subcommittees of its
11 members as may be necessary. The Science Advisory
12 Board may establish task forces and working groups
13 consisting of Board members and outside experts as
14 may be necessary.

15 (e) EXPIRATION.—Section 14 of the Federal Advisory
16 Committee Act (5 U.S.C. App.) shall not apply to the
17 Science Advisory Board.

18 **SEC. 9. REPORTS.**

19 (a) REPORT ON DATA MANAGEMENT, ARCHIVAL,
20 AND DISTRIBUTION.—

21 (1) CONTENTS.—Not later than 1 year after
22 the date of enactment of this Act, and once every 5
23 years thereafter, the Administrator shall do the fol-
24 lowing:

1 (A) Enter into an arrangement with the
2 National Academy of Sciences to review the en-
3 vironmental data and information systems of
4 the Administration and to provide recommenda-
5 tions to address any inadequacies identified by
6 the review. The review shall assess the ade-
7 quacy of the environmental data and informa-
8 tion systems of the Administration to—

9 (i) provide adequate capacity to man-
10 age, archive and disseminate environmental
11 information collected and processed, or ex-
12 pected to be collected and processed, by
13 the Administration, including data gath-
14 ered by other agencies that is processed or
15 stored by the Administration;

16 (ii) establish, develop, and maintain
17 information bases, including necessary
18 management systems, which will provide
19 for consistent, efficient, and compatible
20 transfer and use of data;

21 (iii) develop effective interfaces among
22 the environmental data and information
23 systems of the Administration and other
24 appropriate departments and agencies;

1 (iv) develop and use nationally accept-
2 ed formats and standards for data col-
3 lected by various national and international
4 sources;

5 (v) integrate and interpret data from
6 different sources to produce information
7 that can be used by decisionmakers in de-
8 veloping policies that effectively respond to
9 national and global environmental con-
10 cerns; and

11 (vi) reanalyze and reprocess the
12 archived data as better science is developed
13 to integrate diverse data sources.

14 (B) Develop a strategic plan, with respect
15 to the environmental data and information sys-
16 tems of the Administration, to—

17 (i) respond to each of the rec-
18 ommendations in the review conducted
19 under subparagraph (A);

20 (ii) set forth modernization and im-
21 provement objectives for an integrated na-
22 tional environmental data access and ar-
23 chive system for the 10-year period begin-
24 ning with the year in which the plan is
25 transmitted, including facility requirements

1 and critical new technology components
2 that would be necessary to meet the objec-
3 tives set forth;

4 (iii) propose specific Administration
5 programs and activities for implementing
6 the plan;

7 (iv) identify the data and information
8 management, reanalysis, reprocessing, ar-
9 chival, and distribution responsibilities of
10 the Administration with respect to other
11 Federal departments and agencies and
12 international organizations; and

13 (v) provide an implementation sched-
14 ule and estimate funding levels necessary
15 to achieve modernization and improvement
16 objectives.

17 (2) TRANSMITTAL TO CONGRESS.—Not later
18 than 18 months after the date of enactment of this
19 Act, the Administrator shall transmit to the Com-
20 mittee on Commerce, Science, and Transportation of
21 the Senate and the Committee on Science and Tech-
22 nology of the House of Representatives the initial re-
23 view and strategic plan developed under paragraph
24 (1). Subsequent reviews and strategic plans devel-

1 oped under paragraph (1) shall also be transmitted
2 to those committees upon completion.

3 (b) STRATEGIC PLAN FOR RESEARCH AND DEVELOP-
4 MENT.—

5 (1) CONTENTS.—Not later than 1 year after
6 the date of enactment of this Act, and once every 5
7 years thereafter, the Administrator shall develop a
8 strategic plan for research and development at the
9 Administration. The plan shall include—

10 (A) an assessment of the science and tech-
11 nology needs of the Administration based on
12 the Administration’s operational requirements
13 and on input provided by external stakeholders
14 at the national, regional, State, and local levels;
15 and

16 (B) a strategic plan that assigns specific
17 programs within the administration the respon-
18 sibility to meet each need identified under sub-
19 paragraph (A) and that describes the extent to
20 which each need identified in subparagraph (A)
21 will be addressed through—

22 (i) intramural research;

23 (ii) extramural, peer-reviewed, com-
24 petitive grant programs; and

1 (iii) work done in cooperation with
2 other Federal agencies.

3 (2) NATIONAL ACADEMY OF SCIENCES RE-
4 VIEW.—The Administrator shall enter into an ar-
5 rangement with the National Academy of Sciences
6 for a review of the plan developed under paragraph
7 (1).

8 (3) TRANSMITTAL TO CONGRESS.—Not later
9 than 18 months after the date of enactment of this
10 Act, the Administrator shall transmit to the Com-
11 mittee on Commerce, Science, and Transportation of
12 the Senate and the Committee on Science and Tech-
13 nology of the House of Representatives the initial
14 strategic plan developed under paragraph (1) and
15 the review prepared pursuant to paragraph (2). Sub-
16 sequent strategic plans developed under paragraph
17 (1) shall also be transmitted to those committees
18 upon completion.

19 **SEC. 10. PUBLIC-PRIVATE PARTNERSHIPS.**

20 Not less than once every 5 years, the Secretary shall
21 develop and submit to Congress a policy that defines proc-
22 esses for making decisions about the roles of the Adminis-
23 tration, the private sector, and the academic community
24 in providing environmental information, products, tech-
25 nologies, and services. The first such submission shall be

1 completed not less than 3 years after the date of enact-
2 ment of this Act. At least 90 days before each submission
3 of the policy to Congress, the Secretary shall publish the
4 policy in the Federal Register for a public comment period
5 of not less than 60 days. Nothing in this section shall be
6 construed to require changes in the policy in effect on the
7 date of enactment of this Act.

8 **SEC. 11. EFFECT OF REORGANIZATION PLAN.**

9 Reorganization Plan No. 4 of 1970 shall have no fur-
10 ther force and effect.

11 **SEC. 12. SAVINGS PROVISION.**

12 All rules and regulations, determinations, standards,
13 contracts, including collective bargaining agreements, cer-
14 tifications, authorizations, appointments, delegations, re-
15 sults and findings of investigations, and other actions duly
16 issued, made, or taken by or pursuant to or under the
17 authority of any statute or executive order which resulted
18 in the assignment of functions or activities to the Sec-
19 retary, the Department of Commerce, the Under Secretary
20 of Commerce for Oceans and Atmosphere, the Adminis-
21 trator, or any other officer of the Administration, that is
22 in effect immediately before the date of enactment of this
23 Act, shall continue in full force and effect after the effec-
24 tive date of this Act until modified or rescinded. All suits,
25 appeals, judgments, and proceedings pending on such ef-

1 fective date relating to responsibilities or functions trans-
2 ferred pursuant to this Act shall continue without regard
3 to such transfers, except for the transfer of responsibilities
4 or functions. Any reference in law to a responsibility, func-
5 tion, or office transferred pursuant to this Act shall be
6 deemed to refer to the responsibility, function, or office
7 as so transferred. Nothing in this Act shall be construed
8 to limit the ability of an Administration employee to dis-
9 cuss scientific research performed by that employee. Noth-
10 ing in this Act shall be construed to alter the responsibil-
11 ities or authorities of any other Federal agency. Nothing
12 in this Act shall be construed to authorize or prohibit the
13 transfer of any program, function, or project from other
14 Federal agencies to the Administration. Nothing in this
15 Act shall be construed to expand, modify, or supersede the
16 authority that the Administration has immediately before
17 the date of enactment of this Act, nor to provide the Ad-
18 ministration with any new regulatory authority. Nothing
19 in this Act shall be construed to grant the Administrator
20 any authority to construct, alter, repair, or acquire by any
21 means a public building, as defined at section 3301 of title
22 40, United States Code, or to grant any authority to lease
23 general purpose office or storage space in any building;
24 and nothing in this Act shall be construed to diminish any
25 authority the Administrator has immediately before the

1 date of enactment of this Act to construct, alter, repair,
2 or acquire by any means a public building, as defined at
3 section 3301 of title 40, United States Code, or to dimin-
4 ish any authority the Administrator has immediately be-
5 fore the date of enactment of this Act to lease general
6 purpose office or storage space in any building (regardless
7 of whether those authorities are derived from laws, execu-
8 tive orders, rules, regulations, or delegations of authority
9 from the Secretary of Commerce).

10 **SEC. 13. REORGANIZATION PLAN.**

11 (a) SCHEDULE.—(1) Not later than 18 months after
12 the date of enactment of this Act, the Administrator shall
13 develop a reorganization plan for the Administration in
14 accordance with this section and shall publish the plan in
15 the Federal Register. The Federal Register notice shall
16 solicit comments for a period of 60 days.

17 (2) Not later than 90 days after the expiration date
18 of the comment period described in paragraph (1), the Ad-
19 ministrator shall transmit to Congress a revised version
20 of the plan that takes into account the comments received.
21 The Administrator shall also publish the revised plan in
22 the Federal Register. The Administrator shall transmit
23 and publish, along with the plan, an explanation of how
24 the Administrator dealt with each issue raised by the com-
25 ments received.

1 (3) The Administrator shall implement the plan 60
2 days after the plan has been transmitted to the Congress.

3 (b) CONTENT.—The plan, to the greatest extent prac-
4 ticable, shall—

5 (1) consistent with section 5 and the other pro-
6 visions of this Act, maximize the efficiency with
7 which the Administration carries out the functions
8 of—

9 (A) operations and services;

10 (B) research and education; and

11 (C) resource management;

12 (2) improve the sharing of research and other
13 information that is of use across programmatic
14 themes; and

15 (3) eliminate duplication of effort or overlap-
16 ping efforts among offices.

17 (c) CONSULTATION.—In developing the plan, the Ad-
18 ministrator shall consult with interested parties, including
19 the States, academia, industry, conservation organiza-
20 tions, and Administration employees.

21 **SEC. 14. FACILITY EVALUATION PROCESS.**

22 (a) PUBLIC NOTIFICATION AND ASSESSMENT PROC-
23 ESS.—

24 (1) IN GENERAL.—The Administrator shall not
25 close, consolidate, relocate, subdivide, or establish a

1 facility of the Administration, unless and until the
2 Administrator has followed the procedures required
3 by this section.

4 (2) REVIEW PROCESS.—The Administrator
5 shall not close, consolidate, relocate, subdivide, or es-
6 tablish a facility of the Administration with an an-
7 nual operating budget of \$5,000,000 or greater, or
8 a National Weather Service field office, unless and
9 until—

10 (A) the Administrator has published in the
11 Federal Register the proposed action and a de-
12 scription of the offices, personnel, and activities
13 of the Administration that would be affected by
14 the proposed change, and has provided for a
15 minimum of 60 days for public comment;

16 (B) if the proposed change involves a
17 science facility of the Administration, the
18 Science Advisory Board has reviewed the pro-
19 posed change and provided to the Administrator
20 written findings regarding the proposed change;

21 (C) if the proposed change involves a Na-
22 tional Weather Service field office, the Adminis-
23 trator has prepared a report including—

24 (i) a description of local weather char-
25 acteristics and weather-related concerns

1 which affect the weather services provided
2 within the service area;

3 (ii) a detailed comparison of the serv-
4 ices provided within the service area and
5 the services to be provided after the pro-
6 posed change;

7 (iii) a description of any recent or ex-
8 pected modernization of National Weather
9 Service operations which will enhance serv-
10 ices in the service area;

11 (iv) an identification of any area with-
12 in any State which would not receive cov-
13 erage (at an elevation of 10,000 feet) due
14 to the proposed change; and

15 (v) evidence, based on operational
16 demonstration of National Weather Service
17 operations, which was considered in reach-
18 ing the conclusion that no degradation in
19 service will result from the proposed
20 change;

21 (D) the Administrator has prepared an
22 analysis of the anticipated costs and savings as-
23 sociated with the proposed facility change, in-
24 cluding both costs and savings in the first fiscal
25 year following the change, and changes in oper-

1 ations and maintenance costs and savings over
2 a ten-year period; and

3 (E) the Administrator has prepared an
4 analysis of the effects of the facility change on
5 operations and research of the Administration,
6 and the potential impacts on cooperative insti-
7 tutes, other external Administration partner-
8 ships, partnerships with other Federal agencies,
9 and any State and local partnerships.

10 (3) NOTICE TO CONGRESS.—(A) The Adminis-
11 trator shall provide to Congress, at least 90 days be-
12 fore any closure, consolidation, relocation, subdivi-
13 sion, or establishment of a facility of the Adminis-
14 tration with an annual budget of \$5,000,000 or
15 greater, or any National Weather Service field office,
16 a summary of the public comments received pursu-
17 ant to paragraph (2)(A), any written findings pre-
18 pared under paragraph (2)(B), any report prepared
19 under paragraph (2)(C), and the analyses prepared
20 under paragraph (2)(D) and (E).

21 (B) The Administrator shall provide to Con-
22 gress, at least 90 days before any closure, consolida-
23 tion, relocation, subdivision, or establishment of a
24 facility of the Administration not described in sub-
25 paragraph (A), written notification of the planned

1 closure, consolidation, relocation, subdivision, or es-
2 tablishment.

3 (b) WEATHER SERVICE MODERNIZATION.—Nothing
4 in this Act shall be construed to alter the Weather Service
5 Modernization Act (15 U.S.C. 313 note).

6 (c) DEFINITION.—For purposes of this section—

7 (1) the term “facility” means a laboratory, op-
8 erations office, administrative service center, or
9 other establishment of the Administration; and

10 (2) the term “field office” has the same mean-
11 ing given that term in section 702 of the Weather
12 Service Modernization Act.

13 **SEC. 15. BUDGET REPROGRAMMING.**

14 Whenever the Administrator transmits a budget re-
15 programming request to the Appropriations Committees
16 of the House of Representatives and the Senate, the Ad-
17 ministrator shall simultaneously submit a copy of the re-
18 quest to the Committee on Science and Technology and
19 the Committee on Natural Resources of the House of Rep-
20 resentatives and the Committee on Commerce, Science,
21 and Transportation of the Senate.

22 **SEC. 16. BASELINES AND COST CONTROLS.**

23 (a) CONDITIONS FOR DEVELOPMENT.—

24 (1) IN GENERAL.—The Administration shall
25 not enter into a contract for the development of a

1 major program unless the Administrator determines
2 that—

3 (A) the technical, cost, and schedule risks
4 of the program are clearly identified and the
5 program has developed a plan to manage those
6 risks;

7 (B) the technologies required for the pro-
8 gram have been demonstrated in a relevant lab-
9 oratory or test environment; and

10 (C) the program complies with all relevant
11 policies, regulations, and directives of the Ad-
12 ministration.

13 (2) REPORT.—The Administrator shall trans-
14 mit a report describing the basis for the determina-
15 tion required under paragraph (1) to the Committee
16 on Science and Technology of the House of Rep-
17 resentatives and the Committee on Commerce,
18 Science, and Transportation of the Senate at least
19 30 days before entering into a contract for develop-
20 ment under a major program.

21 (3) NONDELEGATION.—The Administrator may
22 not delegate the determination requirement under
23 this subsection, except in cases in which the Admin-
24 istrator has a conflict of interest.

25 (b) MAJOR PROGRAM ANNUAL REPORTS.—

1 (1) REQUIREMENT.—Annually, at the same
2 time as the President’s annual budget submission to
3 the Congress, the Administrator shall transmit to
4 the Committee on Science and Technology of the
5 House of Representatives and the Committee on
6 Commerce, Science, and Transportation of the Sen-
7 ate a report that includes the information required
8 by this section for each major program for which the
9 Administration proposes to expend funds in the sub-
10 sequent fiscal year. Reports under this paragraph
11 shall be known as Major Program Annual Reports.

12 (2) BASELINE REPORT.—The first Major Pro-
13 gram Annual Report for each major program shall
14 include a Baseline Report that shall, at a minimum,
15 include—

16 (A) the purposes of the program and key
17 technical characteristics necessary to fulfill
18 those purposes;

19 (B) an estimate of the life-cycle cost for
20 the program, with a detailed breakout of the
21 development cost, program reserves, and an es-
22 timate of the annual costs until development is
23 completed;

24 (C) the schedule for development, including
25 key program milestones;

1 (D) the plan for mitigating technical, cost,
2 and schedule risks identified in accordance with
3 subsection (a)(1)(A); and

4 (E) the name of the person responsible for
5 making notifications under subsection (c), who
6 shall be an individual whose primary responsi-
7 bility is overseeing the program.

8 (3) INFORMATION UPDATES.—For major pro-
9 grams for which a Baseline Report has been sub-
10 mitted, each subsequent Major Program Annual Re-
11 port shall describe any changes to the information
12 that had been provided in the Baseline Report, and
13 the reasons for those changes.

14 (c) NOTIFICATION.—

15 (1) REQUIREMENT.—The individual identified
16 under subsection (b)(2)(E) shall immediately notify
17 the Administrator any time that individual has rea-
18 sonable cause to believe that, for the major program
19 for which he or she is responsible—

20 (A) the development cost of the program is
21 likely to exceed the estimate provided in the
22 Baseline Report of the program by 15 percent
23 or more; or

24 (B) a milestone of the program is likely to
25 be delayed by 6 months or more from the date

1 provided for it in the Baseline Report of the
2 program.

3 (2) REASONS.—Not later than 30 days after
4 the notification required under paragraph (1), the
5 individual identified under subsection (b)(2)(E) shall
6 transmit to the Administrator a written notification
7 explaining the reasons for the change in the cost or
8 milestone of the program for which notification was
9 provided under paragraph (1).

10 (3) NOTIFICATION OF CONGRESS.—Not later
11 than 15 days after the Administrator receives a writ-
12 ten notification under paragraph (2), the Adminis-
13 trator shall transmit the notification to the Com-
14 mittee on Science and Technology of the House of
15 Representatives and the Committee on Commerce,
16 Science, and Transportation of the Senate.

17 (d) FIFTEEN PERCENT THRESHOLD.—Not later
18 than 30 days after receiving a written notification under
19 subsection (c)(2), the Administrator shall determine
20 whether the development cost of the program is likely to
21 exceed the estimate provided in the Baseline Report of the
22 program by 15 percent or more, or whether a milestone
23 is likely to be delayed by 6 months or more. If the deter-
24 mination is affirmative, the Administrator shall—

1 (1) transmit to the Committee on Science and
2 Technology of the House of Representatives and the
3 Committee on Commerce, Science, and Transpor-
4 tation of the Senate, not later than 15 days after
5 making the determination, a report that includes—

6 (A) a description of the increase in cost or
7 delay in schedule and a detailed explanation for
8 the increase or delay;

9 (B) a description of actions taken or pro-
10 posed to be taken in response to the cost in-
11 crease or delay; and

12 (C) a description of any impacts the cost
13 increase or schedule delay, or the actions de-
14 scribed under subparagraph (B), will have on
15 any other program within the Administration;
16 and

17 (2) if the Administrator intends to continue
18 with the program, promptly initiate an analysis of
19 the program, which shall include, at a minimum—

20 (A) the projected cost and schedule for
21 completing the program if current requirements
22 of the program are not modified;

23 (B) the projected cost and the schedule for
24 completing the program after instituting the ac-
25 tions described under paragraph (1)(B); and

1 (C) a description of, and the projected cost
2 and schedule for, a broad range of alternatives
3 to the program.

4 The Administration shall complete an analysis initiated
5 under paragraph (2) not later than 6 months after the
6 Administrator makes a determination under this sub-
7 section. The Administrator shall transmit the analysis to
8 the Committee on Science and Technology of the House
9 of Representatives and Committee on Commerce, Science,
10 and Transportation of the Senate not later than 30 days
11 after its completion.

12 (e) THIRTY PERCENT THRESHOLD.—If the Adminis-
13 trator determines under subsection (d) that the develop-
14 ment cost of a program will exceed the estimate provided
15 in the Baseline Report of the program by more than 30
16 percent, then, beginning 18 months after the date the Ad-
17 ministrator transmits a report under subsection (d)(1),
18 the Administrator shall not expend any additional funds
19 on the program, other than termination costs, unless the
20 Congress has subsequently authorized continuation of the
21 program by law. An appropriation for the specific program
22 enacted subsequent to a report being transmitted shall be
23 considered an authorization for purposes of this sub-
24 section. If the program is continued, the Administrator
25 shall submit a new Baseline Report for the program no

1 later than 90 days after the date of enactment of the Act
2 under which Congress has authorized continuation of the
3 program.

4 (f) DEFINITIONS.—For the purposes of this section—

5 (1) the term “development” means the phase of
6 a program following the formulation phase and be-
7 ginning with the approval to proceed to implementa-
8 tion.

9 (2) the term “development cost” means the
10 total of all costs, including construction of facilities
11 and civil servant costs, from the period beginning
12 with the approval to proceed to implementation
13 through the achievement of operational readiness,
14 without regard to funding source or management
15 control, for the life of the program;

16 (3) the term “life-cycle cost” means the total of
17 the direct, indirect, recurring, and nonrecurring
18 costs, including the construction of facilities and civil
19 servant costs, and other related expenses incurred or
20 estimated to be incurred in the design, development,
21 verification, production, operation, maintenance,
22 support, and retirement of a program over its
23 planned lifespan, without regard to funding source
24 or management control; and

1 (4) the term “major program” means an activ-
2 ity approved to proceed to implementation that has
3 an estimated life-cycle cost of more than
4 \$250,000,000.

5 **SEC. 17. LIMITATIONS ON OFF-SHORE PERFORMANCE OF**
6 **CONTRACTS FOR THE PROCUREMENT OF**
7 **GOODS AND SERVICES.**

8 (a) CONVERSIONS TO CONTRACTOR PERFORMANCE
9 OF ADMINISTRATION ACTIVITIES.—Except as provided in
10 subsection (c), an activity or function of the Administra-
11 tion that is converted to contractor performance under Of-
12 fice of Management and Budget Circular A–76 may not
13 be performed by the contractor or any subcontractor at
14 a location outside the United States.

15 (b) CONTRACTS FOR THE PROCUREMENT OF SERV-
16 ICES.—(1) Except as provided in subsection (c), a contract
17 for the procurement of goods or services that is entered
18 into by the Administrator may not be performed outside
19 the United States unless it is to meet a requirement of
20 the Administration for goods or services specifically at a
21 location outside the United States.

22 (2) The President may waive the prohibition in para-
23 graph (1) in the case of any contract for which the Presi-
24 dent determines in writing that it is necessary in the na-
25 tional security interests of the United States for goods or

1 services under the contract to be performed outside the
2 United States.

3 (3) The Administrator may waive the prohibition in
4 paragraph (1) in the case of any contract for which the
5 Administrator determines in writing that essential goods
6 or services under the contract are only available from a
7 source outside the United States.

8 (c) EXCEPTION.—Subsections (a) and (b)(1) shall
9 not apply to the extent that the activity or function under
10 the contract was previously performed by Federal Govern-
11 ment employees outside the United States.

12 (d) CONSISTENCY WITH INTERNATIONAL AGREE-
13 MENTS.—The provisions of this section shall not apply to
14 the extent that they are inconsistent with obligations of
15 the United States under international agreements.

16 **SEC. 18. RECORDKEEPING AND REPORTING REQUIRE-**
17 **MENT.**

18 The Administrator shall transmit to Congress, not
19 later than 120 days after the end of each fiscal year begin-
20 ning with the first fiscal year after the date of enactment
21 of this Act, a report on the contracts and subcontracts
22 performed overseas and the amount of purchases directly
23 or indirectly by the Administration from foreign entities
24 in that fiscal year. The report shall separately indicate—

1 (1) the contracts and subcontracts and their
2 dollar values for which the Administrator determines
3 that essential goods or services under the contract
4 are available only from a source outside the United
5 States; and

6 (2) the items and their dollar values for which
7 the Buy American Act was waived pursuant to obli-
8 gations of the United States under international
9 agreements.

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