

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5450

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Oceanic and  
3 Atmospheric Administration Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

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

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

11 (3) The term “Secretary” means the Secretary  
12 of Commerce.

13 **SEC. 3. NATIONAL OCEANIC AND ATMOSPHERIC ADMINIS-**  
14 **TRATION.**

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

18 (b) MISSION.—The mission of the Administration is  
19 to understand the systems of the Earth’s oceans and at-  
20 mosphere and predict changes in the Earth’s oceans and  
21 atmosphere and the effects of such changes on the land  
22 environment, to conserve and manage coastal, ocean, and  
23 Great Lakes ecosystems to meet national economic, social,  
24 and environmental needs, and to educate the public about  
25 these topics.

1 (c) FUNCTIONS.—The functions of the Administra-  
2 tion shall include—

3 (1) collecting, through observation and other  
4 means, communicating, analyzing, processing, and  
5 disseminating comprehensive scientific data and in-  
6 formation about weather and climate, solar and geo-  
7 physical events on the Sun and in the space environ-  
8 ment, and about the coasts, oceans, Great Lakes,  
9 upper reaches of estuaries, and hydrologic systems;

10 (2) operating and maintaining a system for the  
11 storage, retrieval, and dissemination of data relating  
12 to weather and climate, solar and geophysical events  
13 on the Sun and in the space environment, and about  
14 the coasts, oceans, Great Lakes, upper reaches of es-  
15 tuaries, and hydrologic systems;

16 (3) using observational data and technologies  
17 developed by other Federal agencies to improve the  
18 Administration's operations;

19 (4) conducting and supporting basic and ap-  
20 plied research, development, and technology transfer  
21 as may be necessary to carry out the mission de-  
22 scribed in subsection (b);

23 (5) issuing weather, water, climate, space  
24 weather, tsunami, and other forecasts and warnings  
25 related to Earth's oceans and atmosphere;

1           (6) coordinating efforts of Federal agencies  
2 with respect to meteorological services;

3           (7) understanding the science of Earth's cli-  
4 mate and related systems, and undertaking research  
5 and development to enhance society's ability to plan  
6 for and respond to climate variability and change;

7           (8) protecting, restoring, and managing the use  
8 of, the coasts, oceans, and Great Lakes through eco-  
9 system-based research, development, demonstration,  
10 and management;

11           (9) administering public outreach and education  
12 programs and services to increase scientific and en-  
13 vironmental literacy about weather and climate,  
14 solar and geophysical events on the Sun and in the  
15 space environment, and the coasts, oceans, Great  
16 Lakes, upper reaches of estuaries, and hydrologic  
17 systems;

18           (10) providing, as appropriate and in coopera-  
19 tion with the Secretary of State, representation at  
20 all international meetings and conferences relating  
21 to the mission of the Administration, including mete-  
22 orological, climate, and Earth and ocean observing  
23 issues;

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

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

3 **SEC. 4. ADMINISTRATION LEADERSHIP.**

4           (a) ADMINISTRATOR.—

5           (1) IN GENERAL.—There shall be, as the Ad-  
6           ministrators of the Administration, an Under Sec-  
7           retary of Commerce for Oceans and Atmosphere.  
8           The Administrator shall be appointed by the Presi-  
9           dent, by and with the advice and consent of the Sen-  
10          ate. The Administrator shall be paid at the rate of  
11          basic pay for level III of the Executive Schedule.

12          (2) FUNCTIONS.—The Administrator shall be  
13          responsible for—

14                 (A) general management;

15                 (B) policy development and guidance;

16                 (C) budget formulation, guidance, and exe-  
17          cution;

18                 (D) serving as the Department of Com-  
19          merce official for all ocean and atmosphere  
20          issues with other elements of the Department of  
21          Commerce and with other Federal agencies,  
22          State, tribal, and local governments, and the  
23          public; and

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

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

4                   (A) delegate any functions, powers, or du-  
5                   ties of the Administrator to such officers and  
6                   employees of the Administration as the Admin-  
7                   istrator may designate; and

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

12           (4) AUTHORITIES.—

13                   (A) IN GENERAL.—As may be necessary or  
14                   proper to carry out the Administration’s func-  
15                   tions under this Act or as otherwise provided by  
16                   law, the Administrator may—

17                           (i) promulgate rules and regulations;

18                           (ii) enter into and perform contracts,  
19                           leases, grants, and cooperative agreements  
20                           with Federal agencies, State and local gov-  
21                           ernments, Indian tribes, international or-  
22                           ganizations, foreign governments, edu-  
23                           cational institutions, nonprofit organiza-  
24                           tions, and commercial organizations;

1 (iii) use, with their consent, and with  
2 or without reimbursement, the services,  
3 equipment, personnel, and facilities of  
4 other departments, agencies, and instru-  
5 mentalities of the Federal Government;  
6 and

7 (iv) conduct education and outreach  
8 in direct support of the mission described  
9 in section 3(b).

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

17 (b) ASSISTANT SECRETARY FOR OCEANS AND AT-  
18 MOSPHERE.—

19 (1) IN GENERAL.—There shall be, as Deputy  
20 Administrator of the Administration, an Assistant  
21 Secretary of Commerce for Oceans and Atmosphere.  
22 The Assistant Secretary shall be appointed by the  
23 President, by and with the advice and consent of the  
24 Senate. The Assistant Secretary shall be the Admin-  
25 istrator's first assistant for purposes of subchapter

1 III of chapter 33 of title 5, United States Code. The  
2 Assistant Secretary shall be paid at the rate of basic  
3 pay for level IV of the Executive Schedule.

4 (2) FUNCTIONS.—The Assistant Secretary shall  
5 perform such functions and exercise such powers as  
6 the Administrator may prescribe and shall act as  
7 Administrator during the absence or disability of the  
8 Administrator or in the event of a vacancy in the of-  
9 fice of Administrator.

10 (c) DEPUTY UNDER SECRETARY FOR OCEANS AND  
11 ATMOSPHERE.—

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

20 (2) FUNCTIONS.—The Deputy Under Sec-  
21 retary—

22 (A) shall ensure the timely and effective  
23 implementation of Administration policies and  
24 objectives;

1 (B) shall be responsible for all aspects of  
2 the Administration's operations and manage-  
3 ment, including budget, financial operations, in-  
4 formation services, facilities, human resources,  
5 procurements, and associated services;

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

9 (D) shall perform such other duties as the  
10 Administrator shall prescribe.

11 (d) DEPUTY ASSISTANT SECRETARY FOR SCIENCE  
12 AND EDUCATION.—

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

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

3                   (A) coordinate research and development  
4                   activities across the Administration;

5                   (B) review the Administration’s annual  
6                   budget to ensure that funding for research and  
7                   development is adequate, properly focused, and  
8                   carried out by the appropriate entities across  
9                   the Administration;

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

12                  (D) advise the Administrator regarding  
13                  science issues and their relationship to Adminis-  
14                  tration policies, procedures, and decisions;

15                  (E) participate in developing the Adminis-  
16                  tration’s strategic plans and policies and review  
17                  the science and education aspects of those plans  
18                  and policies;

19                  (F) serve as liaison to the nongovern-  
20                  mental science community;

21                  (G) develop and oversee guidelines for peer  
22                  review of research sponsored or conducted by  
23                  the Administration;

1 (H) oversee implementation of the stra-  
2 tegic plan for research and development re-  
3 quired under section 9(b);

4 (I) oversee management of laboratories in  
5 the Administration;

6 (J) oversee the research and education  
7 programs of the Administration; and

8 (K) perform such other duties as the Ad-  
9 ministrator shall prescribe.

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

15 (4) CONSULTATION.—Before appointing an in-  
16 dividual under paragraph (1), the Secretary shall  
17 consult with the National Academy of Sciences, the  
18 Science Advisory Board of the Administration, and  
19 other appropriate scientific organizations.

20 (e) DEPUTY ASSISTANT SECRETARIES.—There may  
21 be in the Administration no more than two additional  
22 Deputy Assistant Secretaries whose duties may be des-  
23 ignated by the Administrator. The Deputy Assistant Sec-  
24 retaries shall be appointed by the Secretary. The positions  
25 of Deputy Assistant Secretaries shall be Senior Executive

1 Service positions authorized under section 3133 of title 5,  
2 United States Code.

3 (f) GENERAL COUNSEL.—

4 (1) IN GENERAL.—There shall be in the Admin-  
5 istration a General Counsel. The General Counsel  
6 shall be appointed by the Secretary. The General  
7 Counsel shall be paid at the rate of basic pay for  
8 level V of the Executive Schedule.

9 (2) FUNCTIONS.—The General Counsel—

10 (A) shall serve as the chief legal officer of  
11 the Administration for all legal matters that  
12 arise in connection with the conduct of the  
13 functions of the Administration; and

14 (B) shall perform such other functions and  
15 exercise such powers as the Administrator may  
16 prescribe.

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

1 **SEC. 5. NATIONAL WEATHER SERVICE.**

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

4 (b) MISSION.—The mission of the National Weather  
5 Service is to provide weather, water, climate, tsunami, and  
6 space weather forecasts and warnings for the United  
7 States, its territories, adjacent waters, and ocean areas for  
8 the protection of life and property and the enhancement  
9 of the national economy. In carrying out the mission of  
10 the National Weather Service, the Administrator shall en-  
11 sure that the National Weather Service—

12 (1) provides timely and accurate weather,  
13 water, climate, tsunami, and space weather fore-  
14 casts; and

15 (2) provides timely and accurate warnings of  
16 natural hazards related to weather, water, climate,  
17 and tsunamis, and of space weather hazards.

18 (c) FUNCTIONS.—The functions of the National  
19 Weather Service shall include—

20 (1) maintaining a network of local weather fore-  
21 cast offices;

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

24 (3) operating national centers to deliver guid-  
25 ance, forecasts, warnings, and analysis about weath-

1 er, water, climate, tsunami, and space weather phe-  
2 nomena for the Administration and the public;

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

6 (5) conducting and supporting applied research  
7 to facilitate the rapid incorporation of weather and  
8 climate science advances into operational tools; and

9 (6) other functions to serve the mission of the  
10 National Weather Service described in subsection  
11 (b).

12 **SEC. 6. OPERATIONS AND SERVICES.**

13 (a) IN GENERAL.—The Secretary shall maintain  
14 within the Administration programs to support efforts, on  
15 a continuing basis, to collect data and provide information  
16 and products regarding satellites, observations, and coast-  
17 al, ocean and Great Lakes information.

18 (b) FUNCTIONS.—To accomplish the mission de-  
19 scribed in section 3(b), and in addition to the functions  
20 described in section 3(c), the operations and service as-  
21 pects of the Administration shall include—

22 (1) acquiring, managing, and operating coastal,  
23 ocean, and Great Lakes observing systems;

24 (2) contributing to the operation of a global  
25 Earth-observing system;

1           (3) integrating Administration remote sensing  
2           and in situ assets that provide critical data needed  
3           to support the mission of the Administration, and  
4           providing that data to decisionmakers and the pub-  
5           lic;

6           (4) developing, acquiring, and managing oper-  
7           ational environmental satellite programs and associ-  
8           ated ground control and data acquisition and deliv-  
9           ery facilities to support the mission of the Adminis-  
10          tration;

11          (5) managing and distributing atmospheric,  
12          geophysical, and marine data and data products for  
13          the Administration through national environmental  
14          data centers;

15          (6) providing for long-term stewardship of envi-  
16          ronmental data, products, and information via data  
17          processing, storage, reanalysis, reprocessing, and ar-  
18          chive facilities;

19          (7) issuing licenses for private remote sensing  
20          space systems under the Land Remote Sensing Pol-  
21          icy Act of 1992;

22          (8) administering a national water level obser-  
23          vation network, which shall include monitoring of  
24          the Great Lakes;

1           (9) providing charts and other information for  
2 safe navigation of the oceans and inland waters, as  
3 provided by law;

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

6           (11) such other operations and services func-  
7 tions to serve the mission of the Administration as  
8 the Administrator may prescribe.

9 **SEC. 7. RESEARCH AND EDUCATION.**

10       (a) IN GENERAL.—The Secretary shall maintain  
11 within the Administration programs to conduct and sup-  
12 port research and education and the development of tech-  
13 nologies relating to weather, climate, and the coasts,  
14 oceans, and Great Lakes.

15       (b) FUNCTIONS.—To accomplish the mission de-  
16 scribed in section 3(b), and in addition to the functions  
17 described in section 3(c), the research and education as-  
18 pects of the Administration shall include—

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

1           (2) improving ecological prediction and manage-  
2           ment capabilities through ecosystem-based research  
3           and development;

4           (3) contributing information on the Earth's cli-  
5           mate and related systems, obtained through research  
6           and observation, that addresses questions con-  
7           fronting policymakers, resources managers, and  
8           other users;

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

12          (5) fostering the public's ability to understand  
13          and integrate scientific information into consider-  
14          ations of national environmental issues through edu-  
15          cation and public outreach activities;

16          (6) administering the National Sea Grant Col-  
17          lege Program Act;

18          (7) conducting and supporting research and de-  
19          velopment of technology for exploration of the  
20          oceans;

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

23          (9) supporting extramural peer-reviewed com-  
24          petitive grant programs to assist the Administration

1 in performing the functions described in this sub-  
2 section; and

3 (10) such other research, development, edu-  
4 cation, and outreach functions to serve the mission  
5 of the Administration as the Administrator may pre-  
6 scribe.

7 **SEC. 8. SCIENCE ADVISORY BOARD.**

8 (a) IN GENERAL.—There shall be within the Admin-  
9 istration a Science Advisory Board, which shall provide  
10 such scientific advice as may be requested by the Adminis-  
11 trator, the Committee on Commerce, Science, and Trans-  
12 portation of the Senate, or the Committee on Science or  
13 on Resources of the House of Representatives.

14 (b) PURPOSE.—The purpose of the Science Advisory  
15 Board is to advise the Administrator and Congress on  
16 long-range and short-range strategies for research, edu-  
17 cation, and the application of science to resource manage-  
18 ment and environmental assessment and prediction.

19 (c) MEMBERS.—

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

1           (2) TERMS OF SERVICE.—Members shall be ap-  
2           pointed for 3-year terms, renewable once, and shall  
3           serve at the discretion of the Administrator. An indi-  
4           vidual serving a term as a member of the Science  
5           Advisory Board on the date of enactment of this Act  
6           may complete that term, and may be reappointed  
7           once for another term of 3 years unless the term  
8           being served on such date of enactment is the second  
9           term served by that individual. Vacancy appoint-  
10          ments shall be for the remainder of the unexpired  
11          term of the vacancy, and an individual so appointed  
12          may subsequently be appointed for 2 full 3-year  
13          terms if the remainder of the unexpired term is less  
14          than one year.

15          (3) CHAIRPERSON.—The Administrator shall  
16          designate a chairperson from among the members of  
17          the Board.

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

23          (d) ADMINISTRATIVE PROVISIONS.—

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

4           (2) ADMINISTRATIVE SUPPORT.—The Adminis-  
5 trator shall provide administrative support to the  
6 Science Advisory Board.

7           (3) MEETINGS.—The Science Advisory Board  
8 shall meet at least twice each year, and at other  
9 times at the call of the Administrator or the Chair-  
10 person.

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

17           (5) SUBCOMMITTEES.—The Science Advisory  
18 Board may establish such subcommittees of its  
19 members as may be necessary. The Science Advisory  
20 Board may establish task forces and working groups  
21 consisting of Board members and outside experts as  
22 may be necessary.

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

1 **SEC. 9. REPORTS.**

2 (a) REPORT ON DATA MANAGEMENT, ARCHIVAL,  
3 AND DISTRIBUTION.—

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

8 (A) Enter into an arrangement with the  
9 National Academy of Sciences to review the en-  
10 vironmental data and information systems of  
11 the Administration and to provide recommenda-  
12 tions to address any inadequacies identified by  
13 the review. The review shall assess the ade-  
14 quacy of the environmental data and informa-  
15 tion systems of the Administration to—

16 (i) provide adequate capacity to man-  
17 age, archive and disseminate environmental  
18 information collected and processed, or ex-  
19 pected to be collected and processed, by  
20 the Administration, including data gath-  
21 ered by other agencies that is processed or  
22 stored by the Administration;

23 (ii) establish, develop, and maintain  
24 information bases, including necessary  
25 management systems, which will provide

1 for consistent, efficient, and compatible  
2 transfer and use of data;

3 (iii) develop effective interfaces among  
4 the environmental data and information  
5 systems of the Administration and other  
6 appropriate departments and agencies;

7 (iv) develop and use nationally accept-  
8 ed formats and standards for data col-  
9 lected by various national and international  
10 sources;

11 (v) integrate and interpret data from  
12 different sources to produce information  
13 that can be used by decisionmakers in de-  
14 veloping policies that effectively respond to  
15 national and global environmental con-  
16 cerns; and

17 (vi) reanalyze and reprocess the  
18 archived data as better science is developed  
19 to integrate diverse data sources.

20 (B) Develop a strategic plan, with respect  
21 to the environmental data and information sys-  
22 tems of the Administration, to—

23 (i) respond to each of the rec-  
24 ommendations in the review conducted  
25 under subparagraph (A);

1           (ii) set forth modernization and im-  
2           provement objectives for an integrated na-  
3           tional environmental data access and ar-  
4           chive system for the 10-year period begin-  
5           ning with the year in which the plan is  
6           transmitted, including facility requirements  
7           and critical new technology components  
8           that would be necessary to meet the objec-  
9           tives set forth;

10           (iii) propose specific Administration  
11           programs and activities for implementing  
12           the plan;

13           (iv) identify the data and information  
14           management, reanalysis, reprocessing, ar-  
15           chival, and distribution responsibilities of  
16           the Administration with respect to other  
17           Federal departments and agencies and  
18           international organizations; and

19           (v) provide an implementation sched-  
20           ule and estimate funding levels necessary  
21           to achieve modernization and improvement  
22           objectives.

23           (2) TRANSMITTAL TO CONGRESS.—Not later  
24           than 18 months after the date of enactment of this  
25           Act, the Administrator shall transmit to the Com-

1        mittee on Commerce, Science, and Transportation of  
2        the Senate and the Committee on Science of the  
3        House of Representatives the initial review and stra-  
4        tegic plan developed under paragraph (1). Subse-  
5        quent reviews and strategic plans developed under  
6        paragraph (1) shall also be transmitted to those  
7        committees upon completion.

8        (b) STRATEGIC PLAN FOR RESEARCH AND DEVELOP-  
9        MENT.—

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

15                    (A) an assessment of the science and tech-  
16                    nology needs of the Administration based on  
17                    the Administration’s operational requirements  
18                    and on input provided by external stakeholders  
19                    at the national, regional, State, and local levels;  
20                    and

21                    (B) a strategic plan that assigns specific  
22                    programs within the administration the respon-  
23                    sibility to meet each need identified under sub-  
24                    paragraph (A) and that describes the extent to

1           which each need identified in subparagraph (A)  
2           will be addressed through—

3                   (i) intramural research;

4                   (ii) extramural, peer-reviewed, com-  
5                   petitive grant programs; and

6                   (iii) work done in cooperation with  
7                   other Federal agencies.

8           (2) NATIONAL ACADEMY OF SCIENCES RE-  
9           VIEW.—The Administrator shall enter into an ar-  
10          rangement with the National Academy of Sciences  
11          for a review of the plan developed under paragraph  
12          (1).

13          (3) TRANSMITTAL TO CONGRESS.—Not later  
14          than 18 months after the date of enactment of this  
15          Act, the Administrator shall transmit to the Com-  
16          mittee on Commerce, Science, and Transportation of  
17          the Senate and the Committee on Science of the  
18          House of Representatives the initial strategic plan  
19          developed under paragraph (1) and the review pre-  
20          pared pursuant to paragraph (2). Subsequent stra-  
21          tegic plans developed under paragraph (1) shall also  
22          be transmitted to those committees upon completion.

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

24          Not less than once every 5 years, the Secretary shall  
25          develop and submit to Congress a policy that defines proc-

1 esses for making decisions about the roles of the Adminis-  
2 tration, the private sector, and the academic community  
3 in providing environmental information, products, tech-  
4 nologies, and services. The first such submission shall be  
5 completed not less than 3 years after the date of enact-  
6 ment of this Act. At least 90 days before each submission  
7 of the policy to Congress, the Secretary shall publish the  
8 policy in the Federal Register for a public comment period  
9 of not less than 60 days. Nothing in this section shall be  
10 construed to require changes in the policy in effect on the  
11 date of enactment of this Act.

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

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

15 **SEC. 12. SAVINGS PROVISION.**

16 All rules and regulations, determinations, standards,  
17 contracts, including collective bargaining agreements, cer-  
18 tifications, authorizations, appointments, delegations, re-  
19 sults and findings of investigations, and other actions duly  
20 issued, made, or taken by or pursuant to or under the  
21 authority of any statute or executive order which resulted  
22 in the assignment of functions or activities to the Sec-  
23 retary, the Department of Commerce, the Under Secretary  
24 of Commerce for Oceans and Atmosphere, the Adminis-  
25 trator, or any other officer of the Administration, that is

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

1 40, United States Code, or to grant any authority to lease  
2 general purpose office or storage space in any building;  
3 and nothing in this Act shall be construed to diminish any  
4 authority the Administrator has immediately before the  
5 date of enactment of this Act to construct, alter, repair,  
6 or acquire by any means a public building, as defined at  
7 section 3301 of title 40, United States Code, or to dimin-  
8 ish any authority the Administrator has immediately be-  
9 fore the date of enactment of this Act to lease general  
10 purpose office or storage space in any building (regardless  
11 of whether those authorities are derived from laws, execu-  
12 tive orders, rules, regulations, or delegations of authority  
13 from the Secretary of Commerce).

14 **SEC. 13. REORGANIZATION PLAN.**

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

21 (2) Not later than 90 days after the expiration date  
22 of the comment period described in paragraph (1), the Ad-  
23 ministrator shall transmit to Congress a revised version  
24 of the plan that takes into account the comments received.  
25 The Administrator shall also publish the revised plan in

1 the Federal Register. The Administrator shall transmit  
2 and publish, along with the plan, an explanation of how  
3 the Administrator dealt with each issue raised by the com-  
4 ments received.

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

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

9 (1) consistent with section 5 and the other pro-  
10 visions of this Act, maximize the efficiency with  
11 which the Administration carries out the functions  
12 of—

13 (A) operations and services;

14 (B) research and education; and

15 (C) resource management;

16 (2) improve the sharing of research and other  
17 information that is of use across programmatic  
18 themes; and

19 (3) eliminate duplication of effort or overlap-  
20 ping efforts among offices.

21 (c) CONSULTATION.—In developing the plan, the Ad-  
22 ministrator shall consult with interested parties, including  
23 the States, academia, industry, conservation organiza-  
24 tions, and Administration employees.

1 **SEC. 14. FACILITY EVALUATION PROCESS.**

2 (a) PUBLIC NOTIFICATION AND ASSESSMENT PROC-  
3 ESS.—

4 (1) IN GENERAL.—The Administrator shall not  
5 close, consolidate, relocate, subdivide, or establish a  
6 facility of the Administration, unless and until the  
7 Administrator has followed the procedures required  
8 by this section.

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

15 (A) the Administrator has published in the  
16 Federal Register the proposed action and a de-  
17 scription of the offices, personnel, and activities  
18 of the Administration that would be affected by  
19 the proposed change, and has provided for a  
20 minimum of 60 days for public comment;

21 (B) if the proposed change involves a  
22 science facility of the Administration, the  
23 Science Advisory Board has reviewed the pro-  
24 posed change and provided to the Administrator  
25 written findings regarding the proposed change;

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

4 (i) a description of local weather char-  
5 acteristics and weather-related concerns  
6 which affect the weather services provided  
7 within the service area;

8 (ii) a detailed comparison of the serv-  
9 ices provided within the service area and  
10 the services to be provided after the pro-  
11 posed change;

12 (iii) a description of any recent or ex-  
13 pected modernization of National Weather  
14 Service operations which will enhance serv-  
15 ices in the service area;

16 (iv) an identification of any area with-  
17 in any State which would not receive cov-  
18 erage (at an elevation of 10,000 feet) due  
19 to the proposed change; and

20 (v) evidence, based on operational  
21 demonstration of National Weather Service  
22 operations, which was considered in reach-  
23 ing the conclusion that no degradation in  
24 service will result from the proposed  
25 change;

1 (D) the Administrator has prepared an  
2 analysis of the anticipated costs and savings as-  
3 sociated with the proposed facility change, in-  
4 cluding both costs and savings in the first fiscal  
5 year following the change, and changes in oper-  
6 ations and maintenance costs and savings over  
7 a ten-year period; and

8 (E) the Administrator has prepared an  
9 analysis of the effects of the facility change on  
10 operations and research of the Administration,  
11 and the potential impacts on cooperative insti-  
12 tutes, other external Administration partner-  
13 ships, partnerships with other Federal agencies,  
14 and any State and local partnerships.

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

1           (B) The Administrator shall provide to Con-  
2           gress, at least 90 days before any closure, consolida-  
3           tion, relocation, subdivision, or establishment of a  
4           facility of the Administration not described in sub-  
5           paragraph (A), written notification of the planned  
6           closure, consolidation, relocation, subdivision, or es-  
7           tablishment.

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

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

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

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

18          **SEC. 15. BUDGET REPROGRAMMING.**

19          Whenever the Administrator transmits a budget re-  
20          programming request to the Appropriations Committees  
21          of the House of Representatives and the Senate, the Ad-  
22          ministrator shall simultaneously submit a copy of the re-  
23          quest to the Committee on Science and the Committee on  
24          Resources of the House of Representatives and the Com-

1 mittee on Commerce, Science, and Transportation of the  
2 Senate.

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

4 (a) CONDITIONS FOR DEVELOPMENT.—

5 (1) IN GENERAL.—The Administration shall  
6 not enter into a contract for the development of a  
7 major program unless the Administrator determines  
8 that—

9 (A) the technical, cost, and schedule risks  
10 of the program are clearly identified and the  
11 program has developed a plan to manage those  
12 risks;

13 (B) the technologies required for the pro-  
14 gram have been demonstrated in a relevant lab-  
15 oratory or test environment; and

16 (C) the program complies with all relevant  
17 policies, regulations, and directives of the Ad-  
18 ministration.

19 (2) REPORT.—The Administrator shall trans-  
20 mit a report describing the basis for the determina-  
21 tion required under paragraph (1) to the Committee  
22 on Science of the House of Representatives and the  
23 Committee on Commerce, Science, and Transpor-  
24 tation of the Senate at least 30 days before entering

1 into a contract for development under a major pro-  
2 gram.

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

7 (b) MAJOR PROGRAM ANNUAL REPORTS.—

8 (1) REQUIREMENT.—Annually, at the same  
9 time as the President’s annual budget submission to  
10 the Congress, the Administrator shall transmit to  
11 the Committee on Science of the House of Rep-  
12 resentatives and the Committee on Commerce,  
13 Science, and Transportation of the Senate a report  
14 that includes the information required by this sec-  
15 tion for each major program for which the Adminis-  
16 tration proposes to expend funds in the subsequent  
17 fiscal year. Reports under this paragraph shall be  
18 known as Major Program Annual Reports.

19 (2) BASELINE REPORT.—The first Major Pro-  
20 gram Annual Report for each major program shall  
21 include a Baseline Report that shall, at a minimum,  
22 include—

23 (A) the purposes of the program and key  
24 technical characteristics necessary to fulfill  
25 those purposes;

1 (B) an estimate of the life-cycle cost for  
2 the program, with a detailed breakout of the  
3 development cost, program reserves, and an es-  
4 timate of the annual costs until development is  
5 completed;

6 (C) the schedule for development, including  
7 key program milestones;

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

11 (E) the name of the person responsible for  
12 making notifications under subsection (c), who  
13 shall be an individual whose primary responsi-  
14 bility is overseeing the program.

15 (3) INFORMATION UPDATES.—For major pro-  
16 grams for which a Baseline Report has been sub-  
17 mitted, each subsequent Major Program Annual Re-  
18 port shall describe any changes to the information  
19 that had been provided in the Baseline Report, and  
20 the reasons for those changes.

21 (c) NOTIFICATION.—

22 (1) REQUIREMENT.—The individual identified  
23 under subsection (b)(2)(E) shall immediately notify  
24 the Administrator any time that individual has rea-

1       sonable cause to believe that, for the major program  
2       for which he or she is responsible—

3               (A) the development cost of the program is  
4       likely to exceed the estimate provided in the  
5       Baseline Report of the program by 15 percent  
6       or more; or

7               (B) a milestone of the program is likely to  
8       be delayed by 6 months or more from the date  
9       provided for it in the Baseline Report of the  
10      program.

11              (2) REASONS.—Not later than 30 days after  
12      the notification required under paragraph (1), the  
13      individual identified under subsection (b)(2)(E) shall  
14      transmit to the Administrator a written notification  
15      explaining the reasons for the change in the cost or  
16      milestone of the program for which notification was  
17      provided under paragraph (1).

18              (3) NOTIFICATION OF CONGRESS.—Not later  
19      than 15 days after the Administrator receives a writ-  
20      ten notification under paragraph (2), the Adminis-  
21      trator shall transmit the notification to the Com-  
22      mittee on Science of the House of Representatives  
23      and the Committee on Commerce, Science, and  
24      Transportation of the Senate.

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

9 (1) transmit to the Committee on Science of the  
10 House of Representatives and the Committee on  
11 Commerce, Science, and Transportation of the Sen-  
12 ate, not later than 15 days after making the deter-  
13 mination, a report that includes—

14 (A) a description of the increase in cost or  
15 delay in schedule and a detailed explanation for  
16 the increase or delay;

17 (B) a description of actions taken or pro-  
18 posed to be taken in response to the cost in-  
19 crease or delay; and

20 (C) a description of any impacts the cost  
21 increase or schedule delay, or the actions de-  
22 scribed under subparagraph (B), will have on  
23 any other program within the Administration;  
24 and

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

4                   (A) the projected cost and schedule for  
5 completing the program if current requirements  
6 of the program are not modified;

7                   (B) the projected cost and the schedule for  
8 completing the program after instituting the ac-  
9 tions described under paragraph (1)(B); and

10                   (C) a description of, and the projected cost  
11 and schedule for, a broad range of alternatives  
12 to the program.

13 The Administration shall complete an analysis initiated  
14 under paragraph (2) not later than 6 months after the  
15 Administrator makes a determination under this sub-  
16 section. The Administrator shall transmit the analysis to  
17 the Committee on Science of the House of Representatives  
18 and Committee on Commerce, Science, and Transpor-  
19 tation of the Senate not later than 30 days after its com-  
20 pletion.

21           (e) THIRTY PERCENT THRESHOLD.—If the Adminis-  
22 trator determines under subsection (d) that the develop-  
23 ment cost of a program will exceed the estimate provided  
24 in the Baseline Report of the program by more than 30  
25 percent, then, beginning 18 months after the date the Ad-

1 administrator transmits a report under subsection (d)(1),  
2 the Administrator shall not expend any additional funds  
3 on the program, other than termination costs, unless the  
4 Congress has subsequently authorized continuation of the  
5 program by law. An appropriation for the specific program  
6 enacted subsequent to a report being transmitted shall be  
7 considered an authorization for purposes of this sub-  
8 section. If the program is continued, the Administrator  
9 shall submit a new Baseline Report for the program no  
10 later than 90 days after the date of enactment of the Act  
11 under which Congress has authorized continuation of the  
12 program.

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

14 (1) the term “development” means the phase of  
15 a program following the formulation phase and be-  
16 ginning with the approval to proceed to implementa-  
17 tion.

18 (2) the term “development cost” means the  
19 total of all costs, including construction of facilities  
20 and civil servant costs, from the period beginning  
21 with the approval to proceed to implementation  
22 through the achievement of operational readiness,  
23 without regard to funding source or management  
24 control, for the life of the program;



1 for the procurement of goods or services that is entered  
2 into by the Administrator may not be performed outside  
3 the United States unless it is to meet a requirement of  
4 the Administration for goods or services specifically at a  
5 location outside the United States.

6 (2) The President may waive the prohibition in para-  
7 graph (1) in the case of any contract for which the Presi-  
8 dent determines in writing that it is necessary in the na-  
9 tional security interests of the United States for goods or  
10 services under the contract to be performed outside the  
11 United States.

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

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

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

1 **SEC. 18. RECORDKEEPING AND REPORTING REQUIRE-**  
2 **MENT.**

3 The Administrator shall transmit to Congress, not  
4 later than 120 days after the end of each fiscal year begin-  
5 ning with the first fiscal year after the date of enactment  
6 of this Act, a report on the contracts and subcontracts  
7 performed overseas and the amount of purchases directly  
8 or indirectly by the Administration from foreign entities  
9 in that fiscal year. The report shall separately indicate—

10 (1) the contracts and subcontracts and their  
11 dollar values for which the Administrator determines  
12 that essential goods or services under the contract  
13 are available only from a source outside the United  
14 States; and

15 (2) the items and their dollar values for which  
16 the Buy American Act was waived pursuant to obli-  
17 gations of the United States under international  
18 agreements.

Passed the House of Representatives September 20,  
2006.

Attest:

*Clerk.*

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5450**

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**AN ACT**

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