

109TH CONGRESS
2D SESSION

H. R. 5450

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2006

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

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 ministrator 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;

(B) shall be responsible for all aspects of the Administration's operations and management, including budget, financial operations, information services, facilities, human resources, procurements, and associated services;

(C) in the absence or disability of the Assistant Secretary, or in the event of a vacancy in such position, shall act in that position; and

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

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

(1) IN GENERAL.—There shall be in the Administration a Deputy Assistant Secretary for Science and Education who shall coordinate and oversee the science and education activities of the Administration and their application to Administration decisions and operations. The Deputy Assistant Secretary for Science and Education shall be appointed by the Secretary. The position of Deputy Assistant Secretary for Science and Education shall be a Senior Executive Service career reserved position as defined in section 3132(a)(8) of title 5, United States 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 ministrator 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 (3) the term “life-cycle cost” means the total of
2 the direct, indirect, recurring, and nonrecurring
3 costs, including the construction of facilities and civil
4 servant costs, and other related expenses incurred or
5 estimated to be incurred in the design, development,
6 verification, production, operation, maintenance,
7 support, and retirement of a program over its
8 planned lifespan, without regard to funding source
9 or management control; and

10 (4) the term “major program” means an activ-
11 ity approved to proceed to implementation that has
12 an estimated life-cycle cost of more than
13 \$250,000,000.

14 **SEC. 17. LIMITATIONS ON OFF-SHORE PERFORMANCE OF**
15 **CONTRACTS FOR THE PROCUREMENT OF**
16 **GOODS AND SERVICES.**

17 (a) CONVERSIONS TO CONTRACTOR PERFORMANCE
18 OF ADMINISTRATION ACTIVITIES.—Except as provided in
19 subsection (c), an activity or function of the Administra-
20 tion that is converted to contractor performance under Of-
21 fice of Management and Budget Circular A-76 may not
22 be performed by the contractor or any subcontractor at
23 a location outside the United States.

24 (b) CONTRACTS FOR THE PROCUREMENT OF SERV-
25 ICES.—(1) Except as provided in subsection (c), a contract

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:

KAREN L. HAAS,
Clerk.