AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

H.R. 50

COMPILATION OF MARKUPS

BEFORE THE

COMMITTEE ON SCIENCE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

DECEMBER 31, 2006

Serial No. 109–67

Printed for the use of the Committee on Science

Available via the World Wide Web: http://www.house.gov/science

U.S. GOVERNMENT PRINTING OFFICE

31–026PS WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON SCIENCE

HON. SHERWOOD L. BOEHLERT, New York, *Chairman*

RALPH M. HALL, Texas
LAMAR S. SMITH, Texas
CURT WELDON, Pennsylvania
DANA ROHRABACHER, California
KEN CALVERT, California
ROSCOE G. BARTLETT, Maryland
VERNON J. EHLERS, Michigan
GIL GUTKNECHT, Minnesota
FRANK D. LUCAS, Oklahoma
JUDY BIGGERT, Illinois
WAYNE T. GILCHREST, Maryland
W. TODD AKIN, Missouri
TIMOTHY V. JOHNSON, Illinois
J. RANDY FORBES, Virginia
JO BONNER, Alabama
TOM FEENEY, Florida
RANDY NEUGEBAUER, Texas
BOB INGLIS, South Carolina
DAVE G. REICHERT, Washington
MICHAEL E. SODREL, Indiana
JOHN J.H. "JOE" SCHWARZ, Michigan
MICHAEL T. MCCAUL, Texas
MARIO DIAZ-BALART, Florida

BART GORDON, Tennessee, RMM*
JERRY F. COSTELLO, Illinois
EDDIE BERNICE JOHNSON, Texas
LYNN C. WOOLSEY, California
DARLENE HOOLEY, Oregon
MARK UDALL, Colorado
DAVID WU, Oregon
MICHAEL M. HONDA, California
BRAD MILLER, North Carolina
LINCOLN DAVIS, Tennessee
DANIEL LIPINSKI, Illinois
SHEILA JACKSON LEE, Texas
BRAD SHERMAN, California
BRIAN BAIRD, Washington
JIM MATHESON, Utah
JIM COSTA, California
AL GREEN, Texas
CHARLIE MELANCON, Louisiana
DENNIS MOORE, Kansas
DORIS MATSUI, California

SUBCOMMITTEE ON ENERGY

JUDY BIGGERT, Illinois, *Chair*

RALPH M. HALL, Texas
CURT WELDON, Pennsylvania
ROSCOE G. BARTLETT, Maryland
VERNON J. EHLERS, Michigan
W. TODD AKIN, Missouri
JO BONNER, Alabama
RANDY NEUGEBAUER, Texas
BOB INGLIS, South Carolina
DAVE G. REICHERT, Washington
MICHAEL E. SODREL, Indiana
JOHN J.H. "JOE" SCHWARZ, Michigan
+SHERWOOD L. BOEHLERT, New York

MICHAEL M. HONDA, California
LYNN C. WOOLSEY, California
LINCOLN DAVIS, Tennessee
JERRY F. COSTELLO, Illinois
EDDIE BERNICE JOHNSON, Texas
DANIEL LIPINSKI, Illinois
JIM MATHESON, Utah
SHEILA JACKSON LEE, Texas
BRAD SHERMAN, California
AL GREEN, Texas

+BART GORDON, Tennessee

SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS

VERNON J. EHLERS, Michigan, *Chairman*

GIL GUTKNECHT, Minnesota
JUDY BIGGERT, Illinois
WAYNE T. GILCHREST, Maryland
TIMOTHY V. JOHNSON, Illinois
DAVE G. REICHERT, Washington
JOHN J.H. "JOE" SCHWARZ, Michigan
MARIO DIAZ-BALART, Florida
+SHERWOOD L. BOEHLERT, New York

DAVID WU, Oregon
BRAD MILLER, North Carolina
MARK UDALL, Colorado
LINCOLN DAVIS, Tennessee
BRIAN BAIRD, Washington
JIM MATHESON, Utah

+BART GORDON, Tennessee

SUBCOMMITTEE ON RESEARCH

NICK SMITH, Michigan, *Chairman*

LAMAR S. SMITH, Texas
CURT WELDON, Pennsylvania
DANA ROHRABACHER, California
GIL GUTKNECHT, Minnesota
FRANK D. LUCAS, Oklahoma
W. TODD AKIN, Missouri
TIMOTHY V. JOHNSON, Illinois
DAVE G. REICHERT, Washington
MICHAEL E. SODREL, Indiana
MICHAEL T. MCCAUL, Texas
VACANCY
+SHERWOOD L. BOEHLERT, New York

DARLENE HOOLEY, Oregon
DANIEL LIPINSKI, Illinois
BRIAN BAIRD, Washington
CHARLIE MELANCON, Louisiana
EDDIE BERNICE JOHNSON, Texas
BRAD MILLER, North Carolina
DENNIS MOORE, Kansas
DORIS MATSUI, California
VACANCY
+BART GORDON, Tennessee

SUBCOMMITTEE ON SPACE AND AERONAUTICS

KEN CALVERT, California, *Chairman*

RALPH M. HALL, Texas
LAMAR S. SMITH, Texas
DANA ROHRABACHER, California
ROSCOE G. BARTLETT, Maryland
FRANK D. LUCAS, Oklahoma
J. RANDY FORBES, Virginia
JO BONNER, Alabama
TOM FEENEY, Florida
MICHAEL T. MCCAUL, Texas
MARIO DIAZ-BALART, Florida
+SHERWOOD L. BOEHLERT, New York

MARK UDALL, Colorado
DAVID WU, Oregon
MICHAEL M. HONDA, California
BRAD MILLER, North Carolina
SHEILA JACKSON LEE, Texas
BRAD SHERMAN, California
JIM COSTA, California
AL GREEN, Texas
CHARLIE MELANCON, Louisiana
+BART GORDON, Tennessee

***Ranking Minority Member appointments/Full Committee and Subcommittee assignments.**

****Vice Chair appointments/Full Committee and Subcommittee assignments.**

+ The Chairman and Ranking Minority Member shall serve as Ex-officio Members of all Subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the Subcommittees.

CONTENTS

2005

	Page
H.R. 50—*National Oceanic and Atmospheric Administration Act*	
Proceedings of the markup held by the Subcommittee on Environment, Technology, and Standards, March 15, 2005	1
Proceedings of the markup held by the Full Committee, May 17, 2005	43

PROCEEDINGS OF THE MARKUP BY THE SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS ON H.R. 50, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

TUESDAY, MARCH 15, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS,
COMMITTEE ON SCIENCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:04 p.m., in Room 2318 of the Rayburn House Office Building, Hon. Vernon Ehlers [Chairman of the Subcommittee] presiding.

Chairman EHLERS. Good afternoon. I am pleased to welcome you to the first—Subcommittee's first markup of the year. Pursuant to notice, we will consider three important measures today that together underlie the breadth of jurisdiction of the subcommittee. Given the number of bills we need to get through today, my opening statement will be brief, and then I will explain each bill in more detail as it is brought up.

First we will consider H.R. 50, the *National Oceanic and Atmospheric Administration Act.* This bill, a reintroduction of legislation I authored last Congress, would created an organic act for NOAA. This is a term that puzzled me when I first got here because, to me, organic had something to do with organic chemistry or organic gardening or organic food stores; but an organic act in the Congress is an act which is an original act establishing an agency and outlining its functions and purposes. This organic act for NOAA would provide the underlying statute of missions and functions to be carried out by NOAA, something that has not existed since the agency was formed by executive order in 1970—established by executive order. It has been modified by executive order and by law since, but we have never had an organic act, so today we are trying to remedy that.

Next, we will consider H.R. 250, the *Manufacturing Technology Competitiveness Act.* This bill is nearly identical to legislation I introduced last Congress and which passed the House last July. Unfortunately, the bill did not receive action in the Senate, and so we are proposing it once again.

The main focus of the bill is an authorization for the Department of Commerce Manufacturing Extension Partnership Program.

And finally, we will consider H.R. 798, the *Methamphetamine Remediation Research Act.* This bill, introduced by Ranking Member Gordon, Representative Calvert, and Chairman Boehlert, would create a research program at the Environmental Protection Agency to study the harmful effects of methamphetamine and to provide important voluntary guidelines for states to use as they try to clean up former meth laboratories. I suspect many people are not aware of the extent of this problem and the dangers involved, but meth labs are springing up, primarily in rural areas, particularly wooded areas—and I know Oregon is having considerable problems with them; we have in Michigan as well because both states have substantial wooded areas where you can conceal a shack and try to manufacture methamphetamine.

There are several aspects of danger there. One is that very frequently, because of the danger of the components—and in fact, the explosive nature of the components—frequently an explosion occurs, which obliterates the shack and the people within it, so we lose a number of young people every year who are engaged in this dangerous pursuit. Even more frequently, they use a particular structure for this; it becomes very—it collects a lot of toxic materials because there is a great deal of toxic material going into the production of methamphetamine. They actually become not quite superfund sites, but pretty close to it, and local governments are having a great deal of trouble cleaning them up to a reasonable standard, and the expense is substantial for small units of government.

Now, I am pleased that Mr. Wu has introduced this bill, which will deal with this problem, not only in Oregon and Michigan, but throughout the country. With that, I am proud to introduce Mr. Wu from Oregon, the Subcommittee's new Ranking Member. I have worked before with Mr. Wu on a number of issues. I know he has a strong interest and considerable experience in the issues before the Subcommittee. I am very happy that he has joined us in this position.

I want to thank Mr. Udall. He is on the way but not here yet. I want to thank Mr. Udall from Colorado, who was a Ranking Member for the past four years. We had a very productive relationship, and now he is Ranking Member of the Space Subcommittee, where spacey Members end up. And I am sorry to lose him for that purpose, but delighted that Mr. Wu is his replacement. I am pleased that Mr. Udall will continue to be a Member of the Subcommittee.

I am now pleased to yield to Mr. Wu for an opening statement.

[The prepared statement of Chairman Ehlers follows:]

PREPARED STATEMENT OF CHAIRMAN VERNON J. EHLERS

Good afternoon! Welcome to the Subcommittee's first markup of the year. Pursuant to notice, we will consider three important measures today that together underlie the breadth of jurisdiction of the Subcommittee. Given the number of bills we need to get through today, my opening statement will be brief and then I will explain each bill in more detail as it is brought up.

First, we will consider H.R. 50, the *National Oceanic and Atmospheric Administration (NOAA) Act.* This bill, a reintroduction of legislation I authored last Congress, would create an "organic act" for NOAA. This organic act would provide the underlying statute of missions and functions to be carried out by the NOAA, something that has not existed since the agency was formed by executive order in 1970.

Next, we will consider H.R. 250, the *Manufacturing Technology Competitiveness Act.* This bill is nearly identical to legislation I introduced last Congress, and which passed the House last July. The main focus of the bill is an authorization for the Department of Commerce's Manufacturing Extension Partnership (MEP) program.

And finally, we will consider H.R. 798, the *Methamphetamine Remediation Research Act.* This bill, introduced by Ranking Member Gordon, Representative Calvert and Chairman Boehlert, would create a research program at the Environmental Protection Agency (EPA) to study the harmful effects of methamphetamine and provide important voluntary guidelines for states to use as they try to clean up former "meth" laboratories.

I am proud to introduce Mr. Wu from Oregon, the Subcommittee's new Ranking Member. I know that Mr. Wu has a strong interest and considerable experience in the issues before the Subcommittee, and I am very happy that he has joined us. I want to thank Mr. Udall, from Colorado, who was our Ranking Member for the past four years. We had a very productive relationship and now he is the Ranking Member of our Space Subcommittee. I am pleased he will still be a Member of our subcommittee.

I now yield to Mr. Wu for an opening statement.

Mr. WU. Thank you very much, Mr. Chairman. And I look forward to working with you in a very productive relationship concerning the broad range of this subcommittee's jurisdiction in technology transfer, competitiveness, and other crucial issues for our research, our tech transfer, and our economy. And in your spirit, Mr. Chairman, I will be brief, even laconic. I am very pleased to be here with you to participate in our subcommittee's first markup, markup of the *NOAA Organic Act,* the *Manufacturing Technology Competitiveness Act,* and the *Methamphetamine Remediation Research Act.* And with that, Mr. Chairman, I yield back the balance of my time.

Chairman EHLERS. I thank the gentleman and would just correct myself. I mentioned this was your bill; it is actually Mr. Gordon's bill, joined with the methamphetamine. But it is certainly a bill which is worthy of your attention.

Mister—without object, all Members—all other Members may place statements in the records, and I ask unanimous consent to recess the Subcommittee at any point, and without objection it is so ordered; I hear no objection.

We will now consider the bill H.R. 50, the *National Oceanic and Atmospheric Administration Act.* This bill is identical to the legislation that I introduced last year and that passed the Subcommittee at the end of the Congressional session. Unfortunately, time ran out before we could consider it at Full Committee. H.R. 50 provides NOAA with an organic act. An organic act defines the overall missions and functions of an agency. As an example, H.R. 50 states that the mission of NOAA is, first, to understand and predict changes in the Earth's oceans and atmosphere; second, to conserve and manage coastal, ocean, and great lakes ecosystems; and third, to educate the public about these topics. The bill also describes the specific functions NOAA should carry out to fulfill its mission, such as issuing weather forecasts and warnings.

I should note that H.R. 50 contains very little language about fisheries or research management at NOAA because those topics are under the jurisdiction of the Resources Committee, and particularly the Subcommittee chaired by my colleague from Maryland, Mr. Gilchrest, who is also, now, a Member of this committee. I look forward to working with Mr. Gilchrest, my other colleagues, and

the administration, as well as with the full Resources Committee, to pass truly comprehensive legislation for NOAA.

I am pleased to recognize Mr. Wu if he wishes to make any comments about this bill.

Mr. WU. Thank you, Mr. Chairman. I fully support your interest in moving forward to develop legislation that will provide NOAA with a statutory foundation to guide its missions and functions. I congratulate you for introducing H.R. 50.

NOAA is this nation's lead agency charged with conserving and managing our coastal and oceanic resources. NOAA also plays a vital role in public safety through the programs of the National Weather Service to issue weather forecasts and warnings. We must ensure that NOAA has the resources and authorities it needs to meet its statutory responsibilities and to accomplish its resource management and public safety missions.

H.R. 50 makes a good start on this effort, and I look forward to working with you further before this legislation is considered by the full House. And I might add that I also look forward to working with you and Mr. Gilchrest to have a more robust component with respect to fisheries, which are of great interest to us on either coast, and I assume, also, in the Great Lakes.

With that, Mr. Chairman, I yield back the balance of my time.

[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF REPRESENTATIVE DAVID WU

Good afternoon, everyone. Mr. Chairman, I am pleased to be here this afternoon to participate in our subcommittee's first markup of legislation. I realize your interest in moving forward to develop legislation that will provide NOAA with the statutory foundation to guide its missions and functions. I congratulate you for introducing H.R. 50.

NOAA is this nation's lead agency charged with conserving and managing our coastal and oceanic resources. NOAA also plays a vital role in public safety through the programs of the National Weather Service to issue weather forecasts and warnings.

We must ensure that NOAA has the resources and authorities it needs to meet its statutory responsibilities and to accomplish its resource management and public safety missions.

H.R. 50 makes a good start on this effort, and I look forward to working with you further before this legislation is considered by the Full Science Committee.

Chairman EHLERS. I thank you for your comments, and let me just note the presence of Mr. Udall. Mr. Udall, I paid you several compliments in your absence. I won't repeat them, but I expressed my appreciation for your good service as Ranking Member of this subcommittee. We will miss you, and I am happy that you are going to continue to be on the Subcommittee.

Mr. UDALL. Thank you, Mr. Chairman. In the spirit of the old adage, you never get in trouble for something you didn't say. I would just say I think probably those compliments are undeserved, and I do look forward to working with you as a Member of the Committee, and with Ranking Member Wu. Thank you.

Chairman EHLERS. I thank the gentleman for his comments, and I disagree with him; they are deserved.

I ask unanimous consent that the bill is considered as read and open to amendment at any point and that the Members proceed with the amendments in the order of the roster. Without objection, so ordered.

The first amendment on the roster is an en bloc amendment offered by Mr. Wu. Are you ready to proceed with your amendment?

Mr. WU. Yes, Mr. Chairman. I have amendment at the desk.

Chairman EHLERS. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 50 offered by Mr. Wu of Oregon.

Chairman EHLERS. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. WU. My amendment, Mr. Chairman, does three things. The first part of my amendment clarifies current policy of having the National Weather Service serve as the Nation's source for issuing forecasts and warnings. The public safety function performed by the National Weather Service should not be contracted to outside providers. There are numerous commercial weather providers that also have an important role to play in weather forecasting. They and the National Weather Service have developed a productive partnership that serves our nation well. This language ensures that it will continue to do so.

The second part of my amendment ensures the continuance of the agreements between NOAA and its established employee organization. The final part of my amendment requires NOAA to engage the agency's client base, this Congress, and their own employees in the development of any organizational changes.

NOAA partners include State and local governments, commercial interests in recreation, fishing, navigation, and weather forecasting, the research and education communities, and conservation organizations. NOAA reorganizations should not occur without the involvement of the many organizations that work with NOAA.

Mr. Chairman, I understand that you will be supporting my amendment. I yield back.

Chairman EHLERS. I thank Mr. Wu for working with us on his amendment. It is a worthy amendment. I believe it strengthens the bill, and the Chair is pleased to support this amendment.

Is there any further discussion on this amendment? None?

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Chairman EHLERS. The gentleman may proceed for five minutes.

Mr. UDALL. Mr. Chairman, in the interest of moving the legislation forward, I don't have an amendment, but I would like clarification on an issue of concern to me, and I believe to all of the Members of the Committee. The mission we are defining for NOAA is a broad one, and I certainly agree that NOAA's mission should be defined broadly to include the many important operation and research functions it performs for our nation. However, I am concerned about the potential for overlap with NASA's mission. And as you know, reports have surfaced at various times, indicating the possibility that NASA's Earth science programs might be transferred to NOAA. And I was curious if it was your intention to endorse or facilitate that type of transfer through this legislation.

Chairman EHLERS.—with your comment.

Mr. UDALL. I would be happy to yield to the——

Chairman EHLERS. I thank gentleman for yielding.

There is no intent in this bill to favor that one way or the other and no plans to do any such thing. It is true there is overlap between NOAA and NASA. There is also overlap between NOAA and the armed services with the new satellite program. And I think—

my personal opinion is that there is going to have to be much greater effort made in NOAA—and I hope it will occur under this bill—to work more closely with other agencies with which they have joint interests. And that, of course, includes NASA as well as the armed forces and perhaps other government agencies, perhaps the Department of Interior as an example. So my hope is that operating under an organic act, it will be easier for them to develop interagency agreements to deal with these issues. At this point, it has been pretty much on an ad hoc basis, as far as I can see, particularly with the satellite program.

So there is no ulterior motive in the bill to deal with this, and so far as I know, nothing in the bill would encourage that sort of thing. But it would be something that we would be involved in judging on a case-by-case basis, as they present.

Mr. UDALL. I thank the Chairman. And reclaiming my time, if I could ask just one follow-on question?

I understand we are planning a hearing on NASA's Earth sciences program in the near future, and it would be my hope that—and this is the thrust of my question—we would have that hearing before we markup H.R. 50 in the Full Committee. And I would be happy to yield to the gentleman again.

Chairman EHLERS. I assume that hearing would be on the Space Subcommittee rather than this subcommittee, so I would suggest that since you are on that committee that you make that request known to the Chairman. I would not want to hold up H.R. 50 at any point, but if that Subcommittee wishes to conduct such a hearing early on, that would be most helpful.

Mr. UDALL. Reclaiming my time, I hear the gentleman suggesting that he would be amenable to the Space Subcommittee taking a look at that this, but you don't want to slow down the process that H.R. 50——

Chairman EHLERS. The gentleman is correct, and that is based on consideration of how rapidly or not rapidly bills tend to move through Committee—through the House, through the Senate, and I want to make certain that this gets passed during this Congress and preferably this year if at all possible. But I would be happy to work with the Chair of the Space Subcommittee on a joint hearing if he would wish to do it.

Mr. UDALL. That seems to be the general thrust here, and I will talk to Chairman Calvert as well, and I look forward to working with you, and we will prove, Mr. Chairman, Ross Perot wrong where he said a committee is a cul-de-sac down which great ideas go to die. So we have, I think a bigger load to shoulder here when it comes to proving Mr. Perot wrong.

Chairman EHLERS. Well, you also have to remember that was a goal of the founders of this nation, to make a structure so complicated that very few things would pass, assuming that only the best would survive. But since this bill is so superb, we are not worried about what the process might do to it.

Any further comments on the amendment? Hearing none, the vote occurs on the amendment. All in favor, say aye. Those opposed say no. The yeas have it, and the amendment is agreed to.

Are there any other amendments? Hearing none, the question is on the bill. H.R. 50, *National Oceanic and Atmospheric Administra-*

tion Act, as amended—all those in favor will say aye. All those opposed will say no. In the opinion of the Chair, the ayes have it.

I will now recognize Mr. Wu for a motion.

Mr. WU. Thank you, Mr. Chairman. Mr. Chairman, I move that the Subcommittee favorably report the bill H.R. 50, as amended, to the Full Committee. Further, I ask unanimous consent that the staff be instructed to make all necessary technical and conforming changes to the bill as amended, in accordance with the recommendations of the Subcommittee.

Chairman EHLERS. The question is on the motion to report the bill as amended favorably. Those in favor of the motion will signify by saying aye. Opposed, no. The motion carries, and the bill favorably reported. Without object, the motion to reconsider is laid upon the table.

I thank the Committee very much.

Without objection, the motion to reconsider is laid upon the table. I wish to express my appreciation to all of the Members of the Committee for the rapid action on this group of bills and the good spirit in which we have all approached these bills and trying to improve them. So I appreciate your consideration. I thank the Committee Members for their attendance. This concludes our subcommittee markup.

[Whereupon, at 1:46 p.m., the Subcommittee was adjourned.]

Appendix:

H.R. 50, Section-by-Section Analysis, Amendment Roster

I

109TH CONGRESS
1ST SESSION

H. R. 50

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

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

---

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

1 (2) The term "Administrator" means the Ad-
2 ministrator of the National Oceanic and Atmos-
3 pheric Administration.
4 (3) The term "Secretary" means the Secretary
5 of Commerce.

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

8 (a) IN GENERAL.—There shall be in the Department
9 of Commerce an agency known as the National Oceanic
10 and Atmospheric Administration.
11 (b) MISSION.—The mission of the Administration is
12 to understand the systems of the Earth's oceans and at-
13 mosphere and predict changes in the Earth's oceans and
14 atmosphere and the effects of such changes on the land
15 environment, to conserve and manage coastal, ocean, and
16 Great Lakes ecosystems to meet national economic, social,
17 and environmental needs, and to educate the public about
18 these topics.
19 (c) FUNCTIONS.—The functions of the Administra-
20 tion shall include—
21 (1) collecting, through observation and other
22 means, communicating, analyzing, processing, and
23 disseminating comprehensive scientific data and in-
24 formation about weather and climate, solar and geo-
25 physical events on the Sun and in the space environ-

1 ment, and about the coasts, oceans, Great Lakes,
2 upper reaches of estuaries, and hydrologic systems;
3 (2) operating and maintaining a system for the
4 storage, retrieval, and dissemination of data relating
5 to weather and climate, solar and geophysical events
6 on the Sun and in the space environment, and about
7 the coasts, oceans, Great Lakes, upper reaches of es-
8 tuaries, and hydrologic systems;
9 (3) conducting and supporting basic and ap-
10 plied research and development of technology as may
11 be necessary to carry out the mission described in
12 subsection (b);
13 (4) issuing weather, water, climate, and space
14 weather forecasts and warnings;
15 (5) coordinating efforts of Federal agencies in
16 support of national and international programs with
17 respect to meteorological services;
18 (6) understanding the science of Earth's cli-
19 mate and related systems, and undertaking research,
20 development, and demonstration to enhance society's
21 ability to plan for and respond to climate variability
22 and change;
23 (7) protecting, restoring, and managing the use
24 of the coasts, oceans, and Great Lakes through eco-

1 system-based research, development, demonstration,
2 and management;
3 (8) coordinating efforts of Federal agencies in
4 support of national and international programs with
5 respect to integrated Earth observing systems;
6 (9) administering public outreach and education
7 programs and services to increase scientific and en-
8 vironmental literacy about weather and climate,
9 solar and geophysical events on the Sun and in the
10 space environment, and the coasts, oceans, Great
11 Lakes, upper reaches of estuaries, and hydrologic
12 systems;
13 (10) cooperating with international organiza-
14 tions and scientists in bilateral and multilateral re-
15 search, development, conservation, and service pro-
16 grams related to coastal, ocean, Great Lakes, weath-
17 er, and climate issues; and
18 (11) any other function assigned to the Admin-
19 istration by law.
20 **SEC. 4. ADMINISTRATION LEADERSHIP.**
21 (a) ADMINISTRATOR.—
22 (1) IN GENERAL.—There shall be, as the Ad-
23 ministrator of the Administration, an Under Sec-
24 retary of Commerce for Oceans and Atmosphere.
25 The Administrator shall be appointed by the Presi-

1 dent, by and with the advice and consent of the Sen-
2 ate. The Administrator shall be paid at the rate of
3 basic pay for level III of the Executive Schedule.
4 (2) FUNCTIONS.—The Administrator shall per-
5 form such functions and exercise such powers with
6 respect to the Administration as the Secretary may
7 prescribe, including—
8 (A) general management;
9 (B) policy development and guidance;
10 (C) budget formulation, guidance, and exe-
11 cution; and
12 (D) serving as the Department of Com-
13 merce official for all ocean and atmosphere
14 issues with other elements of the Department of
15 Commerce and with other Federal agencies,
16 State, tribal, and local governments, and the
17 public.
18 (3) DELEGATION OF AUTHORITY.—The Admin-
19 istrator may, except as otherwise prohibited by
20 law—
21 (A) delegate any functions, powers, or du-
22 ties of the Administrator to such officers and
23 employees of the Administration as the Admin-
24 istrator may designate; and

1 (B) authorize such successive redelegations
2 of such functions, powers, or duties within the
3 Administration as the Administrator considers
4 necessary or appropriate.
5 (4) AUTHORITIES.—The Administrator shall
6 have the authority to enter into and perform such
7 contracts, leases, grants, and cooperative agreements
8 with Federal agencies, State and local governments,
9 Indian tribes, international organizations, foreign
10 governments, educational institutions, nonprofit or-
11 ganizations, and commercial organizations, as may
12 be necessary and proper to carry out the Adminis-
13 tration's functions under this Act or as otherwise
14 provided by law.
15 (b) ASSISTANT SECRETARY FOR OCEANS AND AT-
16 MOSPHERE.—
17 (1) IN GENERAL.—There shall be, as Deputy
18 Administrator of the Administration, an Assistant
19 Secretary of Commerce for Oceans and Atmosphere.
20 The Assistant Secretary shall be appointed by the
21 President, by and with the advice and consent of the
22 Senate. The Assistant Secretary shall be the Admin-
23 istrator's first assistant for purposes of subchapter
24 III of chapter 33 of title 5, United States Code. The

1 Assistant Secretary shall be paid at the rate of basic
2 pay for level IV of the Executive Schedule.
3 (2) FUNCTIONS.—The Assistant Secretary shall
4 perform such functions and exercise such powers as
5 the Secretary or Administrator may prescribe and
6 shall act as Administrator during the absence or dis-
7 ability of the Administrator or in the event of a va-
8 cancy in the office of Administrator.
9 (c) DEPUTY UNDER SECRETARY FOR OCEANS AND
10 ATMOSPHERE.—
11 (1) IN GENERAL.—There shall, be as the Chief
12 Operating Officer of the Administration, a Deputy
13 Under Secretary of Commerce for Oceans and At-
14 mosphere. The Deputy Under Secretary shall be ap-
15 pointed by the Secretary. The position of Deputy
16 Under Secretary shall be a Senior Executive Service
17 position authorized under section 3133 of title 5,
18 United States Code.
19 (2) FUNCTIONS.—The Deputy Under Sec-
20 retary—
21 (A) shall ensure the timely and effective
22 implementation of Administration policies and
23 objectives;
24 (B) shall be responsible for all aspects of
25 the Administration's operations and manage-

1 ment, including budget, financial operations, in-
2 formation services, facilities, human resources,
3 procurements, and associated services;
4 (C) in the absence or disability of the As-
5 sistant Secretary, or in the event of a vacancy
6 in such position, shall act in that position; and
7 (D) shall perform such other duties as the
8 Administrator shall prescribe.
9 (d) DEPUTY ASSISTANT SECRETARY FOR OCEANS
10 AND ATMOSPHERE.—
11 (1) IN GENERAL.—There shall be in the Admin-
12 istration a Deputy Assistant Secretary for Oceans
13 and Atmosphere. The Deputy Assistant Secretary
14 for Oceans and Atmosphere shall be appointed by
15 the Secretary. The position of Deputy Assistant Sec-
16 retary for Oceans and Atmosphere shall be a Senior
17 Executive Service position authorized under section
18 3133 of title 5, United States Code.
19 (2) FUNCTIONS.—The Deputy Assistant Sec-
20 retary for Oceans and Atmosphere—
21 (A) shall serve as an advisor to the Admin-
22 istrator on program and policy issues related to
23 environmental policy, strategic planning, and
24 program analysis;

1 (B) shall ensure the timely and effective
2 implementation of Administration policies and
3 objectives related to environmental policy, stra-
4 tegic planning, and program analysis; and
5 (C) shall perform such other duties as the
6 Administrator shall prescribe.
7 (c) DEPUTY ASSISTANT SECRETARY FOR SCIENCE,
8 TECHNOLOGY, EDUCATION, AND OUTREACH.—
9 (1) IN GENERAL.—There shall be in the Admin-
10 istration a Deputy Assistant Secretary for Science,
11 Technology, Education, and Outreach, who shall co-
12 ordinate and oversee the science and technology ac-
13 tivities of the Administration and ensure that Ad-
14 ministration decisions are informed by the results of
15 appropriate and relevant research. The Deputy As-
16 sistant Secretary for Science, Technology, Edu-
17 cation, and Outreach shall be appointed by the Sec-
18 retary. The position of Deputy Assistant Secretary
19 for Science, Technology, Education, and Outreach
20 shall be a Senior Executive Service career reserved
21 position as defined in section 3132(a)(8) of title 5,
22 United States Code.
23 (2) FUNCTIONS.—The Deputy Assistant Sec-
24 retary for Science, Technology, Education, and Out-
25 reach shall—

1 (A) coordinate research and development
2 activities across the Administration, including
3 coordination of research and development budg-
4 ets;
5 (B) advise the Administrator on how re-
6 search activities can be applied to operational
7 use;
8 (C) provide advice to the Administrator re-
9 garding science and technology issues and their
10 relationship to Administration policies, proce-
11 dures, and decisions;
12 (D) participate in developing the Adminis-
13 tration's strategic plans and policies and review
14 the science and technology aspects of those
15 plans and policies;
16 (E) develop and oversee guidelines for the
17 dissemination to the public of results from re-
18 search and development conducted, sponsored,
19 or cited by the Administration;
20 (F) serve as liaison to the nongovern-
21 mental science and technology community;
22 (G) develop and oversee guidelines for peer
23 review of science and technology research spon-
24 sored by the Administration;

1 (H) oversee implementation of the stra-
2 tegic plan for science and technology research,
3 development, and demonstration required under
4 section 10(b);
5 (I) oversee management of research labora-
6 tories in the Administration;
7 (J) oversee the research and education
8 programs of the Administration; and
9 (K) perform such other duties as the Sec-
10 retary or Administrator shall prescribe.
11 (3) QUALIFICATIONS.—An individual appointed
12 under paragraph (1) shall be a person who has an
13 outstanding science and technology background, in-
14 cluding research accomplishments, scientific reputa-
15 tion, and public policy experience.
16 (4) CONSULTATION.—Before appointing an in-
17 dividual under paragraph (1), the Secretary shall
18 consult with the National Academy of Sciences, the
19 Science Advisory Board of the Administration, and
20 other appropriate scientific organizations.
21 (f) GENERAL COUNSEL.—
22 (1) IN GENERAL.—There shall be in the Admin-
23 istration a General Counsel. The General Counsel
24 shall be appointed by the Secretary. The General

1 Counsel shall be paid at the rate of basic pay for
2 level V of the Executive Schedule.
3 (2) FUNCTIONS.—The General Counsel—
4 (A) shall serve as the chief legal officer of
5 the Administration for all legal matters that
6 arise in connection with the conduct of the
7 functions of the Administration; and
8 (B) shall perform such other functions and
9 exercise such powers as the Secretary or Ad-
10 ministrator may prescribe.
11 (g) CONTINUATION OF SERVICE.—Any individual
12 serving on the effective date of this Act in a position pro-
13 vided for in this Act may continue to serve in that position
14 until a successor is appointed under this Act. Nothing in
15 this Act shall be construed to require the appointment of
16 a successor under this Act sooner than would have been
17 required under law as in effect before the effective date
18 of this Act.
19 **SEC. 5. NATIONAL WEATHER SERVICE.**
20 (a) IN GENERAL.—The Secretary shall maintain
21 within the Administration a National Weather Service.
22 (b) MISSION.—The mission of the National Weather
23 Service is to provide weather, water, climate, and space
24 weather forecasts and warnings for the United States, its
25 territories, adjacent waters, and ocean areas for the pro-

1 tection of life and property and the enhancement of the
2 national economy.
3 (c) GOALS.—The goals of the National Weather Serv-
4 ice shall include—
5 (1) to provide timely and accurate weather,
6 water, climate, and space weather forecasts; and
7 (2) to provide timely and accurate warnings of
8 weather, water, and climate natural hazards, and of
9 space weather hazards.
10 (d) FUNCTIONS.—The functions of the National
11 Weather Service shall include—
12 (1) maintaining a network of local weather fore-
13 cast offices;
14 (2) maintaining a network of observation sys-
15 tems to collect weather and climate data;
16 (3) operating national centers to deliver guid-
17 ance, forecasts, warnings, and analysis about weath-
18 er, water, climate, and space weather phenomena for
19 the Administration and the public;
20 (4) conducting and supporting applied research
21 to facilitate the rapid incorporation of weather and
22 climate science advances into operational tools; and
23 (5) other functions to serve the mission of the
24 National Weather Service.

1 (c) PUBLIC-PRIVATE PARTNERSHIPS.—Not less than
2 once every 5 years, the Secretary shall develop and submit
3 to Congress a policy the defines processes for making deci-
4 sions about the roles of the National Weather Service, the
5 private sector, and the academic community in providing
6 weather-related and climate-related products, tech-
7 nologies, and services. The first such policy shall be com-
8 pleted not less than 12 months after the date of enactment
9 of this Act. At least 90 days before each submission of
10 the policy to Congress, the Secretary shall publish the pol-
11 icy in the Federal Register for a public comment period
12 of not less than 60 days.

13 **SEC. 6. OPERATIONS AND SERVICES.**

14 (a) IN GENERAL.—The Secretary shall maintain
15 within the Administration programs to support operations
16 of ongoing data collection and direct services and products
17 regarding satellite, observations, and coastal, ocean, and
18 Great Lakes information.

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

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

1 (2) ensuring the availability of a global Earth-
2 observing system, integrating remote sensing and in
3 situ assets that provide critical data needed to sup-
4 port the mission of the Administration, and pro-
5 viding that data to decisionmakers and the public;
6 (3) developing, acquiring, and managing oper-
7 ational environmental satellite constellations and as-
8 sociated ground control and data acquisition facili-
9 ties to support the mission of the Administration;
10 (4) managing and distributing atmospheric,
11 geophysical, and marine data and data products for
12 the Administration through national environmental
13 data centers;
14 (5) providing for long-term stewardship of envi-
15 ronmental data, products, and information via data
16 processing, storage, reanalysis, reprocessing, and ar-
17 chive facilities;
18 (6) promoting widespread availability of envi-
19 ronmental data and information through full and
20 open access and exchange to the greatest extent pos-
21 sible;
22 (7) issuing licenses for private remote sensing
23 space systems under the Land Remote Sensing Pol-
24 icy Act of 1992;

1 (8) administering a national water level obser-
2 vation network, which shall include monitoring of
3 the Great Lakes;
4 (9) providing charts and other information for
5 safe navigation of the oceans and inland waters, as
6 provided by law; and
7 (10) such other functions to serve the oper-
8 ations and services mission of the Administration as
9 the Administrator may prescribe.

10 **SEC. 7. RESEARCH AND EDUCATION.**

11 (a) IN GENERAL.—The Secretary shall maintain
12 within the Administration programs to conduct and sup-
13 port research and education and the development of tech-
14 nologies relating to weather, climate, and the coasts,
15 oceans, and Great Lakes.
16 (b) FUNCTIONS.—To accomplish the mission de-
17 scribed in section 3(b), and in addition to the functions
18 described in section 3(c), the research and education as-
19 pects of the Administration shall include—
20 (1) conducting and supporting research and
21 technology development to improve the Administra-
22 tion's capabilities in collecting, through observation
23 and otherwise, communicating, analyzing, proc-
24 essing, and disseminating comprehensive scientific

1 data and information about weather, climate, and
2 the coasts, oceans, and Great Lakes;
3 (2) improving environmental prediction and
4 management capabilities through ecosystem-based
5 research and development;
6 (3) improving knowledge of Earth's climate and
7 related systems through research and observation for
8 decision support;
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 functions to serve the research,
4 development, education, and outreach mission of the
5 Administration as the Administrator may prescribe.
6 **SEC. 8. SCIENCE ADVISORY BOARD.**
7 (a) IN GENERAL.—There shall be within the Admin-
8 istration a Science Advisory Board, which shall provide
9 such scientific advice as may be requested by the Adminis-
10 trator, the Committee on Commerce, Science and Trans-
11 portation of the Senate, or the Committee on Science or
12 on Resources of the House of Representatives.
13 (b) PURPOSE.—The purpose of the Science Advisory
14 Board is to advise the Administrator and Congress on
15 long-range and short-range strategies for research, edu-
16 cation, and the application of science to resource manage-
17 ment and environmental assessment and prediction.
18 (c) MEMBERS.—
19 (1) IN GENERAL.—The Science Advisory Board
20 shall be composed of at least 15 members appointed
21 by the Administrator. Each member of the Board
22 shall be qualified by education, training, and experi-
23 ence to evaluate scientific and technical information
24 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 upon request
14 by the member may be allowed travel expenses, in-
15 cluding per diem in lieu of subsistence, in accord-
16 ance with subchapter I of chapter 57 of title 5,
17 United States Code.
18 (5) SUBCOMMITTEES.—The Science Advisory
19 Board may establish such subcommittees of its
20 members as may be necessary. The Science Advisory
21 Board may establish task forces and working groups
22 consisting of Board members and outside experts as
23 may be necessary.

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

4 **SEC. 9. REPORTS.**

5 (a) REPORT ON DATA MANAGEMENT, ARCHIVAL,
6 AND DISTRIBUTION.—

7 (1) CONTENTS.—Not later than 1 year after
8 the date of enactment of this Act, and once every 5
9 years thereafter, the Administrator shall develop a
10 report on the environmental data and information
11 systems of the Administration. The report shall in-
12 clude—

13 (A) an assessment of the adequacy of the
14 environmental data and information systems of
15 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 and other appropriate
21 departments and agencies;

22 (ii) establish, develop, and maintain
23 information bases, including necessary
24 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; and
20 (B) a strategic plan to—
21 (i) set forth modernization and im-
22 provement objectives for an integrated na-
23 tional environmental data access and ar-
24 chive system for the 10-year period begin-
25 ning with the year in which the plan is

1 transmitted, including facility requirements
2 and critical new technology components
3 that would be necessary to meet the objec-
4 tives set forth;
5 (ii) propose specific Administration
6 programs and activities for implementing
7 the plan;
8 (iii) identify the data and information
9 management, reanalysis, reprocessing, ar-
10 chival, and distribution responsibilities of
11 the Administration with respect to other
12 Federal departments and agencies and
13 international organizations; and
14 (iv) provide an implementation sched-
15 ule and estimate funding levels necessary
16 to achieve modernization and improvement
17 objectives.
18 (2) NATIONAL ACADEMY OF SCIENCES RE-
19 VIEW.—The Administrator shall enter into an ar-
20 rangement with the National Academy of Sciences
21 for a review of the plan developed under paragraph
22 (1).
23 (3) 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 report developed
4 under paragraph (1) and the review prepared pursu-
5 ant to paragraph (2). Subsequent reports developed
6 under paragraph (1) shall also be transmitted to
7 those committees.
8 (b) STRATEGIC PLAN FOR SCIENTIFIC RESEARCH.—
9 (1) CONTENTS.—Not later than 1 year after
10 the date of enactment of this Act, and once every 5
11 years thereafter, the Administrator shall develop a
12 strategic plan for science and technology research
13 and development at the Administration. The plan
14 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 (B) a strategic plan for coordinating re-
21 search and development activities across the
22 Administration to meet the needs identified in
23 subparagraph (A); and
24 (C) a description of how the Administra-
25 tion plans to utilize extramural, peer-reviewed

1 competitive grant programs to meet its research
2 needs.
3 (2) NATIONAL ACADEMY OF SCIENCES RE-
4 VIEW.—The Administrator shall enter into an ar-
5 rangement with the National Academy of Sciences
6 for a review of the plan developed under paragraph
7 (1).
8 (3) TRANSMITTAL TO CONGRESS.—Not later
9 than 18 months after the date of enactment of this
10 Act, the Administrator shall transmit to the Com-
11 mittee on Commerce, Science, and Transportation of
12 the Senate and the Committee on Science of the
13 House of Representatives the initial report developed
14 under paragraph (1) and the review prepared pursu-
15 ant to paragraph (2). Subsequent reports developed
16 under paragraph (1) shall also be transmitted to
17 those committees.

18 **SEC. 10. EFFECT OF REORGANIZATION PLAN.**

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

21 **SEC. 11. SAVINGS PROVISION.**

22 All rules and regulations, determinations, standards,
23 contracts, certifications, authorizations, appointments,
24 delegations, results and findings of investigations, and
25 other actions duly issued, made, or taken by or pursuant

1 to or under the authority of any statute which resulted
2 in the assignment of functions or activities to the Sec-
3 retary, the Department of Commerce, the Under Secretary
4 of Commerce for Oceans and Atmosphere, the Adminis-
5 trator, or any other officer of the Administration, that is
6 in effect immediately before the date of enactment of this
7 Act, shall continue in full force and effect after the effec-
8 tive date of this Act until modified or rescinded. All suits,
9 appeals, judgements, and proceedings pending on such ef-
10 fective date relating to responsibilities or functions trans-
11 ferred under this Act shall continue without regard to such
12 transfers, except for the transfer of responsibilities or
13 functions. Any reference in law to a responsibility, func-
14 tion, or office transferred under this Act shall be deemed
15 to refer to the responsibility, function, or office as so
16 transferred.

17 **SEC. 12. TRANSITION.**

18 (a) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2) the provisions of this Act shall become ef-
21 fective 2 years after the date of enactment of this
22 Act.

23 (2) EXCEPTIONS.—Paragraph (1) shall not
24 apply to sections 9 or 13, or to subsection (b) of this
25 section.

1 (b) REORGANIZATION.—Not later than 18 months
2 after the date of enactment of this Act, the Administrator
3 shall transmit a plan and budget proposal to Congress set-
4 ting forth a proposal for program and Administration re-
5 organization for the program areas outlined in this Act.

6 **SEC. 13. FACILITY EVALUATION PROCESS.**

7 (a) PUBLIC NOTIFICATION AND ASSESSMENT PROC-
8 ESS.— The Administrator shall not close, consolidate, re-
9 locate, subdivide, or establish a facility of the Administra-
10 tion unless the Administrator has completed a public noti-
11 fication and assessment process that includes—

12 (1) publication in the Federal Register of the
13 proposed action and a description of the offices, per-
14 sonnel, and activities of the Administration that
15 would be impacted by the proposed change, and pro-
16 viding for a minimum of 60 days for public com-
17 ment;

18 (2) review of the proposed change by the
19 Science Advisory Board of the Administration, if the
20 proposed change involves a science facility of the Ad-
21 ministration, and preparation of a summary of their
22 findings regarding the proposed change;

23 (3) preparation by the Administrator of an
24 analysis of the anticipated costs and savings associ-
25 ated with the proposed facility change, including

1 both initial costs and savings associated with the
2 change and changes in operations and maintenance
3 costs and savings over a ten year period; and
4 (4) preparation by the Administrator of an
5 analysis of the effects of the facility change on oper-
6 ations and research of the Administration, and the
7 potential impacts on cooperative institutes, other ex-
8 ternal Administration partnerships, partnerships
9 with other Federal agencies, and any State and local
10 partnerships.
11 (b) NOTICE TO CONGRESS.—The Administrator shall
12 provide to Congress, at least 90 days before any closure,
13 consolidation, relocation, subdivision, or establishment of
14 a facility of the Administration, a summary of the public
15 comments received pursuant to subsection (a)(1), any
16 summary prepared under subsection (a)(2), and the anal-
17 yses prepared under subsection (a)(3) and (4), .
18 (c) WEATHER SERVICE MODERNIZATION.—Nothing
19 in this section shall alter procedures established under the
20 Weather Service Modernization Act (15 U.S.C. 313 note).
21 (d) DEFINITION.—For purposes of this section, the
22 term "facility" means a laboratory, operations office, ad-
23 ministrative service center, or other establishment of the

1 Administration with an annual budget of $1,000,000 or
2 greater.

○

SECTION-BY-SECTION ANALYSIS OF H.R. 50,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

Section 1. Short Title.

The short title of this Act is the "National Oceanic and Atmospheric Administration Act."

Section 2. Definitions.

Defines terms used in the Act.

Section 3. National Oceanic and Atmospheric Administration.

Establishes the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce and describes the mission and functions of NOAA.

Section 4. Administration Leadership.

Describes the leadership structure of NOAA, including a new position of a Deputy Assistant Secretary for Science, Technology, Education and Outreach, who shall be responsible for coordinating and managing all research activities across the agency, and must be a career position. Also, this section designates the Deputy Under Secretary for Oceans and Atmosphere as the Chief Operating Officer of the Administration, responsible for the day-to-day aspects of the Administration's operations and management.

Section 5. National Weather Service.

Directs the Secretary of Commerce to maintain a National Weather Service within NOAA.

Section 6. Operations and Services.

Directs the Secretary to maintain programs within NOAA to support operational and service functions. These functions would include all the activities of NOAA's National Environmental Satellite Data and Information Service (NESDIS) and the mapping and charting activities of the National Ocean Service.

Section 7. Research and Education.

Directs the Secretary to maintain programs within NOAA to conduct and support research and education functions.

Section 8. Science Advisory Board.

Establishes a Science Advisory Board for NOAA, which would provide scientific advice to the Administrator and to Congress on issues affecting NOAA.

Section 9. Reports.

Requires two reports from the Secretary. Each report is to be delivered to Congress within 18 months of the date of enactment of the Act. One report should assess the adequacy of the environmental data and information systems of NOAA and provide a strategic plan to address any deficiencies in those systems. The other report must provide a strategic plan for research at NOAA. The National Academy of Sciences (NAS) shall review each report prior to delivery to Congress.

Section 10. Effect of Reorganization Plan.

Repeals the Executive Order that established NOAA in 1970.

Section 11. Savings Provision.

Provides that all rules and regulations, and other technical legal topics that were previously assigned to the Administration, remain in effect under this Act.

Section 12. Transition.

Makes the effective date of the Act two years after the date of enactment and requires NOAA to reorganize around the themes outlined in sections five through seven.

Section 13. Facility Evaluation Process.

Provides that NOAA cannot expend funds to close or transfer a facility without a 60-day public comment period, 90 days notification to Congress, review by the Science Advisory Board (if appropriate), preparation of anticipated costs and savings, and preparation of a statement of the impacts of the facility change on NOAA and its part

COMMITTEE ON SCIENCE

SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS
March 15, 2005
1 p.m. – 2318 RHOB

AMENDMENT ROSTER

H.R. 50, National Oceanic and Atmospheric Administration Act

- **Motion to adopt the bill, as amended: Agreed to by a voice vote**
- **Motion to report the bill, as amended, to Full Committee: Agreed to by a voice vote**

No.	Sponsor	Description	Results
1	Mr. Wu	En bloc amendment	Adopted by a voice vote.

AMENDMENT TO H.R. 50
OFFERED BY MR. WU OF OREGON

Page 6, line 14, insert "The authority conferred on the Administrator by this paragraph does not include the authority to contract for services that are an inherently governmental function as defined in section 5 of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note)." after "provided by law.".

Page 25, line 23, insert "including collective bargaining agreements," after "contracts,".

Page 27, line 5, insert "The plan shall be developed in consultation with interested parties, including representatives of the States, academia, industry, conservation organizations, and Administration employees. The draft plan shall be published in the Federal Register for public notice and comment at least 60 days prior to final submission to Congress." after "outlined in this Act.".

PROCEEDINGS OF THE FULL COMMITTEE MARKUP ON H.R. 50, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

TUESDAY, MAY 17, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met, pursuant to call, at 10:08 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Sherwood L. Boehlert [Chairman of the Committee] presiding.

Chairman BOEHLERT. I want to welcome everyone here today for this markup of bills concerning the heavens and the Earth and to the agencies that explore them, NOAA and NASA.

Now let me just say this before I give you the rest of this wonderful statement.

The Committee on Science will come to order. Pursuant to notice, the Committee on Science meets to consider the following measures: H.R. 50, *National Oceanic and Atmospheric Administration Act;* H.R. 2363, *To establish a Science and Technology Scholarship Program to award scholarships to recruit and prepare students for careers in the National Weather Service and in the National Oceanic and Atmospheric Administration marine research, atmospheric research, and satellite programs;* H.R. 426, *Remote Sensing Applications Act of 2005,* and H.R. 1022, the *George E. Brown, Jr. Near-Earth Object Survey Act.*

I ask unanimous consent for the authority to recess the Committee at any point during consideration of these matters, and without objection, it is so ordered.

We will now proceed with the markup beginning with the opening statements, and I will continue mine.

The main bill before us today is the *NOAA Organic Act* introduced by Dr. Ehlers, which we had initially planned to markup last week. This bill will give NOAA a firm legislative grounding, something that was called for by the Ocean Commission, among others. The Administration has also called for an Organic Act for NOAA.

But our bill will do more than merely found NOAA into law. It will raise the profile of science at NOAA and improve its management. The bill also will greatly improve oversight of the agency by ensuring that Congress and the public get the information needed to evaluate NOAA's organizational structure, facilities plans, budgeting, and satellite programs. This is a solid bill that will strengthen the agency.

And now we look forward to working with the Resources Committee, which shares jurisdiction over portions of NOAA, to get this bill to the Floor. Also related to NOAA, we will take up Congressman Rohrabacher's bill to create a Scholarship for Service Program at NOAA. And he is a real leader on that effort, and we applaud that. We have done the same thing with NASA and the Department of Energy. Service scholarships are a great way to entice students into science, math, and engineering while also helping the Federal Government develop the workforce it will need. These scholarships have been championed tirelessly by Congressman Rohrabacher, and I congratulate him for that.

We are running the scholarship program through as a separate bill, because specific program authorizations generally are not part of agency Organic Acts. We will also take up two bills related to space today. These were last-minute additions to today's roster, which is something we have generally avoided on this committee. But this seemed like an opportune time to move these bills, and we continue to work on them through manager's amendments on the Floor.

Mr. Udall's bill, which the Committee also passed last Congress, concerns remote sensing. Mr. Udall will offer an amendment that will take care of concerns raised by companies in the remote sensing data business, concerns that have stymied progress on this bill in the past. I know that Mr. Bonner and I, perhaps some others, have some further ideas for perfecting the bill, and we will work on those as the bill moves forward.

Mr. Rohrabacher's bill focuses on near-Earth objects, a subject that has long concerned him and has gotten quite a bit of publicity lately. Congressman Rohrabacher has helped us all understand that asteroids may present a real threat to Earth and that we need to pay greater attention to them. All of these bills will improve our lives through increasing our understanding of the Earth, how it works, and what may threaten it.

As usual, these bills represent a bipartisan effort, and I take pride in that. I look forward to their passage.

The Chair recognizes Mr. Gordon.

Mr. Gordon.

[The prepared statement of Chairman Boehlert follows:]

PREPARED STATEMENT OF CHAIRMAN SHERWOOD L. BOEHLERT

I want to welcome everyone here today for this markup of bills concerning the heavens and the Earth—and to the agencies that explore them, NOAA and NASA.

The main bill before us today is the *NOAA Organic Act,* introduced by Dr. Ehlers, which we had initially planned to mark up last week. This bill will give NOAA a firm legislative grounding, something that was called for by the Ocean Commission among others. The Administration has also called for an Organic Act for NOAA.

But our bill will do more than merely found NOAA in law. It will raise the profile of science at NOAA and improve its management. The bill also will greatly improve oversight of the agency by ensuring that Congress—and the public—get the information needed to evaluate NOAA's organizational structure, facilities plans, budgeting and satellite programs. This is a solid bill that will strengthen the agency.

And now we look forward to working with the Resources Committee, which shares jurisdiction over portions of NOAA, to get this bill to the Floor.

Also related to NOAA, we will take up Congressman Rohrabacher's bill to create a scholarship for service program at NOAA, as we have at NASA and the Department of Energy. Service scholarships are a great way to entice students into science, math and engineering while also helping the Federal Government develop the work-

force it will need. These scholarships have been championed tirelessly by Congressman Rohrabacher, and I congratulate him for that.

We are running the scholarship program through as a separate bill because specific program authorizations generally are not part of agency organic acts.

We will also take up two bills related to space today. These were last minute additions to today's roster, which is something we have generally avoided on this committee. But this seemed like an opportune time to move these bills, and we can continue to work on them through manager's amendments on the Floor.

Mr. Udall's bill, which the Committee also passed last Congress, concerns remote sensing. Mr. Udall will offer an amendment that will take care of concerns raised by companies in the remote sensing data business—concerns that have stymied progress on this bill in the past. I know that Mr. Bonner and I and perhaps some others have some further ideas for "perfecting" the bill, and we will work on those as the bill moves forward.

Mr. Rohrabacher's bill focuses on Near-Earth Objects, a subject that has long concerned him and that has gotten quite a bit of press lately. Congressman Rohrabacher has helped us all understand that asteroids may present a real threat to Earth and that we need to pay greater attention to them.

All of these bills will improve our lives through increasing our understanding of the Earth, how it works and what may threaten it. As usual, these bills represent a bipartisan effort. I look forward to their passage.

Mr. Gordon.

Mr. GORDON. Thank you, Mr. Chairman. You have summed up what we are going to do this morning very well. I just want to concur that it is a good idea, I think, to take up these additional three bills today, and I want to give my thanks to the staff on both sides for the good cooperative work that they have done over the last week in trying to bring NOAA together as well as these three bills, and I look forward to the markup.

And I yield my time back.

[The prepared statement of Mr. Gordon follows:]

PREPARED STATEMENT OF REPRESENTATIVE BART GORDON

I want to thank the Chairman for scheduling this markup.

Originally we were to just take up H.R. 50 today, but I think it is to the advantage of our Members that we will expeditiously take up three other bills, all of which can probably move on suspension on the Floor.

In addition to the NOAA organic act, I am especially pleased to see the Remote Sensing Act move through Committee. We have dealt with this in past Congresses and I am happy the Chairman agrees that we can move that bill forward today.

I don't want to delay the process here this morning with an extensive preliminary statement, but let me take a moment to thank staff on both sides of the aisle for their work to handle these bills. I think the Members have been well served through their efforts.

With that, I yield back, Mr. Chairman.

Chairman BOEHLERT. Thank you very much.

Without objection, Members may place statements in the record at this point.

[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF REPRESENTATIVE DAVID WU

Good morning, everyone. Mr. Chairman, I am pleased to be here today to participate in the Science Committee's markup of H.R. 50. I appreciate your interest in moving forward to develop legislation that will provide NOAA with the statutory foundation to guide its missions and functions.

NOAA is this nation's lead agency charged with conserving and managing our coastal and oceanic resources. NOAA also plays a vital role in public safety through the programs of the National Weather Service to issue weather forecasts and warnings. We must ensure that NOAA has the resources and authorities it needs to meet its statutory responsibilities and to accomplish its resource management and public safety missions. H.R. 50 makes a good start on this effort, and we want to continue

to work with Chairman Boehlert and the majority on the dollar figures for facility changes.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF REPRESENTATIVE SHEILA JACKSON LEE

Mr. Chairman,

The *National Oceanic and Atmospheric Administration Act* is an important piece of legislation that deserves strong consideration along with the appropriate Amendments. NOAA was created through the merger of a number of organizations in the 1970s. However, it still has no legislation that establishes it as an Agency or formally defines it missions.

The legislation before this committee today will help to refine the mission of NOAA and allow the agency to succeed in the future. Specifically, the legislation authored by my colleague Mr. Ehlers will define broad mission areas and general authorities and to codify the existing primary administrative positions at NOAA. Based upon text from the Ocean Commission report this bill defines the mission and function of NOAA. The bill codifies the current senior positions of the agency: Administrator/Under Secretary of Commerce for Oceans and Atmosphere and the Assistant Secretary for Oceans and Atmosphere. The current positions of Deputy Under Secretary and Deputy Assistant Secretary for Oceans and Atmosphere are also specifically authorized and Deputy Assistant Secretary for International Affairs.

Among the provisions I am most supportive of is Section 5 of the bill which calls upon NOAA to maintain the National Weather Service as a distinct entity. The National Weather Service Employees Organization (NWSEO) is very supportive of this position. NWS forms a major part of NOAA's operational mission and I have long advocated that accurate weather forecasting is not only useful for planning purposes, but can also be used in possible life saving capacity as the technology continues to develop.

This legislation needs to be clearer on certain issues; I am especially concerned about the issue of separation between the mission of NOAA and the Earth science programs at NASA. As we heard last week from testimony provided by Mr. Diaz of NASA at last week's Full Committee hearing, he indicated NASA's plan for a number of their missions (Landsat, Glory) will be to transfer these Earth science programs to NOAA. In addition, the Ocean Commission Report suggests that NOAA should take on NASA's Earth sciences programs. Firstly, I am against the idea that Earth science programs should be diminished at NASA. Secondly, NOAA's budget cannot absorb these programs in its current budget. The current mission statement in the bill does create overlap with the mission statement for NASA. Clarifying language should be inserted to ensure that these necessary Earth science programs are continued in one fashion or another.

Again, I believe this legislation is pertinent and should be implemented with due consideration for all amendments. NOAA deserves to have proper mission which is achievable under the right parameters.

Thank you.

Chairman BOEHLERT. We will now consider H.R. 50, *National Oceanic and Atmospheric Administration Act.* I recognize Dr. Ehlers to present some introductory remarks.

Mr. EHLERS. Thank you, Mr. Chairman, for the opportunity to explain my bill.

This is certainly an important bill, and I say that not because I have a large ego, but because it is very rare that we have an opportunity to pass an organic act through this committee. And this bill, H.R. 50, establishes an organic act for NOAA, the *National Oceanic and Atmospheric Administration Act.*

An organic act defines the overall mission and functions of an agency. As an example, my bill states that the mission of NOAA is to, first, understand and predict changes in the Earth's oceans and atmosphere; second, conserve and manage coastal, ocean, and

Great Lakes ecosystems; and third, educate the public about these topics.

NOAA was created in 1970 by an Executive Order that placed the agency in the Department of Commerce and transferred various oceanic and atmospheric functions from other agencies into the new NOAA. Since that time, NOAA has operated under a confusing collection of issue-specific laws that are not coordinated by an overarching mission, therefore, the need for an organic act.

In September 2004, the U.S. Commission on Ocean Policy released its final report, which called for Congress to pass an organic act for NOAA and clarify in one place the mission and program goals of the agency. The Bush Administration supports Congressional passage of a NOAA and organic act and made it a priority in the Administration formal response to the Ocean Commission report. In the 108th Congress, witnesses at Science Committee hearings strongly endorsed this bill.

Today, I will offer a manager's amendment, which makes technical corrections and reflects negotiations with the minority. I will explain the amendment further when it is offered.

I should note that H.R. 50 contains little language about fisheries management at NOAA, because that topic is under the jurisdiction of the Resources Committee, and in particular, the jurisdiction of the Subcommittee chaired by my colleague from Maryland, Mr. Gilchrest.

I look forward to working with the Members of that committee to join us in passing truly comprehensive legislation for NOAA. I urge my colleagues today to support H.R. 50, and I yield back the balance of my time.

[The prepared statement of Mr. Ehlers follows:]

PREPARED STATEMENT OF REPRESENTATIVE VERNON J. EHLERS

Thank you, Mr. Chairman, for the opportunity to explain my bill. H.R. 50, the *National Oceanic and Atmospheric Administration Act,* is an organic act for NOAA. An organic act defines the overall mission and functions of an agency. As an example, my bill states that the mission of NOAA is to:

(1) understand and predict changes in the Earth's oceans and atmosphere;

(2) conserve and manage coastal, ocean, and Great Lakes ecosystems; and

(3) educate the public about these topics.

NOAA was created in 1970 by an executive order that placed the agency in the Department of Commerce and transferred various oceanic and atmospheric functions from other agencies into the new NOAA. Since that time, NOAA has operated under a confusing collection of issue-specific laws that are not coordinated by an overarching mission.

In September 2004, the U.S. Commission on Ocean Policy released its final report, which called for Congress to pass an organic act for NOAA and clarify in one place the mission and program goals of the agency. The Bush Administration supports Congressional passage of a NOAA organic act, and made it a priority in the Administration formal response to the Ocean Commission report. In the 108th Congress witnesses at Science Committee hearings strongly endorsed my bill.

Today I will offer a manager's amendment which makes technical corrections and reflects negotiations with the minority. I will explain the amendment further when it is offered.

I should note that H.R. 50 contains little language about fisheries management at NOAA because that topic is under the jurisdiction of the Resources Committee, in particular the Subcommittee chaired by my colleague from Maryland, Mr. Gilchrest. I look forward to working with the Members of that committee to join us in passing truly comprehensive legislation for NOAA. I urge my colleagues to support H.R. 50, and I yield back the balance of my time.

Chairman BOEHLERT. Thank you very much, Dr. Ehlers, and a special thanks from all of us for your hard work to bring us to the point where we find ourselves today.

Mr. Gordon.

Mr. GORDON. Thank you, Mr. Chairman.

Once again, let me say that I think Mr. Ehlers has done a good job in evaluating this bill, and I want to thank him for the work with his staff in putting it together.

A couple of concerns I do have, though, is that we are still trying to determine what is an appropriate value to be triggering the review process. The bill has a $5 million limit, but I think the Committee needs to do some more work on this to make sure that that really is a valid number, and I am sure we will be doing that before it goes to the Floor. And I do appreciate Mr. Ehlers' work in the past.

Finally, let me just say that the bill defines a broad mission for NOAA to allow this agency to grow and change as needed to serve our resource needs as our nation grows and changes. However, I do not believe the broadly-defined mission in this bill should serve as an invitation to this or future Administrations to transfer programs from other agencies to NOAA without sufficient planning and adequate funding. And I think that is very important.

We look forward to working with you and our colleagues on the Committee of Resources as this bill continues to move forward, and I yield back my time.

[The prepared statement of Mr. Gordon follows:]

PREPARED STATEMENT OF REPRESENTATIVE BART GORDON

Thank you, Mr. Chairman for bringing H.R. 50 before the Committee this morning. I would also like to thank Rep. Ehlers for introducing the *NOAA Organic Act.*

I recognize H.R. 50 is not yet a true organic act for NOAA. The bill does not include important authorities and functions in fisheries, coastal zone management, ocean mapping and charting, and a number of other important operations that are in the jurisdiction of the Committee on Resources.

This committee's programs, however, are well-treated in this legislation. I am especially pleased that we are including explicit language to ensure that the structure and function of the National Weather Service remains unchanged.

The 3,700 employees of the National Weather Service fulfill a vital public safety mission across this nation everyday in cooperation with the network of professionals in the private sector.

We have worked well together on language to try to establish a regular procedure for proposed changes in NOAA facilities. However, I want to keep working to understand what an appropriate dollar value is to trigger that review process. The bill has $5 million, but I think the Committee needs to do more work before this bill gets to the floor to understand all the implications of this language. We do have some information from NOAA on this, but since they prefer the $5 million number I think we need to double check some of that information.

We have achieved steady improvements to our weather forecasting through investments in research and technology and the expansion of our system of weather observing satellites. We should ensure continued progress in weather forecasting and understanding the Earth's atmospheric and oceanic systems.

The bill defines a broad mission for NOAA to allow this agency to grow and change as needed to serve our resource needs as our nation grows and changes. However, I do not believe the broadly defined mission in this bill should serve as an invitation to this or a future Administration to transfer programs from other agencies to NOAA without sufficient planning and adequate funding.

We look forward to working with you and our colleagues on the Committee on Resources as this bill moves forward.

Chairman BOEHLERT. Thank you very much.

I ask unanimous consent that the bill be considered as read and open to amendment at any point and that Members proceed with the amendments in the order of the roster. Without objection, so ordered.

The first amendment on the roster is an amendment offered in the nature of a substitute offered by Dr. Ehlers. I ask unanimous consent that the amendment in the nature of a substitute be treated as original text for purposes of amendment under the five-minute rule. Without objection, so ordered.

Dr. Ehlers, are you ready to proceed?

Mr. EHLERS. Yes, Mr. Chairman.

This substitute amendment strengthens and clarifies certain sections of H.R. 50.

Chairman BOEHLERT. Excuse me, Dr. Ehlers.

The Clerk will report the amendment, and then we will hear the eloquent words of Dr. Ehlers.

Mr. EHLERS. I have an amendment at the desk.

Ms. TESSIERI. Amendment in the nature of a substitute to H.R. 50 offered by Mr. Ehlers of Michigan.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The gentleman is recognized for five minutes.

Mr. EHLERS. Thank you, Mr. Chairman.

This substitute amendment strengthens and clarifies certain sections of H.R. 50, as it was reported by the Environment, Technology, and Standards Committee. Specifically, as compared to the bill as reported, my amendment first provides technical clarification. It also provides additional authorities of the Administrator of NOAA, such as conducting education and outreach activities. It emphasizes NOAA's role in forecasting of and warning for tsunamis. It also provides for input from the National Academy of Sciences earlier in the process of NOAA developing its strategic plan for management of its environmental data and information systems. It requires NOAA to notify Congress when NOAA starts new satellite programs, encounters serious problems with, or makes major changes to existing satellite programs, and finally clarifies that nothing in the bill shall alter the responsibilities or authorities of other federal agencies.

These changes were developed after careful consultation with the Administration, outside experts, NOAA stakeholders, and other Members of this committee.

I urge my colleagues to support this substitute amendment for H.R. 50 and yield back the balance of my time.

[The prepared statement of Mr. Ehlers follows:]

PREPARED STATEMENT OF REPRESENTATIVE VERNON J. EHLERS

This substitute amendment strengthens and clarifies certain sections of H.R. 50 as it was reported by the Environment, Technology and Standards Committee.

Specifically, as compared to the bill as reported, my amendment:

- Provides technical clarifications;
- Provides additional authorities for the Administrator of the NOAA, such as conducting education and outreach activities;
- Emphasizes NOAA's role in forecasting of and warning for tsunamis;

- Provides for input from the National Academy of Sciences earlier in the process of NOAA developing its strategic plan for management of its environmental data and information systems;
- Requires NOAA to notify Congress when NOAA starts new satellite programs, encounters serious problems with or makes major changes to existing satellite programs; and
- Clarifies that nothing in the bill shall alter the responsibilities or authorities of other federal agencies.

These changes were developed after careful consultation with the Administration, outside experts, NOAA stakeholders, and other Members of this committee. I urge my colleagues to support this substitute amendment for H.R. 50 and yield back the balance of my time.

Chairman BOEHLERT. I want to thank Dr. Ehlers for his work on the bill, and the Chair supports his amendment.

Is there further discussion on the amendment?

Mr. UDALL. Mr. Chairman, I would move to strike the last word.

Chairman BOEHLERT. Who seeks recognition?

Mr. Udall, my distinguished colleague and good friend from Colorado.

Mr. UDALL. Thank you, Mr. Chairman.

I will be brief, I hope.

I am pleased to see some of the changes included in my good friend, Dr. Ehlers' amendment regarding the evaluation process for the closures, relocation, or consolidation of NOAA facilities. Particularly, I am pleased to see that the Congress must be notified if any NOAA facility will be closed, relocated, or consolidated. This covers 183 facilities that could have been closed without Congressional notification under the original definition of a facility as having a budget greater than $1 million.

I am also pleased that the language has been included to evaluate National Weather Service's field offices by involving a similar evaluation process used in the *National Weather Modernization Act.*

These are both good government provisions, and I am pleased that they have been included in Dr. Ehlers' amendment.

However, I would like to express my concern that there are at least 28 NOAA facilities with budgets between $1 million and $5 million. NOAA will merely have to notify Congress of closures, relocations, or consolidations of these facilities without going through an evaluation process. I do not believe that we know enough about how this will affect these 28 facilities at this time to set the number at $5 million.

While I do not want to try to amend this language in an effort to move the bill through Committee, I plan to continue to work on the issue in an effort to ensure that any changes to the organization of NOAA facilities is thoroughly evaluated and services are not degraded.

In conclusion, I would like to thank the Chairman and Dr. Ehlers for working with me on this issue, and I look forward to continuing this working relationship in the future as we move this bill forward.

With that, Mr. Chairman, I would yield back any time I have remaining. Thank you.

[The prepared statement of Mr. Udall follows:]

PREPARED STATEMENT OF REPRESENTATIVE MARK UDALL

Mr. Chairman, I move to strike the last word.

I am pleased to see some of the changes included in this amendment regarding the evaluation process for the closures, relocation, or consolidation of NOAA facilities.

Particularly, I am pleased to see that Congress must be notified if any NOAA facility will be closed, relocated or consolidated. This covers 183 facilities that could have been closed without Congressional notification under the original definition of a facility as having a budget greater than $1 million.

I am also pleased that language has been included to evaluate National Weather Services field offices by involving a similar evaluation process used in the National Weather Modernization Act.

These are both good government provisions and I am pleased they have been included in Mr. Ehlers amendment.

However, I would like to express my concern that there are at least 28 NOAA facilities with budgets between $1 and $5 million. NOAA will merely have to notify Congress of closures, relocations or consolidations of these facilities without going through an evaluation process.

I do not believe that we know enough about how this will affect these 28 facilities at this time to set the number at $5 million.

While I do not want to try to amend this language in an effort to move the bill through Committee, I plan to continue to work on issue in an effort to ensure that any changes to the organization of NOAA facilities is thoroughly evaluated and services are not degraded.

I would like to thank the Chairman and Mr. Ehlers for working with me on this issue and hope to continue this working relationship in the future.

With that Mr. Chairman, I yield back.

Chairman BOEHLERT. Thank you very much, Mr. Udall, and we will be glad to continue our work with you, because you bring up a very good point. It is one that should concern us all, and we will work cooperatively to get the best possible result.

The vote, then, is on—all right.

The second amendment on the roster is offered by the gentleman from Illinois, Mr. Costello. Are you ready to proceed?

Mr. COSTELLO. Mr. Chairman, I am. My amendment is at the desk.

Chairman BOEHLERT. The Clerk will read the amendment.

Ms. TESSIERI. Amendment offered by Mr. Costello of Illinois.

Mr. COSTELLO. Mr. Chairman, I ask that we dispense with the reading of the amendment.

Chairman BOEHLERT. Without objection, so ordered.

The gentleman is recognized for five minutes to explain his amendment.

Mr. COSTELLO. Mr. Chairman, I thank you.

And Mr. Chairman, my amendment is a "buy American and protect American jobs" amendment. The amendment is straightforward, and it will protect American jobs.

Mr. Chairman, my amendment addresses two contracting issues with NOAA. One, it prohibits federal jobs from being outsourced to foreign nations, and two, it requires NOAA contracts for goods and services to be performed in the United States.

In cases where NOAA issues a contract for goods or services to a private-sector contractor, NOAA would have to ensure that the contract work is being done in the United States. Foreign labor may not be substituted for U.S. labor.

The amendment provides exceptions to this policy. One, the new Administrator may waive the requirement if an essential instrument or service is only produced outside the United States or is only produced by non-U.S. manufacturers. Two, the President may

waive the requirement if, in his opinion, it is in the interest of national security. Three, the restriction does not apply to goods or services that are now obtained for use outside of the United States or in case where the functions are performed by U.S. federal workers outside the United States.

Regardless of how Members of the Committee feel about the A–76 process on either side of the aisle, we should have an agreement that tax dollars should not be spent to create jobs in other countries and put Americans out of work. We must look for ways to protect our national economy. NOAA should be getting its goods and services here in America, not abroad. We may not be able to keep the big multi-national firms from moving offshore or setting up supply chains that stretch from China to our local retailers, but we ought to be able to block NOAA from doing exactly that.

And Mr. Chairman, I ask for your support and ask for the support of Members of the Committee, and I——

Mr. GORDON. Would the gentleman yield?

Mr. COSTELLO. I would be happy to yield to the Ranking Member.

Mr. GORDON. Let me just quickly say that, as you pointed out, we are all aware that the Administration has launched an aggressive effort to cut government jobs through the A–76 circular out of OMB. And we all want to see government work as efficiently as possible, but I think the jury is still out on this outsourcing, whether it really is effective. But clearly, your niche in this of not sending jobs overseas is an important one. I think that it is something that we can all agree upon, and I commend you for this amendment.

Chairman BOEHLERT. Thank you.

The gentleman's time has expired.

I know the gentleman's amendment is well-intended, and none of us would argue with its thrust to keep and create jobs in the United States. I always say that "jobs" is my favorite four-letter word.

But here is the problem with the amendment.

In many ways, it runs afoul of our international trade obligations. We all know the world is flat. We are constantly reminded of that every single day. Specifically, we have signed treaties in which we and the other signatories agree not to limit most government procurements. And guess why we do that. We do it because we think it will help keep and create jobs in the United States by enabling U.S. companies to compete for government contracts abroad. There is no way to know for sure, but it is perfectly likely that this amendment would actually cost jobs in the United States by preventing U.S. companies from winning procurement contracts overseas.

Moreover, the amendment is at odds with our international obligations and possibly endangers American jobs, even though no one can point to a particular problem that this amendment is designed to resolve.

Is there any indication that NOAA has been loose with the taxpayers' money by needlessly sending money overseas? The answer is no. This amendment is a well-meaning, symbolic expression of

the concern we all have with outsourcing, but it is not designed to combat a specific known problem.

But it would create specific known problems by conflicting with trade agreements. And I would add that the Administration strenuously objects for that same reason.

So I will offer a second-degree amendment that says that the Costello language can not override an international obligation of the United States. I imagine Mr. Costello will claim, and I know him from long experience working closely with him, and we are very good friends, but he will claim, probably, that this amendment, my second-degree amendment, would gut his amendment. If that is so, then it just confirms that Mr. Costello's language would create an international trade incident, which may hurt the United States. If my language will not gut Mr. Costello's effort, then there is no reason not to pass it.

So I urge passage of my amendment, which will balance Mr. Costello's good intentions. Let me emphasize that. Good intentions. But we also have to match that with our obligation to ensure that the United States abides by its international commitments.

[The prepared statement of Chairman Boehlert follows:]

PREPARED STATEMENT OF CHAIRMAN SHERWOOD L. BOEHLERT

I know the gentleman's amendment is well intentioned. And none of us would argue with its ostensible purpose—to keep and create jobs in the U.S. I always say that "jobs" is my favorite four-letter word.

But here's the problem with the amendment. In many ways, it runs afoul of our international trade obligations. Specifically, we have signed treaties in which we and the other signatories agree not to limit most government procurements. And guess why we do that? We do it because we think it will help keep and create jobs in the U.S. by enabling U.S. companies to compete for government contracts abroad. There's no way to know for sure, but it's perfectly likely that this amendment would actually cost jobs in the U.S. by preventing U.S. companies from winning procurement contracts overseas.

Moreover, this amendment is at odds with our international obligations and possibly endangers American jobs even though no one can point to a particular problem that this amendment is designed to resolve. Is there any indication that NOAA has been loose with the taxpayers money by heedlessly sending money overseas? No.

This amendment is a well meaning, symbolic expression of the concern we all have with outsourcing, but it's not designed to combat a specific, known problem. But it would create specific, known problems by conflicting with trade agreements. And I would add that the Administration strenuously objects for that same reason.

So, I will offer a second-degree amendment that says that the Costello language cannot override an international obligation of the United States.

I imagine Mr. Costello will claim that this would "gut" the amendment. If that is so, then it just confirms that Mr. Costello's language will create an international trade incident, which may hurt the U.S. If my language will not "gut" Mr. Costello's effort, then there's no reason not to pass it.

So I urge passage of my amendment, which will balance Mr. Costello's good intentions with our obligation to ensure that the U.S. abides by its international commitments.

Mr. COSTELLO. I would ask the Chair to yield.

Chairman BOEHLERT. The Chair is pleased to yield to his good friend and colleague.

Mr. COSTELLO. Mr. Chairman, let me respond, if I may. I was not going to suggest that it guts my amendment, but apparently it does.

Let me make a couple of points.

One, you make the point of a foreign country or someone objecting and challenging this provision because of the international

trade agreements that we have through the WTO. And I would just suggest that this committee should not be in the business of attempting to protect trade agreements, and in fact, a provision such as this that we are offering as this amendment has never been challenged at all by the International Trade Commission. There has not been a foreign country ever challenge an issue with the U.S. Government to go to court over this issue before.

Number two is let me suggest that we have offered and debated several amendments to other bills in the past, and the Chair has been very protective in the past of having amendments adopted that would result in referring a bill from this committee to another committee. And it—I would suggest that—I am told at least that your amendment to my amendment would, in fact, result in this bill being referred to the Ways and Means Committee.

So I would just raise that issue and last say that, you know, Members of the Committee have a choice today regarding NOAA. And the choice is, with exceptions, with—giving the President the exception that if it is in the interest of national security, NOAA would not have to abide by this. If they are buying products now that are only made outside of the United States, there would be an exception. So I am—it is pretty clear to me that, you know, instead of this committee protecting or trying to protect international trade agreements that have never been challenged in the past on this issue, I would just suggest that we have a choice to make today and that is we can either protect American jobs from going overseas through contracts and services or we can sit here and try and protect trade agreements that I think many of us do not support to begin with.

But I would ask again for Members—for their support of my amendment and to respectfully reject the Chairman's amendment.

And I thank you, Mr. Chairman, for your time.

Chairman BOEHLERT. I am glad you noted respectfully.

Let me—first of all, let me just say before we proceed, and the way I would like to proceed, I will just respond initially briefly to you, and then I will have my amendment reported, and then we can continue the debate. Okay.

Our advice from counsel is this will not result in a referral to Ways and Means or any other committee, so we are getting conflicting advice on both sides. But be that as it may——

Mr. COSTELLO. Mr. Chairman, we would like to take our counsel's advice.

Chairman BOEHLERT. I don't blame you, but guess what, I have got the advantage of sitting in the Chair. And my counsel is pretty darn good. But we will get some clarification on that, too.

The Clerk will report——

Ms. BIGGERT. Mr. Chairman.

Chairman BOEHLERT.—the amendment to the amendment.

Ms. BIGGERT. Mr. Chairman.

Chairman BOEHLERT. We are going to—here is what we are going to do. She is going to report, and then we will have further discussion.

Ms. TESSIERI. Amendment offered by Mr. Boehlert of New York to the amendment offered by Mr. Costello of Illinois.

Chairman BOEHLERT. I ask unanimous consent that the amendment be considered as read, and so the Chair is recognized for five minutes. We will continue this.

Ms. Biggert, you are next.

Ms. BIGGERT. Thank you, Mr. Chairman.

I move to strike the last word.

I have just a couple of points.

First of all, to the—to Mr. Costello's amendment, I have concerns when he talks about we will let the courts decide and it can always—or that we are protecting international trade agreements. We are not protecting international trade agreements. Trade agreements are a legal, binding contract on the United States and all of the other countries involved, and we can't protect them, but we really have to make sure that our actions do not violate the law.

Second of all, the grandfathering in those contracts with others right now, I think that locks us into an old technology that if we can not make new agreements with other countries who might have the quality of goods that we need that the United States doesn't need and we have grandfathered them in, then they are not going to be able to proceed with—we can't go to another country with—that has better technology and that we don't have. So I have concerns just with the way that that is written.

Second of all, with the proposed secondary amendment, I think that that helps to overcome the legality of trade agreements. My only concern with the secondary amendment is that it doesn't say who is going to decide. And in most cases like this, there usually is a provision as—that USTR will be the deciding body whether—you know, whether that would violate the trade agreement whether to be able to go ahead or not.

So with that, I think there is a little bit of the language that would need to be looked at if we decide to go with the secondary amendment.

And with that, I yield back.

Chairman BOEHLERT. Thank you.

Is there anyone—Ms. Jackson Lee has departed.

Mr. Gutknecht.

Mr. GUTKNECHT. Mr. Chairman, I am going to vote for your perfecting amendment here, but I do want to congratulate Mr. Costello for bringing this issue forward. And for those of you who have never been out to NOAA's headquarters out in Colorado, I would encourage you to make a trip out there. And after I was out there, I came back believing that this was an agency that not only had a point of view, but was willing to do whatever it took to prove that particular point of view. And that was discouraging for me.

But I also want to say this. It is also discouraging to me that a lot of our partners around the world are more than eager to allow the United States to shoulder 90 percent of the cost of doing research of this type and then have little to offer except criticism of the United States. And so this may be a ham-fisted way to make a point, but I think it is an important point that Congress needs to make.

And I guess if you boiled it all down, it comes to this: he who pays, plays. And a lot of our trading partners in Europe and in other parts of the world, who are supposedly our allies, will—are

not willing to put up much money in terms of doing this kind of research but they are constantly critical of the United States for not doing enough. And so this may not be the perfect way to make a statement to some of our friends around the world, but at least it is an attempt.

I will vote for the Chairman's perfecting amendment, but I would encourage all Members to pay very close attention not only to what NOAA is up to but sometimes to what our friends are up to as well.

Ms. JACKSON LEE. Mr. Chairman.

Chairman BOEHLERT. Ms. Jackson Lee.

Ms. JACKSON LEE. I thank the Chairman very much.

I wish my colleagues would look specifically at Mr. Costello's language, and I think it is, if anything, leans toward absolute fairness. It particularly talks about procurement. It talks about contractors and subcontractors located outside of the United States. Time after time, Members have voted for this very same language on the Floor of the House. I hate to use the term "buy American" to defend someone, but I think part of the connection of Mr. Costello's language and intent, and I don't want to read my analysis into his language, but over and over again, we talk about building the science capacity, technology capacity here in the United States, the number of scholars that we can generate to begin to foster a greater involvement in this work. NOAA is a scientific entity. Albeit, it deals with our weather predictions and other scientific efforts. What Mr. Costello is doing is even more far-reaching than the concept of "buy American." It is investing in America. I think he makes provisions if it is to the necessity of national security that he provides an exemption.

And I am concerned, though I appreciate the intent of the Chairman's amendment, I am concerned that this throws this particular legislation into Ways and Means, which has jurisdiction over treaties. And this doesn't speak—he does not speak specifically to treaties, and by its silence, I think that this legislation can track and parallel the obligations of a treaty. What it says, where NOAA can, abiding by law, use the services and goods from within the United States, goods and services from the United States, they should do it. Why should we be against that? All of the protections are in the amendment.

And I would hope that we would see this two-fold: one, investing in America, and three, investing in America's human resources, investing in America's small businesses, investing in America's technology, investing in America's science.

I hope my colleagues will support the amendment, and I yield back.

Thank you.

Chairman BOEHLERT. Thank you very much.

Before going to Mr. Hall, I just want it known that the Parliamentarian's office has confirmed that this will—my substitute amendment, second-degree amendment, will not trigger a referral to Ways and Means, so let us strike that from your thinking.

Mr. Hall.

Mr. HALL. Mr. Chairman, thank you.

You know, the lady from Texas was absolutely correct in saying it is not an unfair thrust, but I was a judge for 12 years, and most

of them I ran into wanted a favorable treatment more than they wanted fair treatment. And I think from the manner that you had with Mr. Costello evidences the respect that you have for one another.

But actually, "buy American" is a wonderful thrust and one that we have all supported and voted—all of us have voted for it many times in many shapes and in many forms. And I read this amendment over and looked at it with my advisor in my office. And my thought was if there is some way that the U.S. could get last chance at any underseller or underbuyer, and I don't know what your amendment does, but I would like something like that.

Mr. Chairman, you put it to him pretty hard. If it harms, it should harm, and if it doesn't harm, there is no damage done. I will—you are going to explain your amendment, aren't you, a little more fully, your amendment to his amendment?

Chairman BOEHLERT. I already did.

Mr. HALL. And—well——

Chairman BOEHLERT. Do you want me to repeat?

No, I mean, as the fact—look, we are not——

Mr. HALL. Well, maybe you could just talk louder for some of us older people. You know, your statement to the gentleman who has the amendment, Mr. Costello, is a lot like a guy standing in front of a judge in Texas that is about to condemn him to death and explained his actions, how horrible they were and how many children that the deceased left and what painful death it was for him, and he says, "Now do you have anything to say before I sentence you to death?" And he says, "No, sir. Under the circumstances, I feel like I am getting off pretty light."

So I don't know if Mr. Costello feels that way or not, but I want to vote for his amendment, but I am going to support your correcting amendment, if it corrects the amendment. If it doesn't correct the amendment, it shouldn't correct the amendment. That is taking a page out of your book.

I yield back.

Chairman BOEHLERT. Thank you very much.

And you just, once again, gave us testimony to why it is such a delight to have you serving on this committee.

This—let me just say that this is unlike past "buy American" amendments, which did not supersede trade agreements. What we are saying with my language is that the Costello language can not override an international obligation of the United States. You know, I have been in the ranks with all of us here. We all have the same general intent. We want everybody to buy American. But we have some international agreements that have been entered into, and you know, we want to—we don't want to override those international agreements based on this amendment.

So with that, let us see, who is next up? Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman.

Will the Chairman, as the author of the second-degree amendment, yield to a question or two?

Chairman BOEHLERT. Will I yield or will——

Mr. MILLER. Yes.

Mr. Chairman, do you agree with Mr. Costello that there is not now any clear provision of treaty or any clear ruling of law that

would apply to this amendment to make it either permissible or not permissible under the WTO or any other trade agreement?

Chairman BOEHLERT. Yeah.

Mr. MILLER. You do agree with that?

Chairman BOEHLERT. The answer is essentially yes.

Mr. MILLER. But it is—okay. So then who would decide whether this was consistent or not? Would it simply be the Administration that would decide, and if so, what would be—on what basis would they decide?

Mr. COSTELLO. If the gentleman would yield while the Chairman is conferring, would you yield?

Mr. MILLER. I do yield.

Mr. COSTELLO. That is my whole point.

Mr. MILLER. Right.

Mr. COSTELLO. My whole point in the issue with the—when we are talking about international trade agreements, and my friend from Illinois made the point, I would tell you that, in my judgment, it is not clear what our international trade obligations are under the WTO treaties. And number two, you know, are we going to interpret treaties here, in this committee, or are we going to leave it up to the courts or the International Trade Association to determine what treaties are violated and what treaties are not violated?

And I would just leave you with this thought. Are we going to be cautious about trying to protect trade agreements where we do not even know, as we sit here today, if this violates a trade agreement? I would just say, as opposed to being cautious about trade agreements, we ought to be aggressive about protecting American jobs.

Mr. MILLER. Mr. Costello, it did occur to me that my line of questioning might actually help the point you were making.

Mr. COSTELLO. And I thank the gentleman for that.

Chairman BOEHLERT. Thank you very much, but let me just say we do know that this would violate existing trade agreement, and what would happen under the WTO? And it would be NOAA, in consultation with the U.S. Trade Representative, that would give us guidance and make the initial interpretation.

We are not going to get into the treaty business here in the House. I agree with you on that. But we are involved in a number of treaties, and it seems that we are obligated, under the provisions of those treaties, to honor them, and we don't want to do anything that would be in violation that would trigger an action by WTO.

Mr. MILLER. I am sorry. Was that in answer to the question of who decides and on what basis?

Chairman BOEHLERT. Yeah. Yeah. The—NOAA, in consultation with USTR, and incidentally, WTO procurement agreement would be violated. The CRS review determined that.

Mr. MILLER. Okay. My third—actually, I have just a couple more questions, if I am not——

Chairman BOEHLERT. Have at it.

Mr. MILLER. All right. Thank you, sir.

Mr. Chairman, do you agree with Ms. Biggert's point that Congress can not exempt this from WTO, or any other trade agreement, anyway?

Chairman BOEHLERT. Restate your question, please.

Mr. MILLER. I believe Ms. Biggert made the point that we cannot—Mr. Costello's amendment could not exempt NOAA's procurement from WTO requirements anyway. Is that—do you agree with that? Do you agree with Ms. Biggert?

Chairman BOEHLERT. Yeah, but then there is no reason to oppose my amendment.

Mr. MILLER. But then that also raises the question of whether it is necessary or whether it is redundant, not that redundancy has ever been particularly a political sin. We would all be in deep trouble were it.

Mr. GORDON. Would my friend from North Carolina yield? I think I can maybe sum this up.

Mr. MILLER. All right.

Mr. GORDON. The—in my opinion, in my legal opinion, the fact of the matter is, we can not, through this committee, pass some type of law that would make us be in non-compliance with an international treaty. So, I mean, you know, we can't do that.

And so here is the practical part of this. There is a lot of gray area in this law, and what—and this amendment, or this—by putting this secondary amendment, it really puts us into a burden of proof situation. In other words, we can't pass a law that says that we are going to be in violation of an international treaty. But—that is very vague. And so what this amendment would do, secondary amendment would do, it would put the—really the burden of proof on leaning more toward the international treaties than it would on leaning toward trying to be aggressive and protecting American jobs.

So it is really dealing in that gray area, and the kind of message you are going to send out, it is—under no circumstances are we in this Science Committee going to pass a law that would allow us to violate an international treaty.

Chairman BOEHLERT. Yeah, and it——

Mr. GORDON. And I yield back.

Chairman BOEHLERT. And we are not the people who are going to sit in judgment. It is going to be the Administrator of NOAA in consultation with U.S. Trade Representative. We are not getting into that business.

Mr. MILLER. Mr. Chairman, I did have one more question.

Chairman BOEHLERT. Who else seeks recognition?

Mr. MILLER. Actually, could I just ask——

Chairman BOEHLERT. Ms. Johnson.

Mr. MILLER. I guess I can't ask one more?

Chairman BOEHLERT. Your time is expired now.

Ms. Johnson.

Ms. JOHNSON OF TEXAS. Mr. Chairman, I would like to yield to Mr. Costello before me.

Chairman BOEHLERT. The gentleman is recognized.

Mr. COSTELLO. I thank the gentlelady for yielding. And I would—you know, we could sit here for the next half-hour and go back and forth on this issue, but I think it is pretty clear. The Chairman stated it just a second ago. We are not going to get into the business of determining international treaties in this committee. But any time that we can try and protect American jobs, we should. And if, in fact, this, at some point in time, that it is determined

that it is a violation of an international trade agreement, which I doubt very seriously that it is, then we can come back and address that. But today, we ought to be protecting American jobs.

And I yield to the gentleman from North Carolina.

Mr. MILLER. Thank you.

I am sorry, Mr. Chairman. I have one more question for you.

Chairman BOEHLERT. Why am I not surprised?

The gentleman will ask the question.

Mr. MILLER. All of the discussion so far, Mr. Chairman, has been about jobs and about buying American. But does this not also allow the contracting outside the United States of services? Are we going to be building scientific expertise somewhere other than here? Of course, I prefer to buy American goods, but I am particularly concerned about building scientific expertise in the United States, not somewhere else.

Chairman BOEHLERT. We don't have any problem with Subsection A of the amendment. Get the amendment. Read it. What my second-degree amendment simply says, and I will repeat, "can not override an international obligation of the United States."

Mr. MILLER. Right.

Chairman BOEHLERT. That is not the responsibility of the Science Committee to determine. That is the responsibility of the Administrator of NOAA in consultation with the World—with the U.S. Trade Representative of any Administration.

Who else seeks recognition?

Ms. Biggert.

Ms. BIGGERT. Let me just take that one step further.

The reason that it is so important that we have this secondary amendment is because if we don't, and there is a—we are cited by the—and it goes to court to decide, then what happens is that the World Trade Organization will, if they say yes we are in violation of a trade agreement, then they can sanction us. And it doesn't mean that they are going to sanction NOAA or anything. They can sanction any product in our—in this country, like, say, agriculture or financial services, anything. And so it is so important that we make this decision prior to going to court. And that is why it is so important that it is with NOAA and with the USTR to give us an opinion before this is done whether it would be a violation or not.

Mr. COSTELLO. And I wonder if my friend from Illinois would yield?

The point that I have made, as I am trying to make, is that, to my knowledge, and staff has informed me, that there has never been a challenge to a "buy American" agreement through the World Trade Organization. So there is not a ruling by a court, there is not a ruling by anyone on any of these issues. And what I am saying is, at some point in time, we have to stand up and say enough is enough. And we have to begin to protect American jobs.

Now this is not an amendment that says that NOAA can not contract out for services, can not contract out for other goods to foreign countries or to foreign labor. There are exceptions. If the President determines that it is in the interest of national security or if there are products that are only made outside of the United States that can not be obtained here in the country, or if, in fact, the goods are being made by U.S. workers in other countries, those exceptions

are clear in the amendment. And I would say, you know, at some point in time, we need to not be so concerned about protecting a gray area in an international trade agreement and start protecting jobs here at home.

Ms. BIGGERT. If I might reclaim my time.

We also have to be protective of our legal obligations and to make sure that those are not violated. I just think it is one more—all of your exceptions are very good. Your premise is very good of buying American, but this one makes it even better.

Mr. COSTELLO. And I would say that the courts are there for a reason, that we shouldn't be—we are the Judicial Branch. They are the Judicial Branch, we are the Legislative Branch, but the branch that will determine this will be the Judicial Branch, not the Legislative Branch, and if we are going—every action that we take, if we are going to be concerned that it is going to be overruled by a court, you know, I don't think we would ever get anything done around here.

Ms. BIGGERT. I don't think that we are worried about whether what we are doing is legal under the WTO. And this is a global economy, and we are participating.

I yield back.

Chairman BOEHLERT. Thank you very much.

And thank you.

Ms. JOHNSON OF TEXAS. Mr. Chairman.

Chairman BOEHLERT. Ms. Johnson.

Ms. JOHNSON OF TEXAS. Just one more, I guess, comment.

If we get too over concerned about the language of the treaties and not allow the appropriate ones to get concern, it—then I would like to explore what our treaty says with China, because apparently they have an open-ended agreement, if we are going to get into treaty agreements, because they certainly don't respect any of our guidelines.

Chairman BOEHLERT. I was just advised by the distinguished Chief of Staff of the Science Committee that China is not part of WTO and therefore—the procurement agreement, and therefore it wouldn't apply.

But just let me say this in summing up everything. I must admire the skill of the gentleman from Illinois' presentation. I agree with the rhetoric, but not the reasoning. The rhetoric is something we can all identify with. We are all anxious to do as much as we can to protect American jobs. That is the desire of every single Member of this panel, no matter where he or she may sit.

But it is also the intent of this committee not to go forward with anything that would be in violation of existing commitments of the United States of America. And the Costello Amendment violates the WTO procurement agreement on its face, according to the Congressional Research Service, a highly-regarded operation, CRS, non-partisan. We need my language, because the Costello language goes further in contradicting trade agreements than past "buy American" language does.

[The information follows:]

Memorandum May 18, 2005

SUBJECT: **Legal Analysis of the "Costello Amendment" to H.R. 50, the National Oceanic and Atmospheric Administration Act, and its Potential Effect on U.S. International Government Procurement Obligations**

FROM: Todd B. Tatelman
Legislative Attorney
American Law Division

This memorandum discusses the proposed "Costello Amendment"[1] to H.R. 50, the National Oceanic and Atmospheric Administration (NOAA) Act,[2] as it relates to international government procurement obligations entered into by the United States through our participation in the World Trade Organization (WTO), the North American Free Trade Agreement (NAFTA), and our other Bilateral Free Trade Agreements (FTAs). Based on a review of our obligations and the language of the proposed amendment, it would appear that, as currently drafted, application of the amendment under certain circumstances would be inconsistent with U.S. international government procurement obligations regarding non-discrimination and national treatment. In addition, the amendment could also be seen as a technical specification on government procurement that creates an "unnecessary obstacle" to international trade.

The "Costello Amendment"

The amendment to H.R. 50 offered by Congressman Costello provides that any NOAA activity converted to contractor performance pursuant to the A-76 Circular[3] "may not be performed by the contractor or any subcontractor at a location outside the United States."[4] In addition, the proposed amendment also requires that any contract for goods or services entered into by the Administrator of NOAA "may not be performed outside the United States

[1] Proposed Amendment to H.R. 50, dated May, 3, 2005 and provided to CRS by the House Science Committee.

[2] National Oceanic and Atmospheric Administration Act, H.R. 50, 109th Cong. (2005).

[3] For more detail regarding the A-76 Circular and its requirements, *see* CRS Report RS21489, *OMB Circular A-76: Explanation and Discussion of the Recently Revised Federal Outsourcing Policy*, by John R. Luckey.

[4] *See* Proposed Amendment to H.R. 50 at § 16(a).

unless it is to meet a requirement of the Administration for goods or services specifically at a location outside the United States."[5] The amendment provides for three exceptions to its general prohibition: first, if the President determines that such a waiver is in the national security interest of the United States; second, if the Administrator determines that the goods or services are only available from sources outside the United States; or third, the activity or function was previously performed by Federal Government employees at a location outside the United States.[6]

U.S. International Government Procurement Obligations

Over the last several decades the United States has played an active role in the development of international trade agreements, including the agreements that have led to the formation of both the WTO and NAFTA. Each of these various agreements has obligated the United States to conform its domestic laws to the agreement's specific requirements. This section of the memorandum will detail the United States' obligations under the WTO's Agreement on Government Procurement, the NAFTA procurement chapter, as well as our other FTAs that contain commitments with respect to government procurement.

1994 Agreement on Government Procurement. The United States' WTO obligations with respect to government procurement are contained in the WTO Agreement on Government Procurement (AGP).[7] Generally, the AGP applies the basic WTO national treatment and most-favored-nation obligations to the area of government procurement. The AGP was negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), and took effect in the United States on January 1, 1996.[8] Unlike other provisions of the WTO, which countries must accept as a condition of membership, the AGP is a plurilateral agreement, therefore, AGP parties are only committed to apply the agreement to other AGP parties. Presently, in addition to the United States, the AGP has been accepted by the European Communities (EC), each of the 25 EC Member countries,[9] Canada, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.[10]

---

[5] *See id.* at § 16(b)(1).

[6] *See id.* at §§ 16(b)(2)-(3) & 16(c).

[7] Agreement on Government Procurement, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 4B, Article III, Legal Instruments- Results of the Uruguay Round vol. 31, 1915 U.N.T.S. 103 [hereinafter AGP]; *see also* Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action and Required Supporting Statements, H.R. Doc. 103-116, 103d Cong. 2d Sess. (1994).

[8] The Uruguay Agreements Act, Pub. L. No 103-465, 108 Stat. 4809 § 101(d)(17) (1994). This act amended the Trade Agreements Act of 1979, Pub. L. No. 96-39, 93 Stat. 236 (1979), which was the existing U.S. law with respect to implementing government procurement obligations. *See* House Committee on Ways and Means, *Overview and Compilation of U.S. Trade Statutes* 188 (2003 ed.)[hereinafter Overview of Trade Statutes].

[9] These are: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom.

[10] Parties to the AGP are available at http://www.wto.org./english/tratop_e/gproc_e/ memobs_e/ htm.

The AGP applies to "any law, regulation, procedure or practice regarding any procurement by entities covered by the Agreement."[11] This includes both central and sub-central governmental entities, as well as other government-related entities that a member Party designates.[12] In addition, the AGP governs "procurement by any contractual means, including through such methods as purchase or as lease, rental or hire purchase, with or without an option to buy, including any combination of products and services."[13] It is important to note that the AGP does not apply to all government procurement contracts, but only to those contracts that are covered by a Party's specific commitments. Furthermore, of the covered contracts, the AGP only applies to those that are valued at or exceed designated monetary thresholds set forth in each Party's Annexes in terms of Special Drawing Rights (SDRs).[14] In the United States the thresholds are given official dollar amounts in biennial notices issued by the Office of the United States Trade Representative (USTR).[15]

There appear to be two provisions that are relevant to the "Costello Amendment." First, Article III of the AGP, which specifically addresses "National Treatment and Non-discrimination,"[16] a principle that forms the bedrock of all WTO agreements. The national treatment clause requires the United States to provide to all other parties, "[w]ith respect to all laws, regulations, procedures and practices regarding government procurement ... treatment no less favorable than: (a) that accorded to domestic products, services and suppliers; and (b) that accorded to products, services, and suppliers of any other Party."[17] National treatment "imposes a principle of non-discrimination as between domestically produced goods and the same imported goods."[18] The principle exists, according to commentators, in large part to "prevent government practices which evade tariff obligations."[19] In addition, Article VI, which addresses technical specifications,[20] requires that they "shall not be prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade."[21]

It should also be noted that the AGP contains a number of exceptions, including a national security exception, which is generally patterned after Article XXI of the 1994

---

[11] AGP, *supra* note 7, at Art. I:1.

[12] *Id.*

[13] *Id.* at Art. I:2.

[14] *Id.* at Art. I:4.

[15] *See* 68 Fed. Reg. 70861 (December 19, 2003) (setting the 2004 and 2005 U.S. thresholds for procurements by central government entities at $175,000 for goods and services and $6,725,000 for construction services) [hereinafter USTR Threshold Notice].

[16] *See* AGP, *supra* note 7, at Article III (1)(a)-(b).

[17] *See id.*

[18] John H. Jackson, William J. Davey & Allan O. Sykes, LEGAL PROBLEMS OF INTERNATIONAL ECONOMIC RELATIONS: CASES, MATERIALS AND TEXT 501 (3d Ed. West Group 1995).

[19] *Id.*

[20] Article VI defines "technical specifications as including "quality, performance, safety and dimensions, symbols, terminology, packaging, marking and labeling, or the processes and methods for their production and requirements relating to conformity assessment procedures prescribed by procuring entities." *See* AGP, *supra* note 6, at Article VI:1.

[21] *Id.* at Article VI:1.

GATT.[22] The remaining general exceptions, which are to some extent modeled on the general exceptions contained in Article XX of the 1994 GATT, include, but are not limited to, the ability to enact inconsistent measures to protect the public morals, order or safety, intellectual property and/or philanthropic institutions.[23]

North American Free Trade Agreement (NAFTA) and Other U.S. Free Trade Agreements. As approved and implemented by Congress, NAFTA entered into force on January 1, 1994.[24] Chapter 10 of NAFTA contains extensive government procurement obligations, which generally include non-discrimination and national treatment provisions that are similar to those contained in the AGP.[25] Since Mexico is not currently a party to the AGP, its procurement obligations with the United States are governed solely by the provisions contained in NAFTA. Government procurement obligations between the United States and Canada had been, prior to NAFTA, contained in the U.S.-Canada Free Trade Agreement, whose $25,000 threshold for federal goods contracts has been carried forward into the NAFTA agreement.[26]

In addition to the AGP and NAFTA, many of the other Free Trade Agreements (FTAs) that the United States has in effect contain provisions with respect to government procurement. The agreements vary in their respective details, but all share provisions in common, including, but not limited to, the principles of non-discrimination and national treatment, as well as exemptions for certain central government procurements and monetary threshold requirements. For example, the U.S.– Israel FTA contains provisions for the waiver of any buy national provisions for contracts with a value greater than $50,000.[27] In addition, our most recent FTAs such as the U.S –Chile FTA, U.S.–Singapore FTA, U.S.–Morocco FTA and U.S.–Australia FTA [28] contain procurement provisions that closely track those contained in the AGP.[29] With respect to the monetary threshold requirements, however, some of the newer FTAs contain amounts that are much lower compared to the AGP.[30] In addition, the proposed Dominican Republic-Central American Free Trade

---

[22] *Id.* at Article XXIII:1.

[23] *Id.* at Art. XXIII:2.

[24] NAFTA Implementation Act, Pub. L. No. 103-182, 107 Stat 2057 (1993).

[25] *See* North American Free Trade Agreement Statement of Administrative Action, H. Doc. 103-159, v.1, 583-88 (providing background information and a discussion on Chapter 10).

[26] *See id.* at 584. The NAFTA thresholds as applied to Mexico are generally subject to adjustment for inflation. The thresholds are currently as follows: for federal government entities listed in the U.S. Schedule $58,550 for goods and services, and $7,611,532 for construction services; for government enterprises listed in the U.S. Schedule, $292,751 for goods and services, and $9,368,478 for construction services. *See* USTR Threshold Notice, *supra* note 15.

[27] U.S. – Israel Free Trade Agreement, *available at* http://www.us-israel.org/jsource/ US-Israel/FTA _Text.html.

[28] Due to the fact that neither Chile, Morocco, or Australia are a party to the WTO AGP, the FTAs will be the main source of U.S. government procurement obligations with respect to these countries.

[29] *See* 68 Fed. Reg. 70859 (Dec. 19, 2003) (implementing the U.S.–Chile FTA); *see also* 68 Fed. Reg. 70860 (Dec. 19, 2003) (implementing the U.S.–Singapore FTA).

[30] *See* Annex 13A of the U.S.-Singapore Free Trade Agreement, *available at* http://www.ustr.gov /new/fta/Singapore/final/text%20final.pdf.; *see also* Annex 9.1, Sec. A of the U.S.– Chile Free

(continued...)

Agreement (DR–CAFTA) also contains provisions relating to government procurement that are similar to those contained in the U.S.– Morocco and U.S.–Australia FTAs.[31]

Analysis

While from the plain language of the amendment it is not clear what specific procurement functions are envisioned, as drafted, the proposed Amendment appears to be inconsistent with the national treatment provisions contained in our international trade agreements. Specifically, by including a requirement that NOAA contracts be performed at locations within the United States, the amendment appears to favor domestic bidders at the expense of similarly situated foreign competitors. In other words, the amendment arguably treats domestic contractors more favorably that their foreign counterparts, because it would appear to require foreign competitors to have, or be willing to invest in, domestically located facilities as a prerequisite to receiving, or being eligible to receive, NOAA procurement contracts. Currently, NOAA, which is a part of the Department of Commerce, is a covered agency for procurement purposes, except with respect to its shipbuilding activities.[32] Moreover, to the extent that such a domestic production requirement is seen as a technical specification, it may also be inconsistent with Article VI, as it would appear to be possible to argue that such a requirement creates an "unnecessary obstacle" to international trade.

As mentioned above, while the agreement does contain a number of exceptions,[33] it would appear that none of them would be applicable to this situation. Any NOAA procurement related to the national defense (*i.e.,* shipbuilding) is already exempted, and it appears difficult to see how such a domestic production restriction protects public morals, order and safety, intellectual property and/or philanthropic institutions.

Evaluating the probability of a WTO challenge to this language if it is adopted, or analyzing the potential success or failure of arguments relating to this provision is difficult due to the lack of authoritative precedent with respect to government procurement issues. Since its adoption in 1995, there have only been two WTO challenges brought with respect to government procurement. The first was brought by the United States against Korea regarding airport construction for Inchon International Airport,[34] while the second was filed against the United States by Japan and the European Union, and involved a Massachusetts state law prohibiting state entities from procuring goods and services from any person currently doing business with the Union of Myanmar (Burma).[35] Only the case involving

---

[30] (...continued)
Trade Agreement, *available at* http://www.ustr.gov/new/ fta/Chile/final/09.procurement.pdf.

[31] *See* Chapter 9 of the Final Text of DR-CAFTA, *available at* http://www.ustr.gov/assets/Trade_Agreements/Bilateral/CAFTA/CAFTA-DR_Final_Texts/asset_upload_file766_3926.pdf.

[32] *See* U.S. AGP Annex 1 at 1 *available at* http://www.wto.org/english/tratop_e/gproc_e/apend_e.htm#us (stating that the "Department of Commerce (not including shipbuilding activities of NOAA, as excluded in Annex 4)" is a covered entity).

[33] *See supra* notes 22-23.

[34] *See* WTO Dispute Settlement Body, Korea-Measures Affecting Government Procurement, WT/DS163/R 2000 WTO DS LEXIS 16 (May 1, 2000).

[35] *See* WTO Dispute Settlement Body, United States - Measure Affecting Government Procurement *available at*, http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm#bkmk54.

Korea produced a dispute panel decision.[36] In addition, to date there have been no challenges brought under the government procurement chapters in either the NAFTA or any of our other FTAs.

[36] *See supra* note 34.

Chairman BOEHLERT. So with that, the vote will be on——

Mr. GORDON. Mr. Chairman.

Chairman BOEHLERT. Yes.

Mr. GORDON. I know we have got to finish this thing up, and I will try to be quick.

Once again, we can't pass legislation here that is going to be in violation of an international treaty, so we can all, you know, go home comfortable about that tonight.

Let me tell you how it really can make a difference. I had—I have got—the school in my hometown is called Middle Tennessee State University, and they have got a very good dyslexia center there. And they have done some work on treating dyslexia and treating—and also with distant learning in trying to help teachers around the state learn how to treat people with dyslexia. So I was persuasive and had $1 million put in the Defense budget for—so we could do the same sort of thing with our military schools around the Nation—around the world to try to help—you know, teach those teachers how to deal with dyslexic students. And what wound up happening—and parochially, I will admit, my university was a good one, and so I was thinking they were going to get this bid. But instead, what happened, it—there was a little company in New Jersey that had a front there who got the bid and then shipped everything to India to be done.

And I think this amendment would have given the Defense Department or NOAA or someone else the ability, you know, to take that back. And so I mean, I think this is the kind of—the real war, it is really where are you going to put the burden of proof. And I think that is what Mr. Costello does is puts the burden of proof on keeping the jobs here.

Chairman BOEHLERT. Thank you very much for reminding me of the outstanding work being done at Middle Tennessee State University.

And let me, on behalf of all of us, congratulate you on your ability to get $1 million earmark in the DOD bill. We are all wondering how you achieved that.

But I would point out that the procurement agreement allows for exceptions for Defense.

And so with that, I think we have pretty much exhausted it.

The vote is on the amendment to the amendment. If—all in favor, say aye. Opposed, no. The ayes appear to have it.

Mr. COSTELLO. Mr. Chairman, I would ask for a recorded vote.

Chairman BOEHLERT. Mr. Costello asks for a recorded vote. The Clerk will call the roll.

Ms. TESSIERI. Mr. Boehlert.

Chairman BOEHLERT. Aye.

Ms. TESSIERI. Mr. Boehlert votes yes.

Mr. Hall.

Mr. HALL. Aye.

Ms. TESSIERI. Mr. Hall votes yes.

Mr. Smith.

[No response.]

Ms. TESSIERI. Mr. Weldon.

[No response.]

Ms. TESSIERI. Mr. Rohrabacher.

Mr. ROHRABACHER. No.
Ms. TESSIERI. Mr. Rohrabacher votes no.
Mr. Calvert.
Mr. CALVERT. Aye.
Ms. TESSIERI. Mr. Calvert votes yes.
Mr. Bartlett.
Mr. BARTLETT. Aye.
Ms. TESSIERI. Mr. Bartlett votes yes.
Mr. Ehlers.
Mr. EHLERS. Yes.
Ms. TESSIERI. Mr. Ehlers votes yes.
Mr. Gutknecht.
Mr. GUTKNECHT. Yes.
Ms. TESSIERI. Mr. Gutknecht votes yes.
Mr. Lucas.
Mr. LUCAS. Yes.
Ms. TESSIERI. Mr. Lucas votes yes.
Mrs. Biggert.
Ms. BIGGERT. Yes.
Ms. TESSIERI. Mrs. Biggert votes yes.
Mr. Gilchrest.
Mr. GILCHREST. Aye.
Ms. TESSIERI. Mr. Gilchrest votes yes.
Mr. Akin.
Mr. AKIN. Aye.
Ms. TESSIERI. Mr. Akin votes yes.
Mr. Johnson.
[No response.]
Ms. TESSIERI. Mr. Forbes.
[No response.]
Ms. TESSIERI. Mr. Bonner.
Mr. BONNER. Aye.
Ms. TESSIERI. Mr. Bonner votes yes.
Mr. Feeney.
Mr. FEENEY. Aye.
Ms. TESSIERI. Mr. Feeney votes yes.
Mr. Inglis.
Mr. INGLIS. Aye.
Ms. TESSIERI. Mr. Inglis votes yes.
Mr. Reichert.
Mr. REICHERT. Yes.
Ms. TESSIERI. Mr. Reichert votes yes.
Mr. Sodrel.
Mr. SODREL. Aye.
Ms. TESSIERI. Mr. Sodrel votes yes.
Mr. Schwarz.
Mr. SCHWARZ. Aye.
Ms. TESSIERI. Mr. Schwarz votes yes.
Mr. McCaul.
Mr. MCCAUL. Aye.
Ms. TESSIERI. Mr. McCaul votes yes.
Mr. Gordon.
Mr. GORDON. No.
Ms. TESSIERI. Mr. Gordon votes no.

Mr. Costello.
Mr. COSTELLO. No.
Ms. TESSIERI. Mr. Costello votes no.
Ms. Johnson.
Ms. JOHNSON OF TEXAS. No.
Ms. TESSIERI. Ms. Johnson votes no.
Ms. Woolsey.
Ms. WOOLSEY. No.
Ms. TESSIERI. Ms. Woolsey votes no.
Ms. Hooley.
Ms. HOOLEY. No.
Ms. TESSIERI. Ms. Hooley votes no.
Mr. Udall.
Mr. UDALL. No.
Ms. TESSIERI. Mr. Udall votes no.
Mr. Wu.
Mr. WU. No.
Ms. TESSIERI. Mr. Wu votes no.
Mr. Honda.
[No response.]
Ms. TESSIERI. Mr. Miller.
Mr. MILLER. No.
Ms. TESSIERI. Mr. Miller votes no.
Mr. Davis.
[No response.]
Ms. TESSIERI. Mr. Carnahan.
Mr. CARNAHAN. No.
Ms. TESSIERI. Mr. Carnahan votes no.
Mr. Lipinski.
Mr. LIPINSKI. No.
Ms. TESSIERI. Mr. Lipinski votes no.
Ms. Jackson Lee.
Ms. JACKSON LEE. No.
Ms. TESSIERI. Ms. Jackson Lee votes no.
Mr. Sherman.
Mr. SHERMAN. No.
Ms. TESSIERI. Mr. Sherman votes no.
Mr. Baird.
[No response.]
Ms. TESSIERI. Mr. Matheson.
Mr. MATHESON. No.
Ms. TESSIERI. Mr. Matheson votes no.
Mr. Costa.
Mr. COSTA. No.
Ms. TESSIERI. Mr. Costa votes no.
Mr. Green.
Mr. GREEN. No.
Ms. TESSIERI. Mr. Green votes no.
Mr. Melancon.
Mr. MELANCON. No.
Ms. TESSIERI. Mr. Melancon votes no.
Mr. Chairman.

Chairman BOEHLERT. Is there any other Member who seeks recognition?

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Mr. Hall.

Mr. HALL. I didn't really understand fully what Mr. Wu said. Like when you were speaking earlier, I couldn't hear you. You weren't talking loud enough for some of us older people, and I didn't understand Mr. Wu, and I would like to know what Mr. Wu said, and then I would also like to really know what he meant. And I would like to see it in writing. I would like to have time to have him——

Chairman BOEHLERT. This is called a filibuster.

Mr. HALL. That is what I was waiting to hear, Mr. Chairman.

Chairman BOEHLERT. The Clerk will record.

Ms. TESSIERI. Mr. Chairman, yes, 18; no, 17.

COMMITTEE ON SCIENCE - ROLL CALL – 109th CONGRESS

DATE: May 17, 2005 SUBJECT: Boehlert Second Degree Amendment To the Costello Amendent.

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY	✓				
2405	56673	Mr. Hall, R-TX	✓				
2184	54236	Mr. Smith, R-TX					
2466	52011	Mr. Weldon, R-PA					
2338	52415	Mr. Rohrabacher, R-CA		✓			
2201	51986	Mr. Calvert, R-CA	✓				
2412	52721	Mr. Bartlett, R-MD	✓				
1714	53831	Mr. Ehlers, R-MI	✓				
425	52472	Mr. Gutknecht, R-MN	✓				
2342	55565	Mr. Lucas, R-OK	✓				
1317	53515	Mrs. Biggert, R-IL	✓				
2245	55311	Mr. Gilchrest, R-MD	✓				
117	52561	Mr. Akin, R-MO	✓				
1229	52371	Mr. Johnson, R-IL	✓				
307	56365	Mr. Forbes, R-VA					
315	54931	Mr. Bonner, R-AL	✓				
323	52706	Mr. Feeney, R-FL	✓				
330	56030	Mr. Inglis, R-SC	✓				
1223	57761	Mr. Reichert, R-WA	✓				
1508	55315	Mr. Sodrel, R-IN	✓				
128	56276	Mr. Schwarz, R-MI	✓				
415	52401	Mr. McCaul, R-TX	✓				
2304	*54231*	*Mr. Gordon, D-TN*		✓			
2269	*55661*	*Mr. Costello, D-IL*		✓			
1511	*58885*	*Ms. Johnson, D-TX*		✓			
2263	*55161*	*Ms. Woolsey, D-CA*		✓			
2430	*55711*	*Ms. Hooley, D-OR*		✓			
240	*52161*	*Mr. Udall, D-CO*		✓			
1023	*50855*	*Mr. Wu, D-OR*		✓			
1713	*52631*	*Mr. Honda, D-CA*		✓			
1722	*53032*	*Mr. Miller, D-NC*		✓			
410	*56831*	*Mr. Davis, D-TN*					
1232	*52671*	*Mr. Carnahan, D-MO*		✓			
1217	*55701*	*Mr. Lipinski, D-IL*		✓			
2435	*53816*	*Ms. Jackson Lee, D-TX*		✓			
1030	*55911*	*Mr. Sherman, D-CA*		✓			
1421	*53536*	*Mr. Baird, D-WA*					
1222	*53011*	*Mr. Matheson, D-UT*		✓			
1004	*53341*	*Mr. Costa, D-CA*		✓			
1529	*57508*	*Mr. Green, D-TX*		✓			
404	*54031*	*Mr. Melancon, D-LA*		✓			
		TOTAL	18	17			

Attest: Vivian A. Tessari (Clerk)

Chairman BOEHLERT. The amendment is passed, and the vote is on the amendment, as amended. All in favor, say aye. Opposed, no. The ayes have it. The amendment, as amended, is passed.

Are there any other amendments to the amendment in the nature of a substitute? If not, the vote occurs on the amendment in the nature of a substitute, as amended. All in favor, say aye. Those opposed, say no. The ayes have it, and the amendment is agreed to.

Are there any other amendments? Hearing none, the vote is on the bill H.R. 50, *National Oceanic and Atmospheric Administration Act,* as amended. All of those in favor will say aye. Opposed, no. In the opinion of the Chair, the ayes have it.

I recognize Dr. Ehlers to offer a motion.

Mr. EHLERS. Mr. Chairman, I move that the Committee favorably report H.R. 50, as amended, to the House with the recommendation that the bill, as amended, do pass. Furthermore, I move that staff be instructed to prepare the legislative report and make necessary technical and conforming changes and that the Chairman take all necessary steps to bring the bill before the House for consideration.

Chairman BOEHLERT. The question is on the motion to report the bill, as amended, favorably. Those in favor of the motion will signify by saying aye. Opposed, no. The ayes have it, and the bill is favorably reported.

Without objection, the motion to reconsider is laid upon the table.

I move that Members have two subsequent calendar days in which to submit supplemental, minority, or additional views on the measure. I would move pursuant to Clause 1 of Rule 22 of the Rules of the House of Representatives that the Committee authorizes the Chairman to offer such motions as may be necessary in the House to adopt and pass H.R. 50, *National Oceanic and Atmospheric Administration Act,* as amended. Without objection, so ordered.

I want to thank everybody for participating and for your attendance and indulgence.

This concludes our Committee markup.

[Whereupon, at 11:15 a.m., the Committee was adjourned.]

Appendix:

SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS MARKUP OF H.R. 50 MEMORANDUM; H.R. 50, AS AMENDED; SECTION-BY-SECTION ANALYSIS OF H.R. 50, AS AMENDED; AMENDMENT ROSTER; SECTION-BY-SECTION ANALYSIS OF MANAGER'S AMENDMENT

COMMITTEE ON SCIENCE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

March 15, 2005

MEMORANDUM

TO: Sherwood L. Boehlert, Chairman

FROM: Vernon J. Ehlers, Chairman
Subcommittee on Environment, Technology and Standards

SUBJECT: Subcommittee Markup of H.R. 50, National Oceanic and Atmospheric Administration Act

On March 15, 2005, the Subcommittee on Environment, Technology, and Standards considered H.R. 50, National Oceanic and Atmospheric Administration Act, and ordered the measure reported, as amended, by a voice vote.

Attached is copy of the measure as reported by the Subcommittee, as well as a section-by-section analysis.

I look forward to working with you to bring this bill before the Committee for consideration.

Attachments (2)

H.R. 50, AS AMENDED BY THE SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS ON MARCH 15, 2005

Strike all after the enacting clause and insert the following:

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.

1 (b) MISSION.—The mission of the Administration is
2 to understand the systems of the Earth's oceans and at-
3 mosphere and predict changes in the Earth's oceans and
4 atmosphere and the effects of such changes on the land
5 environment, to conserve and manage coastal, ocean, and
6 Great Lakes ecosystems to meet national economic, social,
7 and environmental needs, and to educate the public about
8 these topics.
9 (c) FUNCTIONS.—The functions of the Administra-
10 tion shall include—
11 (1) collecting, through observation and other
12 means, communicating, analyzing, processing, and
13 disseminating comprehensive scientific data and in-
14 formation about weather and climate, solar and geo-
15 physical events on the Sun and in the space environ-
16 ment, and about the coasts, oceans, Great Lakes,
17 upper reaches of estuaries, and hydrologic systems;
18 (2) operating and maintaining a system for the
19 storage, retrieval, and dissemination of data relating
20 to weather and climate, solar and geophysical events
21 on the Sun and in the space environment, and about
22 the coasts, oceans, Great Lakes, upper reaches of es-
23 tuaries, and hydrologic systems;
24 (3) conducting and supporting basic and ap-
25 plied research and development of technology as may

1 be necessary to carry out the mission described in
2 subsection (b);
3 (4) issuing weather, water, climate, and space
4 weather forecasts and warnings;
5 (5) coordinating efforts of Federal agencies in
6 support of national and international programs with
7 respect to meteorological services;
8 (6) understanding the science of Earth's cli-
9 mate and related systems, and undertaking research,
10 development, and demonstration to enhance society's
11 ability to plan for and respond to climate variability
12 and change;
13 (7) protecting, restoring, and managing the use
14 of the coasts, oceans, and Great Lakes through eco-
15 system-based research, development, demonstration,
16 and management;
17 (8) coordinating efforts of Federal agencies in
18 support of national and international programs with
19 respect to integrated Earth observing systems;
20 (9) administering public outreach and education
21 programs and services to increase scientific and en-
22 vironmental literacy about weather and climate,
23 solar and geophysical events on the Sun and in the
24 space environment, and the coasts, oceans, Great

1 Lakes, upper reaches of estuaries, and hydrologic
2 systems;
3 (10) cooperating with international organiza-
4 tions and scientists in bilateral and multilateral re-
5 search, development, conservation, and service pro-
6 grams related to coastal, ocean, Great Lakes, weath-
7 er, and climate issues; and
8 (11) any other function assigned to the Admin-
9 istration by law.

10 **SEC. 4. ADMINISTRATION LEADERSHIP.**

11 (a) ADMINISTRATOR.—
12 (1) IN GENERAL.—There shall be, as the Ad-
13 ministrator of the Administration, an Under Sec-
14 retary of Commerce for Oceans and Atmosphere.
15 The Administrator shall be appointed by the Presi-
16 dent, by and with the advice and consent of the Sen-
17 ate. The Administrator shall be paid at the rate of
18 basic pay for level III of the Executive Schedule.
19 (2) FUNCTIONS.—The Administrator shall per-
20 form such functions and exercise such powers with
21 respect to the Administration as the Secretary may
22 prescribe, including—
23 (A) general management;
24 (B) policy development and guidance;

1 (C) budget formulation, guidance, and exe-
2 cution; and
3 (D) serving as the Department of Com-
4 merce official for all ocean and atmosphere
5 issues with other elements of the Department of
6 Commerce and with other Federal agencies,
7 State, tribal, and local governments, and the
8 public.
9 (3) DELEGATION OF AUTHORITY.—The Admin-
10 istrator may, except as otherwise prohibited by
11 law—
12 (A) delegate any functions, powers, or du-
13 ties of the Administrator to such officers and
14 employees of the Administration as the Admin-
15 istrator may designate; and
16 (B) authorize such successive redelegations
17 of such functions, powers, or duties within the
18 Administration as the Administrator considers
19 necessary or appropriate.
20 (4) AUTHORITIES.—The Administrator shall
21 have the authority to enter into and perform such
22 contracts, leases, grants, and cooperative agreements
23 with Federal agencies, State and local governments,
24 Indian tribes, international organizations, foreign
25 governments, educational institutions, nonprofit or-

1 ganizations, and commercial organizations, as may
2 be necessary and proper to carry out the Adminis-
3 tration's functions under this Act or as otherwise
4 provided by law. The authority conferred on the Ad-
5 ministrator by this paragraph does not include the
6 authority to contract for services that are an inher-
7 ently governmental function as defined in section 5
8 of the Federal Activities Inventory Reform Act of
9 1998 (31 U.S.C. 501 note).
10 (b) ASSISTANT SECRETARY FOR OCEANS AND AT-
11 MOSPHERE.—
12 (1) IN GENERAL.—There shall be, as Deputy
13 Administrator of the Administration, an Assistant
14 Secretary of Commerce for Oceans and Atmosphere.
15 The Assistant Secretary shall be appointed by the
16 President, by and with the advice and consent of the
17 Senate. The Assistant Secretary shall be the Admin-
18 istrator's first assistant for purposes of subchapter
19 III of chapter 33 of title 5, United States Code. The
20 Assistant Secretary shall be paid at the rate of basic
21 pay for level IV of the Executive Schedule.
22 (2) FUNCTIONS.—The Assistant Secretary shall
23 perform such functions and exercise such powers as
24 the Secretary or Administrator may prescribe and
25 shall act as Administrator during the absence or dis-

1 ability of the Administrator or in the event of a va-
2 cancy in the office of Administrator.
3 (c) DEPUTY UNDER SECRETARY FOR OCEANS AND
4 ATMOSPHERE.—
5 (1) IN GENERAL.—There shall, be as the Chief
6 Operating Officer of the Administration, a Deputy
7 Under Secretary of Commerce for Oceans and At-
8 mosphere. The Deputy Under Secretary shall be ap-
9 pointed by the Secretary. The position of Deputy
10 Under Secretary shall be a Senior Executive Service
11 position authorized under section 3133 of title 5,
12 United States Code.
13 (2) FUNCTIONS.—The Deputy Under
14 Secretary—
15 (A) shall ensure the timely and effective
16 implementation of Administration policies and
17 objectives;
18 (B) shall be responsible for all aspects of
19 the Administration's operations and manage-
20 ment, including budget, financial operations, in-
21 formation services, facilities, human resources,
22 procurements, and associated services;
23 (C) in the absence or disability of the As-
24 sistant Secretary, or in the event of a vacancy
25 in such position, shall act in that position; and

1 (D) shall perform such other duties as the
2 Administrator shall prescribe.
3 (d) DEPUTY ASSISTANT SECRETARY FOR OCEANS
4 AND ATMOSPHERE.—
5 (1) IN GENERAL.—There shall be in the Admin-
6 istration a Deputy Assistant Secretary for Oceans
7 and Atmosphere. The Deputy Assistant Secretary
8 for Oceans and Atmosphere shall be appointed by
9 the Secretary. The position of Deputy Assistant Sec-
10 retary for Oceans and Atmosphere shall be a Senior
11 Executive Service position authorized under section
12 3133 of title 5, United States Code.
13 (2) FUNCTIONS.—The Deputy Assistant Sec-
14 retary for Oceans and Atmosphere—
15 (A) shall serve as an advisor to the Admin-
16 istrator on program and policy issues related to
17 environmental policy, strategic planning, and
18 program analysis;
19 (B) shall ensure the timely and effective
20 implementation of Administration policies and
21 objectives related to environmental policy, stra-
22 tegic planning, and program analysis; and
23 (C) shall perform such other duties as the
24 Administrator shall prescribe.

1 (e) DEPUTY ASSISTANT SECRETARY FOR SCIENCE,
2 TECHNOLOGY, EDUCATION, AND OUTREACH.—
3 (1) IN GENERAL.—There shall be in the Admin-
4 istration a Deputy Assistant Secretary for Science,
5 Technology, Education, and Outreach, who shall co-
6 ordinate and oversee the science and technology ac-
7 tivities of the Administration and ensure that Ad-
8 ministration decisions are informed by the results of
9 appropriate and relevant research. The Deputy As-
10 sistant Secretary for Science, Technology, Edu-
11 cation, and Outreach shall be appointed by the Sec-
12 retary. The position of Deputy Assistant Secretary
13 for Science, Technology, Education, and Outreach
14 shall be a Senior Executive Service career reserved
15 position as defined in section 3132(a)(8) of title 5,
16 United States Code.
17 (2) FUNCTIONS.—The Deputy Assistant Sec-
18 retary for Science, Technology, Education, and Out-
19 reach shall—
20 (A) coordinate research and development
21 activities across the Administration, including
22 coordination of research and development budg-
23 ets;

1 (B) advise the Administrator on how re-
2 search activities can be applied to operational
3 use;
4 (C) provide advice to the Administrator re-
5 garding science and technology issues and their
6 relationship to Administration policies, proce-
7 dures, and decisions;
8 (D) participate in developing the Adminis-
9 tration's strategic plans and policies and review
10 the science and technology aspects of those
11 plans and policies;
12 (E) develop and oversee guidelines for the
13 dissemination to the public of results from re-
14 search and development conducted, sponsored,
15 or cited by the Administration;
16 (F) serve as liaison to the nongovern-
17 mental science and technology community;
18 (G) develop and oversee guidelines for peer
19 review of science and technology research spon-
20 sored by the Administration;
21 (H) oversee implementation of the stra-
22 tegic plan for science and technology research,
23 development, and demonstration required under
24 section 10(b);

1 (I) oversee management of research labora-
2 tories in the Administration;
3 (J) oversee the research and education
4 programs of the Administration; and
5 (K) perform such other duties as the Sec-
6 retary or Administrator shall prescribe.
7 (3) QUALIFICATIONS.—An individual appointed
8 under paragraph (1) shall be a person who has an
9 outstanding science and technology background, in-
10 cluding research accomplishments, scientific reputa-
11 tion, and public policy experience.
12 (4) CONSULTATION.—Before appointing an in-
13 dividual under paragraph (1), the Secretary shall
14 consult with the National Academy of Sciences, the
15 Science Advisory Board of the Administration, and
16 other appropriate scientific organizations.
17 (f) GENERAL COUNSEL.—
18 (1) IN GENERAL.—There shall be in the Admin-
19 istration a General Counsel. The General Counsel
20 shall be appointed by the Secretary. The General
21 Counsel shall be paid at the rate of basic pay for
22 level V of the Executive Schedule.
23 (2) FUNCTIONS.—The General Counsel—
24 (A) shall serve as the chief legal officer of
25 the Administration for all legal matters that

1 arise in connection with the conduct of the
2 functions of the Administration; and
3 (B) shall perform such other functions and
4 exercise such powers as the Secretary or Ad-
5 ministrator may prescribe.
6 (g) CONTINUATION OF SERVICE.—Any individual
7 serving on the effective date of this Act in a position pro-
8 vided for in this Act may continue to serve in that position
9 until a successor is appointed under this Act. Nothing in
10 this Act shall be construed to require the appointment of
11 a successor under this Act sooner than would have been
12 required under law as in effect before the effective date
13 of this Act.
14 **SEC. 5. NATIONAL WEATHER SERVICE.**
15 (a) IN GENERAL.—The Secretary shall maintain
16 within the Administration a National Weather Service.
17 (b) MISSION.—The mission of the National Weather
18 Service is to provide weather, water, climate, and space
19 weather forecasts and warnings for the United States, its
20 territories, adjacent waters, and ocean areas for the pro-
21 tection of life and property and the enhancement of the
22 national economy.
23 (c) GOALS.—The goals of the National Weather Serv-
24 ice shall include—

1 (1) to provide timely and accurate weather,
2 water, climate, and space weather forecasts; and
3 (2) to provide timely and accurate warnings of
4 weather, water, and climate natural hazards, and of
5 space weather hazards.
6 (d) FUNCTIONS.—The functions of the National
7 Weather Service shall include—
8 (1) maintaining a network of local weather fore-
9 cast offices;
10 (2) maintaining a network of observation sys-
11 tems to collect weather and climate data;
12 (3) operating national centers to deliver guid-
13 ance, forecasts, warnings, and analysis about weath-
14 er, water, climate, and space weather phenomena for
15 the Administration and the public;
16 (4) conducting and supporting applied research
17 to facilitate the rapid incorporation of weather and
18 climate science advances into operational tools; and
19 (5) other functions to serve the mission of the
20 National Weather Service.
21 (e) PUBLIC-PRIVATE PARTNERSHIPS.—Not less than
22 once every 5 years, the Secretary shall develop and submit
23 to Congress a policy the defines processes for making deci-
24 sions about the roles of the National Weather Service, the
25 private sector, and the academic community in providing

1 weather-related and climate-related products, tech-
2 nologies, and services. The first such policy shall be com-
3 pleted not less than 12 months after the date of enactment
4 of this Act. At least 90 days before each submission of
5 the policy to Congress, the Secretary shall publish the pol-
6 icy in the Federal Register for a public comment period
7 of not less than 60 days.

8 **SEC. 6. OPERATIONS AND SERVICES.**

9 (a) IN GENERAL.—The Secretary shall maintain
10 within the Administration programs to support operations
11 of ongoing data collection and direct services and products
12 regarding satellite, observations, and coastal, ocean, and
13 Great Lakes information.

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

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

20 (2) ensuring the availability of a global Earth-
21 observing system, integrating remote sensing and in
22 situ assets that provide critical data needed to sup-
23 port the mission of the Administration, and pro-
24 viding that data to decisionmakers and the public;

1 (3) developing, acquiring, and managing oper-
2 ational environmental satellite constellations and as-
3 sociated ground control and data acquisition facili-
4 ties to support the mission of the Administration;
5 (4) managing and distributing atmospheric,
6 geophysical, and marine data and data products for
7 the Administration through national environmental
8 data centers;
9 (5) providing for long-term stewardship of envi-
10 ronmental data, products, and information via data
11 processing, storage, reanalysis, reprocessing, and ar-
12 chive facilities;
13 (6) promoting widespread availability of envi-
14 ronmental data and information through full and
15 open access and exchange to the greatest extent pos-
16 sible;
17 (7) issuing licenses for private remote sensing
18 space systems under the Land Remote Sensing Pol-
19 icy Act of 1992;
20 (8) administering a national water level obser-
21 vation network, which shall include monitoring of
22 the Great Lakes;
23 (9) providing charts and other information for
24 safe navigation of the oceans and inland waters, as
25 provided by law; and

1 (10) such other functions to serve the oper-
2 ations and services mission of the Administration as
3 the Administrator may prescribe.

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

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

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

14 (1) conducting and supporting research and
15 technology development to improve the Administra-
16 tion's capabilities in collecting, through observation
17 and otherwise, communicating, analyzing, proc-
18 essing, and disseminating comprehensive scientific
19 data and information about weather, climate, and
20 the coasts, oceans, and Great Lakes;

21 (2) improving environmental prediction and
22 management capabilities through ecosystem-based
23 research and development;

1 (3) improving knowledge of Earth's climate and
2 related systems through research and observation for
3 decision support;
4 (4) reducing uncertainty in projections of how
5 the Earth's climate and related systems may change
6 in the future;
7 (5) fostering the public's ability to understand
8 and integrate scientific information into consider-
9 ations of national environmental issues through edu-
10 cation and public outreach activities;
11 (6) administering the National Sea Grant Col-
12 lege Program Act;
13 (7) conducting and supporting research and de-
14 velopment of technology for exploration of the
15 oceans;
16 (8) maintaining a system of laboratories to per-
17 form the functions described in this subsection;
18 (9) supporting extramural peer-reviewed com-
19 petitive grant programs to assist the Administration
20 in performing the functions described in this sub-
21 section; and
22 (10) such other functions to serve the research,
23 development, education, and outreach mission of the
24 Administration as the Administrator may prescribe.

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

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

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

13 (c) MEMBERS.—

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

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

1 being served on such date of enactment is the second
2 term served by that individual. Vacancy appoint-
3 ments shall be for the remainder of the unexpired
4 term of the vacancy, and an individual so appointed
5 may subsequently be appointed for 2 full 3-year
6 terms if the remainder of the unexpired term is less
7 than one year.
8 (3) CHAIRPERSON.—The Administrator shall
9 designate a chairperson from among the members of
10 the Board.
11 (4) APPOINTMENT.—Members of the Science
12 Advisory Board shall be appointed as special Gov-
13 ernment employees, within the meaning given such
14 term in section 202(a) of title 18, United States
15 Code.
16 (d) ADMINISTRATIVE PROVISIONS.—
17 (1) REPORTING.—The Science Advisory Board
18 shall report to the Administrator and the appro-
19 priate requesting party.
20 (2) ADMINISTRATIVE SUPPORT.—The Adminis-
21 trator shall provide administrative support to the
22 Science Advisory Board.
23 (3) MEETINGS.—The Science Advisory Board
24 shall meet at least twice each year, and at other

1 times at the call of the Administrator or the Chair-
2 person.
3 (4) COMPENSATION AND EXPENSES.—A mem-
4 ber of the Science Advisory Board shall not be com-
5 pensated for service on such board, but upon request
6 by the member may be allowed travel expenses, in-
7 cluding per diem in lieu of subsistence, in accord-
8 ance with subchapter I of chapter 57 of title 5,
9 United States Code.
10 (5) SUBCOMMITTEES.—The Science Advisory
11 Board may establish such subcommittees of its
12 members as may be necessary. The Science Advisory
13 Board may establish task forces and working groups
14 consisting of Board members and outside experts as
15 may be necessary.
16 (e) EXPIRATION.—Section 14 of the Federal Advisory
17 Committee Act (5 U.S.C. App.) shall not apply to the
18 Science Advisory Board.
19 **SEC. 9. REPORTS.**
20 (a) REPORT ON DATA MANAGEMENT, ARCHIVAL,
21 AND DISTRIBUTION.—
22 (1) CONTENTS.—Not later than 1 year after
23 the date of enactment of this Act, and once every 5
24 years thereafter, the Administrator shall develop a
25 report on the environmental data and information

1 systems of the Administration. The report shall
2 include—
3 (A) an assessment of the adequacy of the
4 environmental data and information systems of
5 the Administration to—
6 (i) provide adequate capacity to man-
7 age, archive and disseminate environmental
8 information collected and processed, or ex-
9 pected to be collected and processed, by
10 the Administration and other appropriate
11 departments and agencies;
12 (ii) establish, develop, and maintain
13 information bases, including necessary
14 management systems, which will provide
15 for consistent, efficient, and compatible
16 transfer and use of data;
17 (iii) develop effective interfaces among
18 the environmental data and information
19 systems of the Administration and other
20 appropriate departments and agencies;
21 (iv) develop and use nationally accept-
22 ed formats and standards for data col-
23 lected by various national and international
24 sources;

1 (v) integrate and interpret data from
2 different sources to produce information
3 that can be used by decisionmakers in de-
4 veloping policies that effectively respond to
5 national and global environmental con-
6 cerns; and
7 (vi) reanalyze and reprocess the
8 archived data as better science is developed
9 to integrate diverse data sources; and
10 (B) a strategic plan to—
11 (i) set forth modernization and im-
12 provement objectives for an integrated na-
13 tional environmental data access and ar-
14 chive system for the 10-year period begin-
15 ning with the year in which the plan is
16 transmitted, including facility requirements
17 and critical new technology components
18 that would be necessary to meet the objec-
19 tives set forth;
20 (ii) propose specific Administration
21 programs and activities for implementing
22 the plan;
23 (iii) identify the data and information
24 management, reanalysis, reprocessing, ar-
25 chival, and distribution responsibilities of

1 the Administration with respect to other
2 Federal departments and agencies and
3 international organizations; and
4 (iv) provide an implementation sched-
5 ule and estimate funding levels necessary
6 to achieve modernization and improvement
7 objectives.
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 report developed
19 under paragraph (1) and the review prepared pursu-
20 ant to paragraph (2). Subsequent reports developed
21 under paragraph (1) shall also be transmitted to
22 those committees.
23 (b) STRATEGIC PLAN FOR SCIENTIFIC RESEARCH.—
24 (1) CONTENTS.—Not later than 1 year after
25 the date of enactment of this Act, and once every 5

1 years thereafter, the Administrator shall develop a
2 strategic plan for science and technology research
3 and development at the Administration. The plan
4 shall include—
5 (A) an assessment of the science and tech-
6 nology needs of the Administration based on
7 the Administration's operational requirements
8 and on input provided by external stakeholders
9 at the national, regional, State, and local levels;
10 (B) a strategic plan for coordinating re-
11 search and development activities across the
12 Administration to meet the needs identified in
13 subparagraph (A); and
14 (C) a description of how the Administra-
15 tion plans to utilize extramural, peer-reviewed
16 competitive grant programs to meet its research
17 needs.
18 (2) NATIONAL ACADEMY OF SCIENCES RE-
19 VIEW.—The Administrator shall enter into an ar-
20 rangement with the National Academy of Sciences
21 for a review of the plan developed under paragraph
22 (1).
23 (3) 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 report developed
4 under paragraph (1) and the review prepared pursu-
5 ant to paragraph (2). Subsequent reports developed
6 under paragraph (1) shall also be transmitted to
7 those committees.

8 **SEC. 10. EFFECT OF REORGANIZATION PLAN.**

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

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

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

1 to responsibilities or functions transferred under this Act
2 shall continue without regard to such transfers, except for
3 the transfer of responsibilities or functions. Any reference
4 in law to a responsibility, function, or office transferred
5 under this Act shall be deemed to refer to the responsi-
6 bility, function, or office as so transferred.

7 **SEC. 12. TRANSITION.**

8 (a) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2) the provisions of this Act shall become ef-
11 fective 2 years after the date of enactment of this
12 Act.

13 (2) EXCEPTIONS.—Paragraph (1) shall not
14 apply to sections 9 or 13, or to subsection (b) of this
15 section.

16 (b) REORGANIZATION.—Not later than 18 months
17 after the date of enactment of this Act, the Administrator
18 shall transmit a plan and budget proposal to Congress set-
19 ting forth a proposal for program and Administration re-
20 organization for the program areas outlined in this Act.
21 The plan shall be developed in consultation with interested
22 parties, including representatives of the States, academia,
23 industry, conservation organizations, and Administration
24 employees. The draft plan shall be published in the Fed-

1 eral Register for public notice and comment at least 60
2 days prior to final submission to Congress.

3 **SEC. 13. FACILITY EVALUATION PROCESS.**

4 (a) PUBLIC NOTIFICATION AND ASSESSMENT PROC-
5 ESS.—The Administrator shall not close, consolidate, re-
6 locate, subdivide, or establish a facility of the Administra-
7 tion unless the Administrator has completed a public noti-
8 fication and assessment process that includes—

9 (1) publication in the Federal Register of the
10 proposed action and a description of the offices, per-
11 sonnel, and activities of the Administration that
12 would be impacted by the proposed change, and pro-
13 viding for a minimum of 60 days for public com-
14 ment;

15 (2) review of the proposed change by the
16 Science Advisory Board of the Administration, if the
17 proposed change involves a science facility of the Ad-
18 ministration, and preparation of a summary of their
19 findings regarding the proposed change;

20 (3) preparation by the Administrator of an
21 analysis of the anticipated costs and savings associ-
22 ated with the proposed facility change, including
23 both initial costs and savings associated with the
24 change and changes in operations and maintenance
25 costs and savings over a ten year period; and

1 (4) preparation by the Administrator of an
2 analysis of the effects of the facility change on oper-
3 ations and research of the Administration, and the
4 potential impacts on cooperative institutes, other ex-
5 ternal Administration partnerships, partnerships
6 with other Federal agencies, and any State and local
7 partnerships.
8 (b) NOTICE TO CONGRESS.—The Administrator shall
9 provide to Congress, at least 90 days before any closure,
10 consolidation, relocation, subdivision, or establishment of
11 a facility of the Administration, a summary of the public
12 comments received pursuant to subsection (a)(1), any
13 summary prepared under subsection (a)(2), and the anal-
14 yses prepared under subsection (a)(3) and (4), .
15 (c) WEATHER SERVICE MODERNIZATION.—Nothing
16 in this section shall alter procedures established under the
17 Weather Service Modernization Act (15 U.S.C. 313 note).
18 (d) DEFINITION.—For purposes of this section, the
19 term "facility" means a laboratory, operations office, ad-
20 ministrative service center, or other establishment of the
21 Administration with an annual budget of $1,000,000 or
22 greater.

SECTION-BY-SECTION ANALYSIS OF H.R. 50,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT, AS AMENDED

Section 1. Short Title.

"National Oceanic and Atmospheric Administration Act."

Section 2. Definitions.

Defines terms used in the Act.

Section 3. National Oceanic and Atmospheric Administration.

Establishes the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce and describes the mission and functions of NOAA.

Section 4. Administration Leadership.

Describes the leadership structure of NOAA, including a new position of a Deputy Assistant Secretary for Science, Technology, Education and Outreach, who shall be responsible for coordinating and managing all research activities across the agency, and must be a career position. Also, this section designates the Deputy Under Secretary for Oceans and Atmosphere as the Chief Operating Officer of the Administration, responsible for the day-to-day aspects of the Administration's operations and management.

Section 5. National Weather Service.

Directs the Secretary of Commerce to maintain a National Weather Service within NOAA.

Section 6. Operations and Services.

Directs the Secretary to maintain programs within NOAA to support operational and service functions. These functions would include all the activities of NOAA's National Environmental Satellite Data and Information Service (NESDIS) and the mapping and charting activities of the National Ocean Service.

Section 7. Research and Education.

Directs the Secretary to maintain programs within NOAA to conduct and support research and education functions.

Section 8. Science Advisory Board.

Establishes a Science Advisory Board for NOAA, which would provide scientific advice to the Administrator and to Congress on issues affecting NOAA.

Section 9. Reports.

Requires two reports from the Secretary. Each report is to be delivered to Congress within 18 months of the date of enactment of the Act. One report should assess the adequacy of the environmental data and information systems of NOAA and provide a strategic plan to address any deficiencies in those systems. The other report must provide a strategic plan for research at NOAA. The National Academy of Sciences (NAS) shall review each report prior to delivery to Congress.

Section 10. Effect of Reorganization Plan.

Repeals the Executive Order that established NOAA in 1970.

Section 11. Savings Provision.

Provides that all rules and regulations, and other technical legal topics that were previously assigned to the Administration, remain in effect under this Act.

Section 12. Transition.

Makes the effective date of the Act two years after the date of enactment and requires NOAA to reorganize around the themes outlined in sections five through seven.

Section 13. Facility Evaluation Process.

Provides that NOAA cannot expend funds to close or transfer a facility without a 60-day public comment period, 90 days notification to Congress, review by the Science Advisory Board (if appropriate), preparation of anticipated costs and savings, and preparation of a statement of the impacts of the facility change on NOAA and its part.

COMMITTEE ON SCIENCE
FULL COMMITTEE MARKUP

May 17, 2005

AMENDMENT ROSTER

H.R. 50, National Oceanic and Atmospheric Administration Act
--Motion to adopt the bill, as amended: agreed to by a voice vote.
--Motion to report the bill, as amended: agreed to by a voice vote.

No.	Sponsor	Description	Results
1.	Mr. Ehlers	Amendment in the Nature of a Substitute to H.R. 50.	--Adopted, as amended, by a voice vote.
2.	Mr. Costello	Amendment to prohibit NOAA from contracting for goods and services with organizations which perform their work outside of the United States.	--Adopted, as amended, by a voice vote.
3.	Mr. Boehlert	Second degree amendment to the Costello amendment.	--Adopted by a roll call vote: Y-18; N-17.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 50 OFFERED BY MR. EHLERS OF MICHIGAN

Strike all after the enacting clause and insert the following:

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.

1 (b) MISSION.—The mission of the Administration is
2 to understand the systems of the Earth's oceans and at-
3 mosphere and predict changes in the Earth's oceans and
4 atmosphere and the effects of such changes on the land
5 environment, to conserve and manage coastal, ocean, and
6 Great Lakes ecosystems to meet national economic, social,
7 and environmental needs, and to educate the public about
8 these topics.
9 (c) FUNCTIONS.—The functions of the Administra-
10 tion shall include—
11 (1) collecting, through observation and other
12 means, communicating, analyzing, processing, and
13 disseminating comprehensive scientific data and in-
14 formation about weather and climate, solar and geo-
15 physical events on the Sun and in the space environ-
16 ment, and about the coasts, oceans, Great Lakes,
17 upper reaches of estuaries, and hydrologic systems;
18 (2) operating and maintaining a system for the
19 storage, retrieval, and dissemination of data relating
20 to weather and climate, solar and geophysical events
21 on the Sun and in the space environment, and about
22 the coasts, oceans, Great Lakes, upper reaches of es-
23 tuaries, and hydrologic systems;

1 (3) using observational data and technologies
2 developed by other Federal agencies to improve the
3 Administration's operations;
4 (4) conducting and supporting basic and ap-
5 plied research, development, and technology transfer
6 as may be necessary to carry out the mission de-
7 scribed in subsection (b);
8 (5) issuing weather, water, climate, space
9 weather, tsunami, and other forecasts and warnings
10 related to Earth's oceans and atmosphere;
11 (6) coordinating efforts of Federal agencies
12 with respect to meteorological services;
13 (7) understanding the science of Earth's cli-
14 mate and related systems, and undertaking research
15 and development to enhance society's ability to plan
16 for and respond to climate variability and change;
17 (8) protecting, restoring, and managing the use
18 of, the coasts, oceans, and Great Lakes through eco-
19 system-based research, development, demonstration,
20 and management;
21 (9) administering public outreach and education
22 programs and services to increase scientific and en-
23 vironmental literacy about weather and climate,
24 solar and geophysical events on the Sun and in the
25 space environment, and the coasts, oceans, Great

1 Lakes, upper reaches of estuaries, and hydrologic
2 systems;
3 (10) providing, as appropriate and in coopera-
4 tion with the Secretary of State, representation at
5 all international meetings and conferences relating
6 to the mission of the Administration, including mete-
7 orological, climate, and Earth and ocean observing
8 issues;
9 (11) any other function assigned to the Admin-
10 istration by law; and
11 (12) such other functions as are necessary to
12 accomplish the mission described in subsection (b).
13 **SEC. 4. ADMINISTRATION LEADERSHIP.**
14 (a) ADMINISTRATOR.—
15 (1) IN GENERAL.—There shall be, as the Ad-
16 ministrator of the Administration, an Under Sec-
17 retary of Commerce for Oceans and Atmosphere.
18 The Administrator shall be appointed by the Presi-
19 dent, by and with the advice and consent of the Sen-
20 ate. The Administrator shall be paid at the rate of
21 basic pay for level III of the Executive Schedule.
22 (2) FUNCTIONS.—The Administrator shall be
23 responsible for—
24 (A) general management;
25 (B) policy development and guidance;

1 (C) budget formulation, guidance, and exe-
2 cution;
3 (D) serving as the Department of Com-
4 merce official for all ocean and atmosphere
5 issues with other elements of the Department of
6 Commerce and with other Federal agencies,
7 State, tribal, and local governments, and the
8 public; and
9 (E) such other duties with respect to the
10 Administration as the Secretary may prescribe.
11 (3) DELEGATION OF AUTHORITY.—The Admin-
12 istrator may, except as otherwise prohibited by
13 law—
14 (A) delegate any functions, powers, or du-
15 ties of the Administrator to such officers and
16 employees of the Administration as the Admin-
17 istrator may designate; and
18 (B) authorize such successive redelegations
19 of such functions, powers, or duties within the
20 Administration as the Administrator considers
21 necessary or appropriate.
22 (4) AUTHORITIES.—
23 (A) IN GENERAL.—As may be necessary or
24 proper to carry out the Administration's func-

1 tions under this Act or as otherwise provided by
2 law, the Administrator may—
3 (i) promulgate rules and regulations;
4 (ii) enter into and perform contracts,
5 leases, grants, and cooperative agreements
6 with Federal agencies, State and local gov-
7 ernments, Indian tribes, international or-
8 ganizations, foreign governments, edu-
9 cational institutions, nonprofit organiza-
10 tions, and commercial organizations;
11 (iii) use, with their consent, and with
12 or without reimbursement, the services,
13 equipment, personnel, and facilities of
14 other departments, agencies, and instru-
15 mentalities of the Federal Government;
16 and
17 (iv) conduct education and outreach
18 in direct support of the mission described
19 in section 3(b).
20 (B) EXCEPTION.—The authorities con-
21 ferred on the Administrator by this paragraph
22 do not include the authority to contract for
23 services that are an inherently governmental
24 function as defined in section 5 of the Federal

1 Activities Inventory Reform Act of 1998 (31
2 U.S.C. 501 note).
3 (b) ASSISTANT SECRETARY FOR OCEANS AND AT-
4 MOSPHERE.—
5 (1) IN GENERAL.—There shall be, as Deputy
6 Administrator of the Administration, an Assistant
7 Secretary of Commerce for Oceans and Atmosphere.
8 The Assistant Secretary shall be appointed by the
9 President, by and with the advice and consent of the
10 Senate. The Assistant Secretary shall be the Admin-
11 istrator's first assistant for purposes of subchapter
12 III of chapter 33 of title 5, United States Code. The
13 Assistant Secretary shall be paid at the rate of basic
14 pay for level IV of the Executive Schedule.
15 (2) FUNCTIONS.—The Assistant Secretary shall
16 perform such functions and exercise such powers as
17 the Administrator may prescribe and shall act as
18 Administrator during the absence or disability of the
19 Administrator or in the event of a vacancy in the of-
20 fice of Administrator.
21 (c) DEPUTY UNDER SECRETARY FOR OCEANS AND
22 ATMOSPHERE.—
23 (1) IN GENERAL.—There shall, be as the Chief
24 Operating Officer of the Administration, a Deputy
25 Under Secretary of Commerce for Oceans and At-

1 mosphere. The Deputy Under Secretary shall be ap-
2 pointed by the Secretary. The position of Deputy
3 Under Secretary shall be a Senior Executive Service
4 position authorized under section 3133 of title 5,
5 United States Code.
6 (2) FUNCTIONS.—The Deputy Under
7 Secretary—
8 (A) shall ensure the timely and effective
9 implementation of Administration policies and
10 objectives;
11 (B) shall be responsible for all aspects of
12 the Administration's operations and manage-
13 ment, including budget, financial operations, in-
14 formation services, facilities, human resources,
15 procurements, and associated services;
16 (C) in the absence or disability of the As-
17 sistant Secretary, or in the event of a vacancy
18 in such position, shall act in that position; and
19 (D) shall perform such other duties as the
20 Administrator shall prescribe.
21 (d) DEPUTY ASSISTANT SECRETARY FOR SCIENCE
22 AND EDUCATION.—
23 (1) IN GENERAL.—There shall be in the Admin-
24 istration a Deputy Assistant Secretary for Science
25 and Education who shall coordinate and oversee the

1 science and education activities of the Administra-
2 tion and their application to Administration deci-
3 sions and operations. The Deputy Assistant Sec-
4 retary for Science and Education shall be appointed
5 by the Secretary. The position of Deputy Assistant
6 Secretary for Science and Education shall be a Sen-
7 ior Executive Service career reserved position as de-
8 fined in section 3132(a)(8) of title 5, United States
9 Code.
10 (2) FUNCTIONS.—The Deputy Assistant Sec-
11 retary for Science and Education shall—
12 (A) coordinate research and development
13 activities across the Administration;
14 (B) review the Administration's annual
15 budget to ensure that funding for research and
16 development is adequate, properly focused, and
17 carried out by the appropriate entities across
18 the Administration;
19 (C) advise the Administrator on how re-
20 search results can be applied to operational use;
21 (D) advise the Administrator regarding
22 science issues and their relationship to Adminis-
23 tration policies, procedures, and decisions;
24 (E) participate in developing the Adminis-
25 tration's strategic plans and policies and review

1 the science and education aspects of those plans
2 and policies;
3 (F) serve as liaison to the nongovern-
4 mental science community;
5 (G) develop and oversee guidelines for peer
6 review of research sponsored or conducted by
7 the Administration;
8 (H) oversee implementation of the stra-
9 tegic plan for research and development re-
10 quired under section 9(b);
11 (I) oversee management of laboratories in
12 the Administration;
13 (J) oversee the research and education
14 programs of the Administration; and
15 (K) perform such other duties as the Ad-
16 ministrator shall prescribe.
17 (3) QUALIFICATIONS.—An individual appointed
18 under paragraph (1) shall be a person who has an
19 outstanding science and education background, in-
20 cluding research accomplishments, scientific reputa-
21 tion, and public policy experience.
22 (4) CONSULTATION.—Before appointing an in-
23 dividual under paragraph (1), the Secretary shall
24 consult with the National Academy of Sciences, the

1 Science Advisory Board of the Administration, and
2 other appropriate scientific organizations.
3 (c) DEPUTY ASSISTANT SECRETARIES.—There may
4 be in the Administration no more than two additional
5 Deputy Assistant Secretaries whose duties may be des-
6 ignated by the Administrator. The Deputy Assistant Sec-
7 retaries shall be appointed by the Secretary. The positions
8 of Deputy Assistant Secretaries shall be Senior Executive
9 Service positions authorized under section 3133 of title 5,
10 United States Code.
11 (f) GENERAL COUNSEL.—
12 (1) IN GENERAL.—There shall be in the Admin-
13 istration a General Counsel. The General Counsel
14 shall be appointed by the Secretary. The General
15 Counsel shall be paid at the rate of basic pay for
16 level V of the Executive Schedule.
17 (2) FUNCTIONS.—The General Counsel—
18 (A) shall serve as the chief legal officer of
19 the Administration for all legal matters that
20 arise in connection with the conduct of the
21 functions of the Administration; and
22 (B) shall perform such other functions and
23 exercise such powers as the Administrator may
24 prescribe.

1 (g) CONTINUATION OF SERVICE.—Any individual
2 serving on the effective date of this Act in a position pro-
3 vided for in this Act may continue to serve in that position
4 until a successor is appointed under this Act. Nothing in
5 this Act shall be construed to require the appointment of
6 a successor under this Act sooner than would have been
7 required under law as in effect before the effective date
8 of this Act.

9 **SEC. 5. NATIONAL WEATHER SERVICE.**

10 (a) IN GENERAL.—The Secretary shall maintain
11 within the Administration the National Weather Service.
12 (b) MISSION.—The mission of the National Weather
13 Service is to provide weather, water, climate, tsunami, and
14 space weather forecasts and warnings for the United
15 States, its territories, adjacent waters, and ocean areas for
16 the protection of life and property and the enhancement
17 of the national economy. In carrying out the mission of
18 the National Weather Service, the Administrator shall en-
19 sure that the National Weather Service—
20 (1) provides timely and accurate weather,
21 water, climate, tsunami, and space weather fore-
22 casts; and
23 (2) provides timely and accurate warnings of
24 natural hazards related to weather, water, climate,
25 and tsunamis, and of space weather hazards.

1 (c) FUNCTIONS.—The functions of the National
2 Weather Service shall include—
3 (1) maintaining a network of local weather fore-
4 cast offices;
5 (2) maintaining a network of observation sys-
6 tems to collect weather and climate data;
7 (3) operating national centers to deliver guid-
8 ance, forecasts, warnings, and analysis about weath-
9 er, water, climate, tsunami, and space weather phe-
10 nomena for the Administration and the public;
11 (4) conducting and supporting applied research
12 to facilitate the rapid incorporation of weather and
13 climate science advances into operational tools; and
14 (5) other functions to serve the mission of the
15 National Weather Service described in subsection
16 (b).

17 **SEC. 6. OPERATIONS AND SERVICES.**

18 (a) IN GENERAL.—The Secretary shall maintain
19 within the Administration programs to support efforts, on
20 a continuing basis, to collect data and provide information
21 and products regarding satellites, observations, and coast-
22 al, ocean and Great Lakes information.
23 (b) FUNCTIONS.—To accomplish the mission de-
24 scribed in section 3(b), and in addition to the functions

1 described in section 3(c), the operations and service as-
2 pects of the Administration shall include—
3 (1) acquiring, managing, and operating coastal,
4 ocean, and Great Lakes observing systems;
5 (2) contributing to the operation of a global
6 Earth-observing system;
7 (3) integrating Administration remote sensing
8 and in situ assets that provide critical data needed
9 to support the mission of the Administration, and
10 providing that data to decisionmakers and the pub-
11 lic;
12 (4) developing, acquiring, and managing oper-
13 ational environmental satellite programs and associ-
14 ated ground control and data acquisition and deliv-
15 ery facilities to support the mission of the Adminis-
16 tration;
17 (5) managing and distributing atmospheric,
18 geophysical, and marine data and data products for
19 the Administration through national environmental
20 data centers;
21 (6) providing for long-term stewardship of envi-
22 ronmental data, products, and information via data
23 processing, storage, reanalysis, reprocessing, and ar-
24 chive facilities;

1 (7) issuing licenses for private remote sensing
2 space systems under the Land Remote Sensing Pol-
3 icy Act of 1992;
4 (8) administering a national water level obser-
5 vation network, which shall include monitoring of
6 the Great Lakes;
7 (9) providing charts and other information for
8 safe navigation of the oceans and inland waters, as
9 provided by law;
10 (10) maintaining a fleet of ships and aircraft to
11 support the mission of the Administration; and
12 (11) such other operations and services func-
13 tions to serve the mission of the Administration as
14 the Administrator may prescribe.

15 **SEC. 7. RESEARCH AND EDUCATION.**

16 (a) IN GENERAL.—The Secretary shall maintain
17 within the Administration programs to conduct and sup-
18 port research and education and the development of tech-
19 nologies relating to weather, climate, and the coasts,
20 oceans, and Great Lakes.
21 (b) FUNCTIONS.—To accomplish the mission de-
22 scribed in section 3(b), and in addition to the functions
23 described in section 3(c), the research and education as-
24 pects of the Administration shall include—

1 (1) conducting and supporting research and de-
2 velopment to improve the Administration's capabili-
3 ties to collect, through observation and otherwise,
4 communicate, analyze, process, and disseminate
5 comprehensive scientific data and information about
6 weather, climate, and the coasts, oceans, and Great
7 Lakes;
8 (2) improving ecological prediction and manage-
9 ment capabilities through ecosystem-based research
10 and development;
11 (3) contributing information on the Earth's cli-
12 mate and related systems, obtained through research
13 and observation, that addresses questions con-
14 fronting policymakers, resources managers, and
15 other users;
16 (4) reducing uncertainty in projections of how
17 the Earth's climate and related systems may change
18 in the future;
19 (5) fostering the public's ability to understand
20 and integrate scientific information into consider-
21 ations of national environmental issues through edu-
22 cation and public outreach activities;
23 (6) administering the National Sea Grant Col-
24 lege Program Act;

1 (7) conducting and supporting research and de-
2 velopment of technology for exploration of the
3 oceans;
4 (8) maintaining a system of laboratories to per-
5 form the functions described in this subsection;
6 (9) supporting extramural peer-reviewed com-
7 petitive grant programs to assist the Administration
8 in performing the functions described in this sub-
9 section; and
10 (10) such other research, development, edu-
11 cation, and outreach functions to serve the mission
12 of the Administration as the Administrator may pre-
13 scribe.

14 **SEC. 8. SCIENCE ADVISORY BOARD.**

15 (a) IN GENERAL.—There shall be within the Admin-
16 istration a Science Advisory Board, which shall provide
17 such scientific advice as may be requested by the Adminis-
18 trator, the Committee on Commerce, Science and Trans-
19 portation of the Senate, or the Committee on Science or
20 on Resources of the House of Representatives.
21 (b) PURPOSE.—The purpose of the Science Advisory
22 Board is to advise the Administrator and Congress on
23 long-range and short-range strategies for research, edu-
24 cation, and the application of science to resource manage-
25 ment and environmental assessment and prediction.

1 (c) MEMBERS.—

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

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

22 (3) CHAIRPERSON.—The Administrator shall
23 designate a chairperson from among the members of
24 the Board.

1 (4) APPOINTMENT.—Members of the Science
2 Advisory Board shall be appointed as special Gov-
3 ernment employees, within the meaning given such
4 term in section 202(a) of title 18, United States
5 Code.
6 (d) ADMINISTRATIVE PROVISIONS.—
7 (1) REPORTING.—The Science Advisory Board
8 shall report to the Administrator and the appro-
9 priate requesting party.
10 (2) ADMINISTRATIVE SUPPORT.—The Adminis-
11 trator shall provide administrative support to the
12 Science Advisory Board.
13 (3) MEETINGS.—The Science Advisory Board
14 shall meet at least twice each year, and at other
15 times at the call of the Administrator or the Chair-
16 person.
17 (4) COMPENSATION AND EXPENSES.—A mem-
18 ber of the Science Advisory Board shall not be com-
19 pensated for service on such board, but may be al-
20 lowed travel expenses, including per diem in lieu of
21 subsistence, in accordance with subchapter I of
22 chapter 57 of title 5, United States Code.
23 (5) SUBCOMMITTEES.—The Science Advisory
24 Board may establish such subcommittees of its
25 members as may be necessary. The Science Advisory

1 Board may establish task forces and working groups
2 consisting of Board members and outside experts as
3 may be necessary.
4 (e) EXPIRATION.—Section 14 of the Federal Advisory
5 Committee Act (5 U.S.C. App.) shall not apply to the
6 Science Advisory Board.
7 **SEC. 9. REPORTS.**
8 (a) REPORT ON DATA MANAGEMENT, ARCHIVAL,
9 AND DISTRIBUTION.—
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 do the fol-
13 lowing:
14 (A) Enter into an arrangement with the
15 National Academy of Sciences to review the en-
16 vironmental data and information systems of
17 the Administration and to provide recommenda-
18 tions to address any inadequacies identified by
19 the review. The review shall asses the adequacy
20 of the environmental data and information sys-
21 tems of the Administration to—
22 (i) provide adequate capacity to man-
23 age, archive and disseminate environmental
24 information collected and processed, or ex-
25 pected to be collected and processed, by

1 the Administration, including data gath-
2 ered by other agencies that is processed or
3 stored by the Administration;
4 (ii) establish, develop, and maintain
5 information bases, including necessary
6 management systems, which will provide
7 for consistent, efficient, and compatible
8 transfer and use of data;
9 (iii) develop effective interfaces among
10 the environmental data and information
11 systems of the Administration and other
12 appropriate departments and agencies;
13 (iv) develop and use nationally accept-
14 ed formats and standards for data col-
15 lected by various national and international
16 sources;
17 (v) integrate and interpret data from
18 different sources to produce information
19 that can be used by decisionmakers in de-
20 veloping policies that effectively respond to
21 national and global environmental con-
22 cerns; and
23 (vi) reanalyze and reprocess the
24 archived data as better science is developed
25 to integrate diverse data sources.

1 (B) Develop a strategic plan, with respect
2 to the environmental data and information sys-
3 tems of the Administration, to—
4 (i) respond the each of the rec-
5 ommendations in the review conducted
6 under subparagraph (A);
7 (ii) set forth modernization and im-
8 provement objectives for an integrated na-
9 tional environmental data access and ar-
10 chive system for the 10-year period begin-
11 ning with the year in which the plan is
12 transmitted, including facility requirements
13 and critical new technology components
14 that would be necessary to meet the objec-
15 tives set forth;
16 (iii) propose specific Administration
17 programs and activities for implementing
18 the plan;
19 (iv) identify the data and information
20 management, reanalysis, reprocessing, ar-
21 chival, and distribution responsibilities of
22 the Administration with respect to other
23 Federal departments and agencies and
24 international organizations; and

1 (v) provide an implementation sched-
2 ule and estimate funding levels necessary
3 to achieve modernization and improvement
4 objectives.
5 (2) TRANSMITTAL TO CONGRESS.—Not later
6 than 18 months after the date of enactment of this
7 Act, the Administrator shall transmit to the Com-
8 mittee on Commerce, Science, and Transportation of
9 the Senate and the Committee on Science of the
10 House of Representatives the initial review and stra-
11 tegic plan developed under paragraph (1). Subse-
12 quent reviews and strategic plans developed under
13 paragraph (1) shall also be transmitted to those
14 committees upon completion.
15 (b) STRATEGIC PLAN FOR RESEARCH AND DEVELOP-
16 MENT.—
17 (1) CONTENTS.—Not later than 1 year after
18 the date of enactment of this Act, and once every 5
19 years thereafter, the Administrator shall develop a
20 strategic plan for research and development at the
21 Administration. The plan shall include—
22 (A) an assessment of the science and tech-
23 nology needs of the Administration based on
24 the Administration's operational requirements
25 and on input provided by external stakeholders

1 at the national, regional, State, and local levels;
2 and
3 (B) a strategic plan that assigns specific
4 programs within the administration the respon-
5 sibility to meet each need identified under sub-
6 paragraph (A) and that describes the extent to
7 which each need identified in subparagraph (A)
8 will be addressed through—
9 (i) intramural research;
10 (ii) extramural, peer reviewed, com-
11 petitive grant programs; and
12 (iii) work done in cooperation with
13 other Federal agencies.
14 (2) NATIONAL ACADEMY OF SCIENCES RE-
15 VIEW.—The Administrator shall enter into an ar-
16 rangement with the National Academy of Sciences
17 for a review of the plan developed under paragraph
18 (1).
19 (3) TRANSMITTAL TO CONGRESS.—Not later
20 than 18 months after the date of enactment of this
21 Act, the Administrator shall transmit to the Com-
22 mittee on Commerce, Science, and Transportation of
23 the Senate and the Committee on Science of the
24 House of Representatives the initial strategic plan
25 developed under paragraph (1) and the review pre-

1 pared pursuant to paragraph (2). Subsequent stra-
2 tegic plans developed under paragraph (1) shall also
3 be transmitted to those committees upon completion.

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

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

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

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

21 **SEC. 12. SAVINGS PROVISION.**

22 All rules and regulations, determinations, standards,
23 contracts, including collective bargaining agreements, cer-
24 tifications, authorizations, appointments, delegations, re-
25 sults and findings of investigations, and other actions duly

1 issued, made, or taken by or pursuant to or under the
2 authority of any statute or executive order which resulted
3 in the assignment of functions or activities to the Sec-
4 retary, the Department of Commerce, the Under Secretary
5 of Commerce for Oceans and Atmosphere, the Adminis-
6 trator, or any other officer of the Administration, that is
7 in effect immediately before the date of enactment of this
8 Act, shall continue in full force and effect after the effec-
9 tive date of this Act until modified or rescinded. All suits,
10 appeals, judgments, and proceedings pending on such ef-
11 fective date relating to responsibilities or functions trans-
12 ferred pursuant to this Act shall continue without regard
13 to such transfers, except for the transfer of responsibilities
14 or functions. Any reference in law to a responsibility, func-
15 tion, or office transferred pursuant to this Act shall be
16 deemed to refer to the responsibility, function, or office
17 as so transferred. Nothing in this Act shall be construed
18 to limit the ability of an Administration employee to dis-
19 cuss scientific research performed by that employee. Noth-
20 ing in this Act shall be construed to alter the responsibil-
21 ities or authorities of any other Federal agency. Nothing
22 in this Act shall be construed to authorize or prohibit the
23 transfer of any program, function, or project from other
24 Federal agencies to the Administration.

1 **SEC. 13. REORGANIZATION PLAN.**

2 (a) SCHEDULE.—(1) Not later than 18 months after
3 the date of enactment of this Act, the Administrator shall
4 develop a reorganization plan for the Administration in
5 accordance with this section and shall publish the plan in
6 the Federal Register. The Federal Register notice shall
7 solicit comments for a period of 60 days.

8 (2) Not later than 90 days after the expiration date
9 of the comment period described in paragraph (1), the Ad-
10 ministrator shall transmit to Congress a revised version
11 of the plan that takes into account the comments received.
12 The Administrator shall also publish the revised plan in
13 the Federal Register. The Administrator shall transmit
14 and publish, along with the plan, an explanation of how
15 the Administrator dealt with each issue raised by the com-
16 ments received.

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

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

21 (1) consistent with section 5 and the other pro-
22 visions of this Act, maximize the efficiency with
23 which the administration carries out the functions
24 of—

25 (A) operations and services;

26 (B) research and education; and

1 (C) resource management;

2 (2) improve the sharing of research and other

3 information that is of use across programmatic

4 themes; and

5 (3) eliminate duplication of effort or overlap-

6 ping efforts among offices.

7 (c) CONSULTATION.—In developing the plan, the Ad-

8 ministrator shall consult with interested parties, including

9 the States, academia, industry, conservation organiza-

10 tions, and Administration employees.

11 **SEC. 14. FACILITY EVALUATION PROCESS.**

12 (a) PUBLIC NOTIFICATION AND ASSESSMENT PROC-

13 ESS.—

14 (1) IN GENERAL.—The Administrator shall not

15 close, consolidate, relocate, subdivide, or establish a

16 facility of the Administration, unless and until the

17 Administrator has followed the procedures required

18 by this section.

19 (2) REVIEW PROCESS.—The Administrator

20 shall not close, consolidate, relocate, subdivide, or es-

21 tablish a facility of the Administration with an an-

22 nual operating budget of $5,000,000 or greater, or

23 a National Weather Service field office, unless and

24 until—

1 (A) the Administrator has published in the
2 Federal Register the proposed action and a de-
3 scription of the offices, personnel, and activities
4 of the Administration that would be affected by
5 the proposed change, and has provided for a
6 minimum of 60 days for public comment;
7 (B) if the proposed change involves a
8 science facility of the Administration, the
9 Science Advisory Board has reviewed the pro-
10 posed change and provided to the Administrator
11 written findings regarding the proposed change;
12 (C) if the proposed change involves a Na-
13 tional Weather Service field office, the Adminis-
14 trator has prepared a report including—
15 (i) a description of local weather char-
16 acteristics and weather-related concerns
17 which affect the weather services provided
18 within the service area;
19 (ii) a detailed comparison of the serv-
20 ices provided within the service area and
21 the services to be provided after the pro-
22 posed change;
23 (iii) a description of any recent or ex-
24 pected modernization of National Weather

1 Service operations which will enhance serv-
2 ices in the service area;
3 (iv) an identification of any area with-
4 in any State which would not receive cov-
5 erage (at an elevation of 10,000 feet) due
6 to the proposed change; and
7 (iv) evidence, based on operational
8 demonstration of National Weather Service
9 operations, which was considered in reach-
10 ing the conclusion that no degradation in
11 service will result from the proposed
12 change;
13 (D) the Administrator has prepared an
14 analysis of the anticipated costs and savings as-
15 sociated with the proposed facility change, in-
16 cluding both costs and savings in the first fiscal
17 year following the change, and changes in oper-
18 ations and maintenance costs and savings over
19 a ten-year period; and
20 (E) the Administrator has prepared an
21 analysis of the effects of the facility change on
22 operations and research of the Administration,
23 and the potential impacts on cooperative insti-
24 tutes, other external Administration partner-

1 ships, partnerships with other Federal agencies,
2 and any State and local partnerships.
3 (3) NOTICE TO CONGRESS.—(A) The Adminis-
4 trator shall provide to Congress, at least 90 days be-
5 fore any closure, consolidation, relocation, subdivi-
6 sion, or establishment of a facility of the Adminis-
7 tration with an annual budget of $5,000,000 or
8 greater, or any National Weather Service field office,
9 a summary of the public comments received pursu-
10 ant to paragraph (2)(A), any written findings pre-
11 pared under paragraph (2)(B), any report prepared
12 under paragraph (2)(C), and the analyses prepared
13 under paragraph (2)(D) and (E).
14 (B) The Administrator shall provide to Con-
15 gress, at least 90 days before any closure, consolida-
16 tion, relocation, subdivision, or establishment of a
17 facility of the Administration not described in sub-
18 paragraph (A), written notification of the planned
19 closure, consolidation, relocation, subdivision, or es-
20 tablishment.
21 (b) WEATHER SERVICE MODERNIZATION.—Nothing
22 in this Act shall be construed to alter the Weather Service
23 Modernization Act (15 U.S.C. 313 note).
24 (c) DEFINITION.—For purposes of this section—

1 (1) the term "facility" means a laboratory, op-
2 erations office, administrative service center, or
3 other establishment of the Administration; and
4 (2) the term "field office" has the same mean-
5 ing given that term in section 702 of the Weather
6 Service Modernization Act.

7 **SEC. 15. BUDGET REPROGRAMMING.**

8 Whenever the Administrator transmits a budget re-
9 programming request to the Appropriations Committees
10 of the House of Representatives and the Senate, the Ad-
11 ministrator shall simultaneously submit a copy of the re-
12 quest to the Committee on Science and the Committee on
13 Resources of the House of Representatives and the Com-
14 mittee on Commerce, Science, and Transportation of the
15 Senate.

16 **SEC. 16. SATELLITE NOTIFICATION.**

17 (a) IN GENERAL.—The Administrator shall notify
18 the Congress—
19 (1) prior to initiating the expenditure of any
20 funds on a satellite for which the Administration
21 had not expended funds as of the date of enactment
22 of this Act;
23 (2) within 3 days whenever the Administrator
24 has reasonable cause to believe that the development
25 cost of a satellite is likely to exceed the most recent

1 baseline estimate of development costs by more than
2 15 percent;
3 (3) within 3 days whenever the Administrator
4 has reasonable cause to believe that the delivery of
5 a satellite for launch is likely to be delayed by 6
6 months or more; or
7 (4) within 3 days whenever the Administrator
8 intends to make a significant alteration to a sat-
9 ellite.
10 (b) EVALUATION.—After providing a notification
11 under subsection (a), the Administrator shall—
12 (1) have the satellite, revised cost, revised
13 schedule, or significant alteration that was the sub-
14 ject of the notice evaluated in accordance with sub-
15 section (c) by—
16 (A) a panel of experts selected by the Ad-
17 ministrator that does not include any employees
18 of the Administration; or
19 (B) an independent entity; and
20 (2) within 120 days, transmit the evaluation to
21 the Committee on Science of the House of Rep-
22 resentatives and the Committee on Commerce,
23 Science, and Transportation of the Senate, along
24 with an explanation of how the Administration will
25 provide the funds to cover the costs determined by

1 the evaluation conducted under paragraph (1) and
2 responses to any concerns raised by the evaluation.
3 (c) CRITERIA.—An evaluation conducted pursuant to
4 subsection (b)(1) shall review—
5 (1) the cost and schedule of a satellite for
6 which the Administration had not previously ex-
7 pended funds, along with the appropriateness of the
8 intended mission for the satellite and its likelihood
9 of success;
10 (2) the revised cost or delivery schedule pro-
11 posed for a satellite or the additional cost imposed
12 by a significant alteration;
13 (3) the impact on launch schedule of a proposed
14 significant alteration;
15 (4) the impact a proposed significant alteration
16 would have on the success of a satellite's original
17 mission; and
18 (5) the likelihood that the intended purpose of
19 the significant alteration would be accomplished.
20 (d) DEFINITIONS.—For the purposes of this section,
21 the term—
22 (1) "development cost" means all costs related
23 to a satellite through the launch of a satellite;
24 (2) "satellite" includes the spacecraft (but not
25 the launch vehicle), instruments, and sensors; and

1 (3) "significant alteration" means a change in
2 the objectives or capabilities of a satellite, including
3 the addition or removal of instruments or sensors.

AMENDMENT OFFERED BY MR. COSTELLO OF ILLINOIS

TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

At the end of the bill, add the following new section:

1 **SEC. 16. LIMITATIONS ON OFF-SHORE PERFORMANCE OF**
2 **CONTRACTS FOR THE PROCUREMENT OF**
3 **GOODS AND SERVICES.**

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

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

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

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

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

AMENDMENT OFFERED BY MR. BOEHLERT OF NEW YORK TO THE AMENDMENT OFFERED BY MR. COSTELLO OF ILLINOIS

At the end of the amendment, add the following new subsection:

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

SECTION-BY-SECTION ANALYSIS OF MANAGER'S AMENDMENT TO
H.R. 50, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

Section 1. Short Title.

"National Oceanic and Atmospheric Administration Act"

Section 2. Definitions.

Defines terms used in the Act.

Section 3. National Oceanic and Atmospheric Administration.

Establishes the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce and describes the mission and functions of NOAA.

Section 4. Administration Leadership.

Describes the leadership structure of NOAA, including a new position of a Deputy Assistant Secretary for Science, Technology, Education and Outreach, who shall be responsible for coordinating and managing all research activities across the agency, and which must be a career position. Also, this section designates the Deputy Under Secretary for Oceans and Atmosphere as the Chief Operating Officer of the Administration, responsible for the day-to-day aspects of the Administration's operations and management.

Section 5. National Weather Service.

Directs the Secretary of Commerce to maintain the National Weather Service within NOAA.

Section 6. Operations and Services.

Directs the Secretary to maintain programs within NOAA to support operational and service functions. This section does not name any organizational units of NOAA, but the functions listed include all the activities of NOAA's National Environmental Satellite Data and Information Service (NESDIS) and the mapping and charting activities of the National Ocean Service.

Section 7. Research and Education.

Directs the Secretary to maintain programs within NOAA to conduct and support research and education functions.

Section 8. Science Advisory Board.

Establishes a Science Advisory Board for NOAA, which would provide scientific advice to the Administrator and to Congress on issues affecting NOAA.

Section 9. Reports.

Requires two reports from the Secretary. Each report is to be delivered to Congress within 18 months of the date of enactment of the Act. One report, by the National Academy of Sciences should assess the adequacy of the environmental data and information systems of NOAA and provide a strategic plan to address any deficiencies in those systems. The other report is strategic plan for research at NOAA.

Section 10. Public-Private Partnerships.

Requires NOAA to review its policy on public-private partnerships once every five years. Clarifies the no changes in NOAA's current policy are required.

Section 11. Effect of Reorganization Plan.

Repeals the Executive Order that established NOAA in 1970.

Section 12. Savings Provision.

Provides that the Act does not change the legal status of any NOAA rule, regulation or other legal matter.

Section 13. Reorganization Plan.

Requires NOAA to submit a reorganization plan to Congress not less than 18 months after enactment of this Act.

Section 14. Facility Evaluation Process.

Provides that NOAA cannot expend funds to close or transfer certain facilities without a public comment period, review by the Science Advisory Board (if appro-

priate), analysis of anticipated costs and savings and impact on NOAA services, and notification to Congress.

Section 15. Budget Reprogramming.

Requires NOAA to submit to the Science Committee a copy of any reprogramming requests submitted to Appropriations Committees.

Section 16. Satellite Notification.

Requires NOAA to notify Congress when NOAA starts new satellite programs, encounters serious problems with, or makes major changes to existing satellite programs.

○