To establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2004

Mr. Hollings (for himself, Mr. Stevens, Mr. Inouye, and Mr. Gregg) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “National Ocean Policy
5 and Leadership Act”.

6 SEC. 2. TABLE OF CONTENTS.

7 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—NATIONAL OCEAN POLICY

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Policy.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Sec. 201. Establishment.
Sec. 203. National Oceanic and Atmospheric Administration.
Sec. 204. Responsibilities of the Administrator.
Sec. 205. Powers of the Administrator.
Sec. 206. Enforcement.
Sec. 207. Regional capabilities.
Sec. 208. Intergovernmental coordination.
Sec. 209. International consultation and coordination.
Sec. 211. Conforming amendments and appeals.
Sec. 212. Savings provision.
Sec. 213. Transition.

TITLE III—FEDERAL COORDINATION AND ADVICE

Sec. 301. Council on Ocean Stewardship.
Sec. 302. Membership.
Sec. 303. Functions of Council.
Sec. 304. National priorities for coordination.
Sec. 305. Employees.
Sec. 306. Biennial report to Congress.
Sec. 307. Presidential panel of advisors on oceans and climate.
Sec. 308. Federal program recommendations.
Sec. 309. Implementation.
Sec. 310. No effect on other authorities.

1 SEC. 3. DEFINITIONS.

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of NOAA.

4 (2) COASTAL REGION.—The term “coastal region” means the coastal zone as defined in section

5 304 of the Coastal Zone Management Act of 1972
(16 U.S.C. 1453) and coastal watershed areas that have significant impact on such coastal zones.

(3) NOAA.—The term “NOAA” means the National Oceanic and Atmospheric Administration.

(4) OCEANS.—The term “ocean” includes coastal areas, the Great Lakes, the seabed, subsoil, and waters of the territorial sea of the United States, the waters of the exclusive economic zone of the United States; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf marine environment, and the natural resources therein.

(5) PERSON.—The term “person” has the meaning given that term by section 1 of title 1, United States Code, but also means any State, political subdivision of a State, or agency or officer thereof.

(6) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other Commonwealth, territory, or possession of the United States.
TITLE I—NATIONAL OCEAN POLICY

SEC. 101. FINDINGS.

The Congress finds the following:

(1) Covering more than two-thirds of the Earth’s surface, the oceans play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth’s biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier for scientific exploration, are critical to national and economic security, and provide a vital means of transportation. The coastal regions of the United States have remarkably high biological productivity and contribute approximately 50 percent of the gross domestic product of the United States.

(2) The oceans and the atmosphere are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and atmosphere to provide the benefits upon which the Nation depends. Changes in ocean and atmospheric processes could affect global climate patterns, ecosystem productivity, health, and biodiversity, environmental quality, national security, economic competitiveness,
availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean resources are not infinite, and human pressure on them is increasing. One half of the Nation’s population lives within 50 miles of the coast. If population trends continue as expected, coastal development and urbanization impacts, which can be substantially greater than population impacts alone, will present serious environmental, energy, and water challenges and increase our vulnerability to coastal hazards.

(4) Emissions of greenhouse gases and aerosols due to human activities continue to alter the oceans and atmosphere in ways that are expected to affect the climate, with adverse impacts on human health and the Nation’s economic and environmental security. In some coastal regions, air deposition contributes between 30–50 percent of pollutant loadings to such areas. Improved understanding of such factors and ideas for mitigating any adverse impacts are urgently needed.

(5) There are enormous opportunities for science and technology to uncover new sources of energy, food, and pharmaceuticals from the oceans, and to increase general understanding of the planet
including its atmosphere and climate. Realization of such benefits is jeopardized by a variety of activities and practices that have reduced the health and productivity of ocean and atmospheric systems, including pollution, unsustainable harvesting practices, increasing coastal development, and proliferation of harmful and invasive marine species.

(6) Threats to the oceans and atmosphere are exacerbated by the legal and geographic fragmentation of authority within the Federal government. Over half of the existing 15 departments and several independent agencies conduct activities and programs relating to ocean and atmosphere, including climate change activities. Efforts to understand and effectively address emerging ocean and atmospheric problems, including through existing coordination mechanisms, have not been adequate.

(7) Improving and coordinating Federal governance will require close partnerships with States, taking into account their public trust responsibilities, economic and ecological interests in ocean resources, and the role of State and local governments in implementation of ocean policies, and managing use of coastal lands and ocean resources.
(8) Effective enforcement of the laws to protect
and enhance the marine environment, coastal secu-
ritv, and the Nation’s natural resources, particularly
through marine safety, fisheries enforcement, aids to
navigation, and hazardous materials spill response
activities is needed to ensure achievement of man-
agement goals, and priority should be given to in-
creasing marine enforcement and compliance
through coordinated Federal and State actions.

(9) It is the continuing mission of the Federal
Government to create, foster, and maintain condi-
tions, incentives, and programs that will further and
assure the sustainable and effective conservation,
management, and protection of the oceans and at-
mosphere, in order to fulfill the responsibility of
each generation as trustee in protecting, and ensur-
ing that, such resources will be available to meet the
needs of future generations of Americans.

(10) This policy and mission can best be carried
out and realized by formal establishment of a
strengthened and expanded lead Federal civilian
agency dedicated to ocean and atmospheric matters,
and by undertaking the functions, programs, and ac-
tivities of the Federal Government with respect to
the conservation, management, and protection of the
oceans and atmosphere, including monitoring, forecasting, and assessment, in a coordinated manner and in accordance with a national ocean policy.

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to set forth a national policy relating to oceans and atmosphere, and, through an organic act, formally to establish the National Oceanic and Atmospheric Administration as the lead Federal agency concerned with ocean and atmospheric matters;

(2) to establish in the National Oceanic and Atmospheric Administration, by statute, the authorities, functions, and powers relating to the conservation, management, and protection of the oceans and atmosphere which have previously been established by statute or reorganization plan;

(3) to set forth the duties and responsibilities of the Administration, and the principal officers of the Administration;

(4) to establish a mechanism for Federal leadership and coordinated action on national ocean and atmospheric priorities that are essential to the economic and environmental security of the Nation; and

(5) to enhance Federal partnerships with the State and local governments with respect to ocean
activities, include management of ocean resources
and identification of appropriate opportunities for
policy-making and decision making at the State and
local level.

SEC. 103. POLICY.

It is the policy of the United States to establish and
maintain for the benefit of the Nation a coordinated, com-
prehensive, and long-range national program of ocean and
atmospheric research, conservation, management, edu-
cation, monitoring, and assessment that will—

(1) recognize the linkage of ocean, land, and at-
mospheric systems, including the linkage of those
systems with respect to climate change;

(2) protect life and property against natural
and manmade hazards, including protection through
weather and marine forecasts and warnings;

(3) protect, maintain, and restore the long-term
health, productivity, and diversity of the ocean envi-
ronment, including its natural resources and to pre-
vent pollution of the ocean environment;

(4) ensure responsible and sustainable use of
fishery resources and other ocean and coastal re-
sources held in the public trust, using ecosystem-
based management and a precautionary and adapt-
ive approach;
(5) assure sustainable coastal development based on responsible State and community management and planning, and reflecting the economic and environmental values of ocean resources;

(6) develop improved scientific information and use of the best scientific information available to make decisions concerning natural, social, and economic processes affecting ocean and atmospheric environments;

(7) enhance sustainable ocean-related and coastal-dependent commerce and transportation, balancing multiple uses of the ocean environment;

(8) provide for continued investment in and improvement of technologies for use in ocean and climate-related activities, including investments and technologies designed to promote national economic, environmental, and food security;

(9) expand human knowledge of marine and atmospheric environments and ecosystems, including the role of the oceans in climate and global environmental change, the interrelationships of ocean health and human health, and the advancement of education and training in fields related to ocean, coastal, and climate-related activities;
(10) facilitate a collaborative approach that encourges the participation of a diverse group of stakeholders and the public in ocean and atmospheric science and policy, including persons from under-represented groups;

(11) promote close cooperation among all government agencies and departments, academia, non-governmental organizations, private sector and stakeholders based on this policy to ensure coherent, accountable, and effective planning, regulation, and management of activities affecting oceans and atmosphere, including climate;

(12) promote governance and management of the nation’s ocean resources through a partnership of the Federal Government with States, territories, and Commonwealths that reflects their public trust responsibilities and interest in ocean environmental, cultural, historic, and economic resources; and

(13) preserve the role of the United States as a global leader in ocean, atmospheric, and climate-related activities, and the cooperation in the national interest by the United States with other nations and international organizations in ocean and climate-related activities.
TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 201. ESTABLISHMENT.

There is established an agency which shall be known as the National Oceanic and Atmospheric Administration, which shall be the civilian agency principally responsible for providing oceanic, weather, and atmospheric services and supporting research, conservation, management, and education to the nation. The National Oceanic and Atmospheric Administration established under this Act shall succeed the National Oceanic and Atmospheric Administration established on October 3, 1970, in Reorganization Plan No. 4 of 1970 and shall continue the activities of that agency as it was in existence on the day before the effective date of this Act.

SEC. 202. FUNCTIONS AND PURPOSES.

(a) IN GENERAL.—NOAA shall be responsible for the following functions, through which it shall carry out the policy of this Act in a coordinated, integrated, and ecosystem-based manner for the benefit of the Nation:

(1) Management, conservation, protection, and restoration of ocean resources, including living marine resources, habitats and ocean ecosystems.
(2) Observation, monitoring, assessment, forecasting, prediction, operations and exploration for ocean and atmospheric environments including weather, climate, navigation and marine resources.

(3) Research, education and outreach, technical assistance, and technology development and innovation activities relating to ocean and atmospheric environments including basic scientific research and activities that support other agency functions and missions.

(b) TRANSFER OF FUNCTIONS.—There shall be transferred to the Administrator any authority established by law that, before the date of enactment of this Act, was vested in the Secretary of Commerce and pertains to the functions, responsibilities, or duties of NOAA under subsection (a).

SEC. 203. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) ADMINISTRATOR.—

(1) APPOINTMENT.—NOAA shall be administered by the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—The Administrator shall be compensated at the rate provided for level II of
the Executive Schedule under section 5314 of title 5, United States Code.

(3) QUALIFICATIONS.—The Administrator shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric affairs, including any field relating to marine or atmospheric science and technology, biological sciences, engineering, as well as education, economics, governmental affairs, planning, law, or international affairs.

(4) AUTHORITY.—The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of NOAA.

(b) DEPUTY ADMINISTRATOR.—There shall be a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, based on the individual’s professional qualifications and without regard to political affiliation. The Deputy Administrator shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, including science, technology, and education. The Deputy Administrator shall serve as an adviser to the Administrator on program and policy
issues, including crosstown program areas such as research, technology, and education and shall perform such functions and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act as Administrator during the absence or disability of the Administrator in the event of a vacancy in the office of Administrator. The Deputy Administrator shall be the Administrator’s first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) Associate Administrator for Ocean Management and Operations.—There shall be in NOAA an Associate Administrator for Ocean Management and Operations, who shall be appointed by the President, by and with the advice and consent of the Senate. The Associate Administrator for Ocean Management and Operations shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, and shall perform such duties and exercise such powers as the Administrator shall from time to time designate. The Associate Administrator shall be compensated at the rate provided for level V of the Executive
(d) Associate Administrator for Climate and Atmosphere.—There shall be in NOAA an Associate Administrator for Climate and Atmosphere, who shall be appointed by the President, by and with the advice and consent of the Senate. The Associate Administrator for Climate and Atmosphere shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, and shall perform such duties and exercise such powers as the Administrator shall from time to time designate. The Associate Administrator shall be compensated at the rate provided for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(e) Chief Operating Officer.—There shall be a Chief Operating Officer of NOAA, who shall assume the responsibilities held by the Deputy Undersecretary of Commerce prior to enactment of this Act. The Chief Operating Officer shall be responsible for ensuring the timely and effective implementation of NOAA’s purposes and authorities and shall provide resource, budget, and management support to the Office of the Administrator. The Chief Operating Officer shall be responsible for all aspects of NOAA operations and management, including budget,
financial operations, information services, facilities, human resources, procurements, and associated services. The Chief Operating Officer shall be a Senior Executive Service position authorized under section 3133 of title 5, United States Code.

(f) ASSISTANT ADMINISTRATORS.—There shall be in NOAA at least 3, but no more than 4, Assistant Administrators. The Assistant Administrators shall perform such programmatic and policy functions as the Administrator shall from time to time assign or delegate, and shall have background, professional knowledge, and substantial experience in 1 or more of the following aspects of ocean and atmospheric affairs:

(1) Resource management, protection, and restoration.

(2) Operations, forecasting, and services (including weather and climate).

(3) Science, technology, and education.

(g) GENERAL COUNSEL.—There shall be in NOAA a General Counsel appointed by the President upon recommendation by the Administrator. The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of NOAA.

(h) COMMISSIONED OFFICERS.—
(1) The Administrator shall designate an officer or officers to be responsible for oversight of NOAA’s vessel and aircraft fleets and for the administration of NOAA’s commissioned officer corps under section 228 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3028).

(2) The Commissioned Officer Corps of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of October 3, 1970, is the Commissioned Officer Corps of NOAA established under this Act.

(3) All statutes that applied to officers of the Commissioned Officers Corps of NOAA on the day before the date of enactment of this Act apply to officers of the Corps on and after such date.

(4) There are authorized to be on the lineal list of the Commissioned Officers Corps of NOAA at least 350 officers, plus any additional officers necessary to support NOAA’s missions and the operation and maintenance of NOAA’s ships and aircraft.

(5) The President may appoint in NOAA, by and with the advice and consent of the Senate, 2 commissioned officers to serve at any one time as
the designated heads of 2 principal constituent organizational entities of NOAA, or the President may designate 1 such officer as the head of such an organizational entity and the other as the head of the commissioned corps of NOAA. Any such designation shall create a vacancy on the active list and the officer while serving under this subsection shall have the rank, pay, and allowances of a rear admiral (upper half).

(6) Any commissioned officer of NOAA who has served under paragraph (5) and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade and rank held by him, but any such officer, upon termination of his appointment in a rank above that of captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of captain and such officer shall be an extra number in that grade.

(i) NAVAL DEPUTY.—The Secretary of the Navy may detail a Naval Deputy to the Administrator. This position
shall be filled on an additional duty basis by the Oceanographer of the Navy. The Naval Deputy shall—

(1) act as a liaison between the Administrator and the Secretary of the Navy in order to avoid duplication between Federal oceanographic and atmospheric activities; and

(2) ensure coordination and joint planning by NOAA and the Navy on research, meteorological, oceanographic, and geospatial information services and programs of mutual organizational interest.

SEC. 204. RESPONSIBILITIES OF THE ADMINISTRATOR.

In addition to administering and carrying out all activities, programs, functions and duties, and exercising those powers, that are assigned, delegated, or transferred to the Administrator by this Act, any other statute, or the President, the responsibilities of the Administrator include—

(1) management, conservation, protection, and restoration of ocean resources, including—

(A) living marine resources (including fisheries, vulnerable species and habitats, and marine biodiversity);

(B) ocean areas (including marine sanctuaries, estuarine reserves, and other managed areas);
(C) marine aquaculture;

(D) protection of ocean environments from threats to human and ecosystem health, including pollution and invasive species;

(E) sustainable management, beneficial use, protection, and development of coastal regions; and

(F) mitigation of impacts of natural and man-made hazards including climate change;

(2) partnering with and supporting State and local communities in undertaking management, conservation, protection, and restoration of ocean resources described in subsection (1);

(3) observation, analysis, processing, and communication of comprehensive data and information concerning the State of—

(A) the upper and lower atmosphere;

(B) the oceans and resources thereof; and

(C) the earth and near space environment;

(4) collection, storage, analysis, and provision of reliable scientific information relating to weather (including space weather), climate, air quality, water, navigation, marine resources, and ecosystems that can be used as a basis for sound management, policy, and public safety decisions;
(5) broadly based data, observing, monitoring, and information activities, programs and systems relating to oceanic and atmospheric monitoring and prediction, weather forecasting, and storm warning, including satellite-based and in-situ data collection and associated services;

(6) weather forecasting, storm warnings, and other responsibilities of the Secretary of Commerce and the National Weather Service under Reorganization Plan No. 2 of 1965, Reorganization Plan No. 4 of 1970, sections 3 and 4 of the Act of October 1, 1890 (15 U.S.C. 312 and 313) and the Weather Service Modernization Act (15 U.S.C. 313 note), and all other statutes, rules, plans, and orders in pari materia;

(7) providing navigation and assessment operations and services, including maps and charts for the safety of marine and air navigation, maintaining a network of geographic reference coordinates for geodetic control, and observing, charting, mapping, and measuring the marine environment and ocean resources;

(8) developing and improving geodetic and mapping methods and studies of geophysical phenomena
such as crustal movement, earth tides, and ocean
circulation, including estuarine areas;

(9) collecting, disseminating, and maintaining
on a continuing basis information relating to the
status, trends, health, use, and protection of the
oceans and the atmosphere, to all interested parties,
including through an integrated ocean observing sys-
tem and national and regional ecosystem-based in-
formation management systems;

(10) administering, operating, and maintaining
satellite and in-situ systems that can monitor global
and regional atmospheric weather conditions, climate
and related oceanic, solar, hydrological, and other
environmental conditions, collect information re-
quired for research on weather, climate, and related
environmental matters, and monitor the extent of
human-induced changes in the lower and upper at-
mosphere and the related environment;

(11) collecting, analyzing, and disseminating
environmental information, in support of environ-
mental research and development, including data in
the fields of climatology, atmospheric sciences,
oceanography, biology, geology, geophysics, solar-ter-
restrial relationships, and the relationship among
oceans, climate, and human health;
(12) undertaking a comprehensive, integrated, and ecosystem-based program of ocean, climate, and atmospheric research related to, and supportive of the missions of NOAA and which uses research products, new findings, and methodologies to develop the most current scientific advice for ecosystem-based management;

(13) conducting environmental research and development activities that are necessary to advance the Nation’s ocean, atmospheric, engineering and technology expertise, including the development and operation of observing platforms such as ships, aircraft, satellites, data buoys, manned or unmanned research submersibles, underwater laboratories or platforms, and improved instruments and calibration methods, and the advancement of undersea diving techniques;

(14) conducting a continuing program of ocean exploration, discovery and conservation of significant undersea resources, including cultural resources, to benefit, inform, and inspire the American people, including communication of such knowledge to policy-makers and the public;

(15) developing and implementing, in cooperation with other agencies and entities as appropriate,
national ocean and atmospheric education, technical assistance, extension services, and outreach programs designed to increase literacy concerning ocean and atmospheric issues, develop a diverse work force, and enhance stewardship of ocean and atmospheric resources and environments;

(16) ensuring the execution and implementation of national ocean, atmospheric, and environmental policy goals through a variety of ocean and atmospheric programs;

(17) undertaking activities involving the integration of domestic and international policy relating to the oceans and the atmosphere, including the provision of technical advice to the President on international negotiations involving ocean resources, ocean technologies, and climate matters;

(18) providing for, encouraging, and assisting public participation in the development and implementation of ocean and atmospheric policies and programs;

(19) conducting, supporting, and coordinating efforts to enhance public awareness of the National Oceanic and Atmospheric Administration, its purposes, programs, activities and the results thereof,
including education and outreach to the public, teachers, students, and ocean resource managers;

(20) partnering with other government agencies, States, academia, and the private sector, via cooperative agreements or other formal or informal arrangements, to improve the acquisition of data and information and the implementation of management, monitoring, research, exploration, education, and other programs;

(21) partnering with other Federal agencies and with States and communities to address the issues of land-based activities and their impact on the ocean environment; and

(22) coordination with other Federal agencies having related responsibilities.

SEC. 205. POWERS OF THE ADMINISTRATOR.

(a) DELEGATION.—Unless otherwise prohibited by law or reserved by the Secretary of Commerce, the responsibilities of the Administrator may be delegated by the Administrator to other officials in NOAA, and may be redelegated as authorized by the Administrator.

(b) REGULATIONS.—The Administrator is authorized to issue, amend, and rescind such rules and regulations as are necessary or appropriate to carry out the responsibilities and functions of the Administrator. The promul-
gation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

(c) CONTRACTS.—The Administrator is authorized, without regard to section 3324(a) and (b) of title 31, United States Code, to enter into and perform such contracts, leases, grants, cooperative agreements, or other transactions (without regard to chapter 63 of title 31, United States Code), as may be necessary to carry out NOAA’s purposes and authorities, on terms the Administrator deems appropriate, with Federal agencies, instrumentalities, and laboratories, State and local governments, including territories or possessions, Native American tribes and organizations, international organizations, foreign governments, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities.

(d) GIFTS AND DONATIONS.—

(1) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, and subject to such conditions and covenants the Administrator deems appropriate, the Administrator is authorized to accept, hold, administer, and utilize—

(A) gifts, bequests or donations of services, money or property, real or personal (including
patents and rights thereunder), mixed, tangible
or intangible, or any interest therein;

(B) contributions of funds; and

(C) funds from Federal agencies, instrumentalities, and laboratories, State and local
governments, Native American tribes and organizations, international organizations, foreign
governments, educational institutions, nonprofit organizations, commercial organizations, and
other public and private persons or entities.

(2) USE, OBLIGATION, AND EXPENDITURE.—
The Administrator may use property and services
accepted by NOAA under paragraph (1) to carry out
the mission and purposes of NOAA. Amounts ac-
cepted by NOAA under paragraph (1) shall be avail-
able for obligation by NOAA, and be available for
expenditure by NOAA to carry out mission and pur-
poses of NOAA.

(e) FACILITIES AND PERSONNEL.—The Adminis-
trator may use, with their consent, and with or without
reimbursement, the services, equipment, personnel, and
facilities of Federal agencies, instrumentalities and labora-
tories, State and local governments, Native American
tribes and organizations, international organizations, for-
government, educational institutions, nonprofit orga-
nizations, commercial organizations, and other public and private persons or entities.

(f) INFORMATION.—The Administrator shall provide for the most practicable and widest appropriate dissemination of information concerning NOAA, its purposes, programs, activities and the results thereof, including authority to conduct education, technical assistance and outreach to the public, teachers, students, and ocean and coastal resource managers.

(g) ACQUISITION AND CONSTRUCTION.—The Administrator may—

(1) acquire (by purchase, lease, condemnation, or otherwise), lease, sell, or convey, services, money or property, real or personal (including patents and rights thereunder), mixed, tangible or intangible, or any interest therein; and

(2) construct, improve, repair, operate, maintain or dispose of real or personal property, including buildings, facilities, and land.

SEC. 206. ENFORCEMENT.

(a) AUTHORITY.—The Administrator shall have the authority to enforce the applicable provisions of any Act, the enforcement of which is, in whole or in part, assigned, delegated, or transferred to the Administrator, and any term of a license, permit, regulation, or order issued pur-
suant thereto. The Administrator may designate any person, officer, or agency to exercise his authority under this title.

(b) USE OF STATE PERSONNEL.—

(1) IN GENERAL.—The Administrator may—

(A) utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any State agency to the extent the Administrator deems it necessary and appropriate for effective enforcement of any law for which the Administrator has enforcement authority; and

(B) designate such personnel to exercise the enforcement authority of the Administrator under subsection (a).

(2) STATUS AND POWERS.—Any personnel designated by the Administrator under paragraph (1)(B)—

(A) shall not be deemed to be Federal employees (except as provided in subparagraph (D)) and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered
to be eligible for compensation for work-related
injuries under subchapter III of chapter 81 of
title 5, United States Code, sustained while act-
ing pursuant to such designation;

(B) shall be considered to be investigative
or law enforcement officers of the United States
for purposes of the tort claim provisions of title
28, United States Code;

(C) may, to the extent specified by the Ad-
ministrator, search, seize, arrest, and exercise
any other law enforcement functions or authori-
ties described in this title where such authori-
ties are made applicable by this or other law to
employees, officers, or other persons designated
or employed by the Administrator; and

(D) shall be considered to be officers or
employees of the Department of Commerce for
purposes of sections 111 and 1114 of title 18,
United States Code.

(e) COOPERATIVE ENFORCEMENT AGREEMENTS.—
The Administrator may enter into cooperative agreements
with State authorities to ensure coordinated enforcement
of State and Federal laws and by such agreements assume
enforcement authority under State law when the Adminis-
trator and State authorities deem it to be appropriate.
When so authorized, the Administrator or the Administrator’s designee may function as a State law enforcement officer within the scope of the delegation, except that Federal law shall control the resolution of any conflict concerning the employee status of any Federal officer while enforcing State law.

SEC. 207. REGIONAL CAPABILITIES.

The Administrator of The National Oceanic and Atmospheric Administration shall—

(1) organize agency activities and programs around common eco-regional boundaries identified through a process established by the Council on Ocean Stewardship, based upon recommendations of the Report of the U.S. Commission on Ocean Policy, so as to—

(A) enhance inter- and intra-agency cooperation;

(B) maximize Federal capabilities in such region;

(C) develop coordinated, ecosystem-based management and research programs;

(D) develop research partnerships with States and academia;
(E) substantially improve the ability of the public to contact and work with all relevant federal agencies; and

(F) maximize opportunities to work in partnership with States in order to facilitate eco-regional management and enhance State and local capacity to manage issues on an eco-regional basis.

(2) work with other Federal agencies, including the Environmental Protection Agency, the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and State agencies to—

(A) encourage similar eco-regional organization and, if appropriate, co-location of related programs and facilities to achieve goals of paragraph (1); and

(B) in planning and implementing eco-regional activities to encourage early cooperation, coordination, and integration across the Federal agencies and with relevant State programs, and to assure applicable Federal and State ocean policies.

(3) NOAA shall in consultation with the States, develop regional information programs as rec-
ommended by the U.S. Commission on Ocean Policy, including—

(A) coordinated research strategies;

(B) integrated ocean and atmospheric monitoring and observation activities; and

(C) establishment of service centers and coordinators to support development of innovative tools, technologies, training, and technical assistance to facilitate the implementation of ecosystem-based management.

SEC. 208. INTERGOVERNMENTAL COORDINATION.

(a) AVOIDANCE OF DUPLICATIVE REQUIREMENTS.—

In administering the provisions of this Act, the Administrator shall consult and coordinate with the head of any Federal department or agency having authority to issue any license, lease, or permit to engage in an activity related to the functions of the Administrator for purposes of assuring that inconsistent or duplicative requirements are not imposed upon any applicant for or holder of any such license, lease, or permit.

(b) AVOIDANCE OF INCONSISTENT AND CONFLICTING ACTIVITIES AND POLICIES.—To identify and resolve inconsistent or conflicting Federal oceanic and atmospheric activities and policies, the Administrator shall—
(1) consult and coordinate with the head of any Federal department or agency on the activities and policies of that department or agency related to the functions of the Administrator;

(2) request of the head of any Federal department or agency clarification and justification of those activities and policies that the Administrator determines are inconsistent or conflicting with his functions; and

(3) issue, as the Administrator deems appropriate, reports to the President, the Council on Ocean Stewardship, the head of any Federal department or agency, and to Congress concerning inconsistent or conflicting activities and policies of any Federal department or agency relating to ocean and atmospheric activities, including recommendations on how to reconcile inconsistent and conflicting Federal oceanic and atmospheric activities and policies throughout the Federal government.

(c) CONSULTATION WITH ADMINISTRATOR.—The head of any Federal department or agency and all other Federal officials having responsibilities related to the functions of the Administrator shall consult with the Administrator when the subject matter of action or activities de-
scribed in this Act are directly involved, to assure that all such activities are well coordinated.

(d) COORDINATION WITH STATES.— The Administrator shall ensure that NOAA programs work with the States (including territories and possessions) to encourage early cooperation, coordination, and integration of State and Federal ocean and atmospheric programs, including planning and implementing eco-regional activities.

(e) OFFICE OF INTERGOVERNMENTAL AFFAIRS.— The Administrator shall establish an office of intergovernmental affairs to assist in implementing this section and to facilitate planning of joint programs between NOAA line offices and other Federal agencies, including the Department of Defense.

SEC. 209. INTERNATIONAL CONSULTATION AND COOPERATION.

(a) COOPERATION WITH SECRETARY OF STATE.— The Administrator shall cooperate to the fullest practicable extent with the Secretary of State in providing representation at all meetings and conferences relating to actions or activities described in this Act in which representatives of the United States and foreign countries participate.

(b) CONSULTATION WITH ADMINISTRATOR.—The Secretary of State and all other officials having respon-
sibilities for agreements, treaties, or understanding with foreign nations and international bodies shall consult with the Administrator when the subject matter or activities described in this Act are involved, with a view to assuring that such interests are adequately represented.

SEC. 210. REPORT ON OCEANIC AND ATMOSPHERIC CONDITIONS AND TRENDS.

Beginning not later than 12 months after the date of enactment of this Act, the Administrator shall, in consultation with relevant Federal and State agencies, submit to the Congress a biennial report on:

(1) the status and condition of the Nation’s ocean and atmospheric environments (including with respect to climate change);

(2) current and foreseeable trends in the quality, management and utilization of such environments; and

(3) the effects of those trends on the social, economic, ecological, and other requirements of the Nation.

SEC. 211. CONFORMING AMENDMENTS AND REPEALS.

(a) Reorganization Plan No. 4.—Reorganization Plan No. 4 of 1970 (5 U.S.C. App.) is repealed.

(b) References to NOAA.—Any reference to the National Oceanic and Atmospheric Administration, the
Under Secretary of Commerce for Oceans and Atmosphere (either by that title or by the title of the Administrator of NOAA), or any other official of the National Oceanic and Atmospheric Administration, in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the National Oceanic and Atmospheric Administration established in this Act, or the position of Administrator established in this Act, respectively.

(c) References to NOAA as within the Department of Commerce.—


(2) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(d) Conforming Amendment to Title 5.—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of Commerce (11).” and inserting “Assistant Secretaries of Commerce (10).”.

SEC. 212. SAVINGS PROVISION.

All rules and regulations, determinations, standards, contracts, certifications, authorizations, appointments,
delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to or under the authority of any statute which resulted in the assignment of functions or activities to the Secretary, the Department of Commerce, the Under Secretary, the Administrator or any other officer of NOAA, in effect immediately before the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act until modified or rescinded.

SEC. 213. TRANSITION.

(a) EFFECTIVE DATE.—The provisions of title II of this Act shall become effective 2 years from the date of enactment of this Act.

(b) REORGANIZATION.—The Administrator of NOAA, in consultation with the Assistant Administrator for Program Planning and Integration, shall no later than 18 months after the date of enactment of this Act, submit a plan and budget proposal to Congress setting forth a proposal for program and agency reorganization that will—

(1) meet the requirements of title II;

(2) reflect the recommendations of the U.S. Commission on Ocean Policy, particularly with respect to ecosystem-based science and management and additional budgetary requirements; and
(3) provide integrated oceanic and atmospheric programs and services for the benefit of the Nation.

**TITLE III—FEDERAL COORDINATION AND ADVICE**

**SEC. 301. COUNCIL ON OCEAN STEWARDSHIP.**

There is established in the Executive Office of the President a Council on Ocean Stewardship.

**SEC. 302. MEMBERSHIP.**

(a) Membership.—The Council shall be composed of at least 3 but no more than 5 members who shall be appointed by the President to serve at the pleasure of the President, by and with the advice and consent of the Senate.

(b) Chairman.—The President shall designate 1 of the members of the Council to serve as Chairman.

(c) Qualifications.—Each member shall be a person who, as a result of training, experience, and attachments, is exceptionally well qualified—

(1) to analyze and interpret ocean and atmospheric trends and information of all kinds;

(2) to appraise programs and activities of the Federal Government in the light of the policy set forth in title I;

(3) to be conscious of and responsive to the scientific, environmental, ecosystem, economic, social,
aesthetic and cultural needs and interests of the Na-

tion; and

(4) to formulate and recommend national poli-

cies to promote the improvement and the quality of

the ocean and atmospheric environments, including

as those environments relate to practices on land.

SEC. 303. FUNCTIONS OF COUNCIL.

(a) COORDINATION AND ADVICE.—The Council—

(1) shall coordinate ocean and atmospheric ac-

tivities among Federal agencies and departments,

particularly focusing on the policy set forth in title

I of this Act and national priorities identified in sec-

tion 304, while minimizing duplication, including en-

suring other ocean-related agencies work together at

the operation, program, and research levels in co-

operation with NOAA;

(2) shall provide a forum for improving Federal

interagency planning, budget and program coordina-

tion, administration, outreach, and cooperation on

such programs and activities;

(3) shall ensure that all Federal agencies en-

gaged in ocean and atmospheric activities adopt and

implement the principle of ecosystem-based manage-

ment and take necessary steps to improve regional
coordination and delivery of services around common eco-regional boundaries;

(4) shall review and evaluate the various programs and activities of the Federal Government in light of the policy set forth in title I of this Act and national priorities identified in section 304 for the purpose of determining the extent to which such programs and activities are effective and contributing to the achievement of such policy and the overall health of ocean and atmospheric environment, including marine ecosystems;

(5) shall conduct an annual review and analysis of funding proposed for ocean and atmospheric research and management in all Federal agency budgets, and provide budget recommendations to the President, the agencies, and the Office of Management and Budget that will achieve the policies set forth in title I and address the national priorities identified in section 304, improve coordination, cooperation, and effectiveness of such activities, eliminate unnecessary overlap, and identify areas of highest priority for funding and support;

(6) shall identify progress made by Federal ocean and atmospheric programs toward achieving the goals of—
(A) providing more effective protection and restoration of marine ecosystems;

(B) improving predictions of climate change and variability (weather), including their effects on coastal communities and the nation;

(C) improving the safety and efficiency of marine operations;

(D) more effectively mitigating the effects of natural hazards;

(E) reducing public health risks from ocean and atmospheric sources;

(F) ensuring sustainable use of resources;

and

(G) improving national and homeland security;

(7) shall promote efforts to increase and enhance partnerships with coastal and Great Lakes States and other non-federal entities to support enhanced regional research, resource and hazards management, education and outreach, and marine ecosystem protection, maintenance, and restoration;

(8) shall identify statutory and regulatory redundancies or omissions and develop strategies to resolve conflicts, fill gaps, and address new and
emerging ocean and atmospheric issues for national
and regional benefit;

(9) shall emphasize the development and sup-
port of partnerships among government agencies
and nongovernmental organizations, academia, and
the private sector including regional partnerships;

(10) shall expand research, education, and out-
reach efforts by all Federal agencies undertaking
ocean and atmospheric activities; and

(11) may establish a Federal Coordinating
Committee on Oceans, chaired by the Council chair-
man, to carry out the coordination of ocean and at-
mospheric programs and priorities required under
this Act.

(b) CONSULTATION.—In exercising its powers, func-
tions, and duties under this Act, the Council shall—

(1) consult with the Administrator and with the
Presidential Panel of Advisers on Oceans and Cli-
mate established under this Act to ensure input from
potentially affected States, territories, and Common-
wealths, the public and other stakeholders;

(2) work in close consultation and cooperation
with the Council on Environmental Quality, the Of-

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Economic Advisers, and other offices within the Executive Office of the President;

(3) utilize the expertise and coordinating capabilities of the National Ocean Science Committee (and any ocean-related committees formed under the Council) with respect to ocean and atmospheric science, technology, and education matters, including development of a national research strategy; and

(4) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organization, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council’s activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by NOAA and other established agencies.

(c) REVIEWS AND REPORTS.—The Council shall—

(1) prepare the biennial report required by section 306 of this title; and

(2) make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.
SEC. 304. NATIONAL PRIORITIES FOR COORDINATION.

The Council, in coordination with the National Ocean Science Committee, shall ensure that the Federal agencies conducting ocean and atmospheric activities give the following areas priority attention and develop coordinated Federal budgets, programs, and operations that will minimize duplication and foster improved services and other benefits to the Nation:

(1) Prevention, management and control of nonpoint source pollution including regional or watershed strategies.

(2) An integrated ocean and coastal observing system and an associated earth observing system.

(3) Ecosystem-based management, protection, and restoration of ocean and atmospheric resources and environments, including management-oriented research, technical assistance and organization of programs and activities along common eco-regional boundaries.

(4) Ocean education and outreach.

(5) Regionally-based coastal land protection, conservation, maintenance, and restoration.

(6) Enhanced research and technology development on crosscutting areas, including—

(A) oceans and human health;

(B) social science and economics;
(C) atmospheric monitoring and climate
change;

(D) marine ecosystems, marine biodiversity, and ocean exploration;

(E) marine and atmospheric hazards, including sea level rise and geological events; and

(F) marine aquaculture.

(7) Characterization and mapping of the coastal zone, coastal State waters, the territorial sea, the Exclusive Economic Zone and outer continental shelf, including ocean resources.

SEC. 305. EMPLOYEES.

(a) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—For the purpose of carrying out the functions of the Council, each Federal agency or department that conducts oceanic or atmospheric activities shall furnish any assistance requested by the Council.

(2) FORMS OF ASSISTANCE.—Assistance furnished by Federal agencies and departments under paragraph (1) may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and
(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(3) PERSONNEL MANAGEMENT.—The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(b) EMPLOYMENT OF PERSONNEL, EXPERTS, AND CONSULTANTS.—The Council may—

(1) employ such officers and employees as may be necessary to carry out its functions under this title;

(2) employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5, United States Code, (without regard to the last sentence thereof); and

(3) accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council notwithstanding section 1342 of title 31, United States Code.
SEC. 306. BIENNIAL REPORT TO CONGRESS.

(a) In General.—Beginning not later than 18 months after the date of enactment of this Act, the President, through the Council, shall submit to the Congress a biennial report on Federal ocean and atmospheric programs, priorities, and accomplishments which shall include—

(1) a comprehensive description of the ocean and atmospheric programs and accomplishments of all agencies and departments of the United States;

(2) an evaluation of such programs and accomplishments in terms of the national ocean policy set forth in this Act and the national priorities identified in section 304, specifying progress made with respect to the goals set forth in section 303(c)(3);

(3) a report on progress in improving Federal and State coordination on ocean and atmospheric activities, including coordination efforts required in this Act;

(4) an analysis of the Federal budget allocated to such programs including estimates of the funding requirements of each such agency or department for such programs during the succeeding 5-to-10 fiscal years;

(5) recommendations for remedying deficiencies, and for improving organization, effectiveness, and
outreach of Federal ocean and atmospheric pro-
grams and services, on a regional and national basis,
including support for State and local efforts that le-
verage public, nongovernmental, and private sector
involvement; and

(6) recommendations for legislative or other ac-
tion.

(b) PRESIDENTIAL TRANSMITTAL.—The President
shall transmit the biennial report pursuant to this section
to the Speaker of the House of Representatives and the
President of the Senate not later than December 31 of
the year in which it is due.

(c) AGENCY COOPERATION.—Each Federal agency
and department shall cooperate by providing such data
and information without cost as may be requested by the
Council for the purpose of this section. Each Federal
agency and department shall provide services and per-
sonnel on a cost reimbursable basis at the request of the
Chairman of the Council for the purpose of accomplishing
the requirements of this section.

SEC. 307. PRESIDENTIAL PANEL OF ADVISERS ON OCEANS
AND CLIMATE.

(a) ESTABLISHMENT; PURPOSE.—The President
shall establish a Presidential Panel of Advisers on Oceans
and Climate. The purpose of the Presidential Panel shall
be—

(1) to advise and assist the President and the
Chairman of the Ocean Stewardship Council in iden-
tifying and fostering policies to protect, manage, and
restore ocean and atmospheric environments and re-
sources, both on a regional and national basis; and

(2) to undertake a continuing review, on a se-
lective basis, of priority issues relating to national
ocean and atmospheric policy (including climate
change), conservation and management of ocean en-
vironments and resources, and the status of the
ocean and atmospheric science and service programs
of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Presidential Panel shall
consist of not more than 25 members, one of whom
shall be the Chairman of the Council on Ocean
Stewardship, and 24 of whom shall be nonfederal
members appointed by the President, including at
least one representative nominated by a Governor
from each of the coastal regions identified in the Re-
port of the U.S. Commission on Ocean Policy and
representatives of the States and various stake-
holders.
(2) **Chair.**—The Chairman of the Council on
Ocean Stewardship shall co-chair the Presidential Panel with a nonfederal member designated by the President.

(c) **Appointment and Qualifications.**—The members of the Presidential Panel shall be appointed by the President for 3-year terms from among individuals with diverse perspectives and expertise in 1 or more of the disciplines or fields associated with ocean and atmospheric policy, including—

(1) marine-related State and local government functions;

(2) ocean and coastal resource conservation and management;

(3) atmospheric or ocean science, engineering, and technology;

(4) the marine industry (including recreation and tourism);

(5) climate change;

(6) atmospheric or coastal hazards; and

(7) other fields appropriate for consideration of matters of oceanic or atmospheric policy.

(d) **Vacancies.**—An individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed
only for the remainder of such term. No individual may be reappointed to the Presidential Panel for more than 1 additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

(e) COMPENSATION.—Each member of the Presidential Panel shall, while serving on business of the Commission, be entitled to receive compensation at a rate not to exceed a daily rate to be determined by the President consistent with other Federal advisory boards. Federal and State officials serving on the Commission and serving in their official capacity shall not receive compensation in addition to their Federal or State salaries for their time on the Commission. Members of the Presidential Panel may be compensated for reasonable travel expenses while performing their duties as members.

(f) MEETINGS.—The Presidential Panel shall meet at least twice per year, or as prescribed by the President.

(g) REPORTS.—

(1) IN GENERAL.—The Presidential Panel shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation’s ocean activities, and shall submit such other reports as may from time to time be requested by the President or the
Congress. The Presidential Panel shall submit its annual report on or before June 30 of each year, beginning 2 years after the date of enactment of this Act.

(2) Comment and review by council.— Each annual report shall also be submitted to the Chairman of the Council on Ocean Stewardship who shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

SEC. 308. FEDERAL PROGRAM RECOMMENDATIONS.

Not later than 3 years after the issuance of the final report of the Commission on Ocean Policy established by section 3 of the Oceans Act of 2000, the President, in consultation with the Administrator, and considering the recommendations of the Commission on Ocean Policy, the Ocean Stewardship Council, and the Presidential Panel of Advisers on Oceans and Coasts, shall submit to the Congress recommendations—

(1) for the transfer of relevant oceanic or atmospheric programs, functions, services, and associated resources to the National Oceanic and Atmos-
pheric Administration from any other Federal agency;

(2) for consolidation or elimination of oceanic or atmospheric programs, functions, services, or resources within or among Federal agencies if their consolidation or elimination would not undermine policy goals set forth in this Act; and

(3) regarding Federal reorganization, including elevation of NOAA to departmental status or the establishment of a new department that would provide increased national attention and resources to oceanic and atmospheric needs and priorities.

SEC. 309. IMPLEMENTATION.

Not later than 18 months after the date of enactment of this Act, the Administrator shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this title; and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this title and the amendments made by this title.

SEC. 310. NO EFFECT ON OTHER AUTHORITIES.

Except as explicitly provided in this Act, nothing in this Act or the amendments made by this Act shall be
1 construed to modify the authority of the Administrator
2 under any other provision of law.