To establish the National Oceanic and Atmospheric Administration (NOAA),
to amend the organization and functions of the NOAA Advisory Com-
mittee on Oceans and Atmosphere, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2004

Mr. EHLERS (for himself and Mr. GILCHREST) (both by request) introduced
the following bill; which was referred to the Committee on Resources, and
in addition to the Committee on Science, for a period to be subsequently
determined by the Speaker, in each case for consideration of such provi-
sions as fall within the jurisdiction of the committee concerned

A BILL

To establish the National Oceanic and Atmospheric Adminis-
tration (NOAA), to amend the organization and func-
tions of the NOAA Advisory Committee on Oceans and Atmosphere, 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,
TITLE I—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ORGANIC ACT OF 2004

SECTION 101. SHORT TITLE.

This Act may be cited as the “National Oceanic and Atmospheric Administration Organic Act of 2004”.

SEC. 102. ESTABLISHMENT.

There is established within the Department of Commerce, the National Oceanic and Atmospheric Administration.

SEC. 103. DEFINITIONS.

As used in this Act:

(1) The terms “NOAA” and “Administration” mean the National Oceanic and Atmospheric Administration established by section 102.

(2) The term “Secretary” means the Secretary of Commerce.

(3) The terms “Under Secretary” or “Administrator” mean the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

(4) The terms “Assistant Secretary” or “Deputy Administrator” mean the Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy
SEC. 104. POSITIONS.

(a) UNDER SECRETARY.—There shall be within NOAA an Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration appointed by the President by and with the advice and consent of the Senate. Subject to the authority of the Secretary of Commerce, the Under Secretary shall be the head of NOAA and shall have authority, direction and control of NOAA. Any authority, power or function vested by law in NOAA, or any officer, employee or part of NOAA, is vested in, and may be exercised by, the Under Secretary. The Under Secretary may, without being relieved of the Under Secretary’s responsibility, perform any of the Under Secretary’s functions or duties, or exercise any of the Under Secretary’s powers through, or with the aid of, such persons in, or organizations of, NOAA as the Under Secretary may designate.

(b) ASSISTANT SECRETARY.—There shall be within NOAA an Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy Administrator of the National Oceanic and Atmospheric Administration. The Assistant Secretary shall be appointed by the President, by
and with the advice and consent of the Senate. The Assistant Secretary shall perform such functions as the Under Secretary may prescribe. The Assistant Secretary shall perform the functions of the Under Secretary during the disability of the Under Secretary or when the office of Under Secretary is vacant.

(c) DEPUTY UNDER SECRETARY.—There shall be within NOAA a Deputy Under Secretary of Commerce for Oceans and Atmosphere appointed in the Senior Executive Service, without regard to limitations under section 3133 of Title 5, United States Code, by the Secretary. The Deputy Under Secretary shall perform the functions of the Assistant Secretary during the disability of the Assistant Secretary or when the office of Assistant Secretary is vacant.

(d) ESTABLISHMENT OF ADDITIONAL POSITIONS.—To carry out the functions of NOAA assigned by law, and consistent with applicable law including title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (Public Law 107–372), the Under Secretary may establish positions within NOAA and prescribe the authorities and duties of such positions.

SEC. 105. PURPOSES AND AUTHORITIES.

(a) PURPOSES.—NOAA’s purposes shall be to:
(1) observe, assess and predict the status of and changes in ocean, coastal, and Great Lakes ecosystems, and in the atmosphere, including the near-space environment;

(2) manage, protect and restore the Nation’s ocean, coastal and Great Lakes areas, living and nonliving marine resources, including fisheries, and vulnerable species and habitats, including ecosystem approaches;

(3) collect, store, analyze and provide reliable scientific data and information through means including research, observations (in-situ and remotely sensed), forecasts and assessments relating to weather (including space weather), climate, air quality, water, marine resources and ecosystems that can be used as a basis for sound management and public safety decisions;

(4) protect lives and property and expand economic opportunities; and

(5) pursue its purposes complementary to, and in partnership with, Federal agencies, instrumentalities and laboratories; State and local governments; Native American tribes and organizations; international organizations; foreign governments; educational institutions; nonprofit organizations; com-
commercial organizations; and other public and private
persons or entities, as appropriate.

(b) Basic Authorities.—In addition to any other
authority provided to the Under Secretary by law or by
delegation from the Secretary, the Under Secretary shall
have the following authorities with respect to NOAA and
the implementation of this Act:

1. Authorities that were, immediately prior to
the enactment of this Act, vested by law, including
under Reorganization Plan No. 4 of 1970 (5 U.S.C.
App. 1), in NOAA, or in the Secretary with respect
to NOAA.

2. Authority to promulgate rules and regula-
tions as necessary or appropriate.

3. Without regard to section 3324(a) and (b)
of Title 31, authority to enter into and perform such
contracts, leases, grants, cooperative agreements, or
other transactions (without regard to 31 U.S.C.
6301 et seq.), as may be necessary to carry out
NOAA’s purposes and authorities, on terms it deems
appropriate, with Federal agencies, instrumentalities
and laboratories; State and local governments; Na-
tive American tribes and organizations; international
organizations; foreign governments; educational in-
stitutions; nonprofit organizations; commercial orga-
nizations; and other public and private persons or entities.

(4) Authority to accept from any source, hold, administer, invest, dispose of and utilize gifts, bequests, or devises of services, money, securities or property (whether real, personal, intellectual or of any other kind) or any interest therein, and the income therefrom or the proceeds upon disposition thereof, without regard to section 1342 of Title 31, United States Code, and such money, income or proceeds shall be available to NOAA for obligation and expenditure to carry out the purposes of NOAA under this Act.

(5) Authority to use, with their consent, and with or without reimbursement, the services, equipment, personnel, and facilities of: 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.

(6) Authority to disseminate information and conduct education and outreach in direct support of the purposes outlined under section 105(a).
(7) Authority to—

(A) acquire (by purchase, lease, or other-
wise), lease, invest, sell, dispose of or convey
services, money, securities or property (whether
real, personal, intellectual or of any other kind)
or interest therein; and

(B) construct, improve, repair, operate,
maintain and dispose of real or personal prop-
erty, including but not limited to buildings, fa-
cilities, and land.

(8) Authority to—

(A) purchase or hire passenger motor vehi-
cles as necessary for the implementation of this
Act;

(B) procure the services of experts or con-
sultants (or of organizations of experts or con-
sultants) as described in and in accordance with
the first two sentences of section 3109(b) of
Title 5, and, when determined necessary by the
Under Secretary, without regard to the time
limitation in the first sentence of section
3109(b), at respective daily rates of pay for in-
dividuals which are not more than the daily
equivalent of the rate of basic pay then cur-
rently paid for Level III of the Executive
Schedule of section 5313 of Title 5, and pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law;

(C) install, repair, and maintain telephones and telephone wiring and pay telephone service tolls or other charges with respect to residences owned or leased by the United States Government and, to the extent necessary to implement this Act, other private residences, without regard to section 1348 of Title 31, United States Code; and

(D) expend appropriations for official reception and representation.

(c) PROTECTION AGAINST MISUSE OF NAME, INITIALS AND SEAL.—

(1) No person may, except with the written permission of the Under Secretary, knowingly use the words “National Oceanic and Atmospheric Administration”, the initials “NOAA”, the seal of NOAA, or the name, acronym or seal of any component or program of NOAA, or any colorable imitation of such
words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by NOAA, or is likely to cause confusion as to the source or origin of goods or services provided therewith.

(2) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subparagraph (1), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

SEC. 106. CONFORMING AMENDMENTS, REPEALS AND TRANSITION.

(a) The Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is repealed.
(b) Any reference, in any law, rule, regulation, directive, or instruction, or certificate or other official document, in force immediately prior to enactment of this Act—

   (1) to the National Oceanic and Atmospheric Administration shall be deemed to refer and apply to the National Oceanic and Atmospheric Administration established by section 102 of this Act;

   (2) to the Under Secretary of Commerce for Oceans and Atmosphere, or to the Administrator of the National Oceanic and Atmospheric Administration, shall be deemed to refer and apply to the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration to whom subsection 104(a) of this Act refers; and

   (3) to any other position in NOAA shall be deemed to refer and apply to that same position in the National Oceanic and Atmospheric Administration established by section 102 of this Act.

(c) Subsections 407(a) and 407(b) of Public Law 99–659 (15 U.S.C. 1503b and 1507c) are repealed.

(d) Conforming Amendments to Executive Schedule.—Title 5 of the United States Code is amended—
(1) in section 5314, by striking “Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.” and inserting in lieu thereof “Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.”; and

(2) in section 5315, by striking “Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.” and inserting in lieu thereof “Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy Administrator of the National Oceanic and Atmospheric Administration.”.

(e) TRANSITION; INITIAL APPOINTMENTS.—Notwithstanding any provision in subsections 104(a) and (b) of this Act to the contrary, the first individual appointed to the position of Under Secretary, and the first individual appointed to the position of Assistant Secretary, shall be appointed by the President alone.

SEC. 107. 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, or any other official of NOAA, as are in effect immediately before enactment of this Act shall continue in full force and effect after enactment of this Act until modified or rescinded.

SEC. 108. NO EFFECT ON OTHER AUTHORITIES.

This Act does not amend or alter the provisions of other applicable acts unless otherwise noted. Nothing in this Act shall derogate from the duties and functions of any other agency or otherwise alter current authorities relating to those agencies.

TITLE II—NOAA ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

SEC. 201. AMENDMENTS.

Sections 2 through 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (Public Law 95–63, as amended, 33 U.S.C. 857–13 through 857–18) are amended as follows:

(1) In section 2 (33 U.S.C. 857–13), delete the phrase “18 members to be”.
(2) Subsection 3(a) (33 U.S.C. 857–14(a)) is amended to read as follows:

“(a) APPOINTMENT AND QUALIFICATIONS.—

“(1) The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the Under Secretary of Commerce for Oceans and Atmosphere (hereinafter the Under Secretary). Members shall be appointed only from among individuals who are eminently qualified by way of knowledge and expertise in one or more of the purposes of the National Oceanic and Atmospheric Administration.

“(2) The Under Secretary shall appoint, as original members, any current members of the National Oceanic and Atmospheric Administration Science Advisory Board who wish to serve in such capacity, together with any additional qualified individuals necessary to fulfill the purposes of the Committee.”.

(3) Subsection 3(b) (33 U.S.C. 857–14(b)) is revised to read as follows:

“(b) TERMS.—

“(1) The term of office of a member of the Committee shall be 3 years; except that initial terms
of the original appointees shall be staggered to assure continuity of administration.

“(2) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. No individual may serve for more than two consecutive three-year terms. 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.”.

(4) In subsection 3(c) (33 U.S.C. 857–14(c)), delete “President” and insert in lieu thereof “Under Secretary”.

(5) Subsection 3(d) (33 U.S.C. 857–14(d)) is revised to read as follows:

“(d) DUTIES.—The Committee shall advise the Under Secretary with respect to the programs administered by the National Oceanic and Atmospheric Administration.”.

(6) Delete sections 4 and 6 (33 U.S.C. 857–15 and 857–17, respectively), and renumber the remaining sections accordingly. In new section 4, delete “for a GS–18” and insert in lieu thereof “pro-
vided for Level IV of the Executive Schedule Pay Rates”.

(7) By striking “National Advisory Committee on Oceans and Atmosphere” wherever that term may appear in sections 2 through 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (Public Law 95–63, as amended, 33 U.S.C. 857–13 through 857–18) and substitute in lieu thereof “NOAA Advisory Committee on Oceans and Atmosphere”.

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