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Led Stevens

ALASKA

95TH CONGRESS
1ST SESSION

H. R. 9708

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1977

Mr. MURPHY of New York (for himself and Mr. BREAUX) introduced the following bill; which was referred jointly to the Committee on Merchant Marine and Fisheries and Science and Technology

A BILL

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

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

3 That this Act may be cited as the "National Oceanic and
4 Atmospheric Administration Organization Organic Act of
5 1977".

6 TITLE I—DECLARATION OF A NATIONAL OCEAN
7 POLICY

8 SEC. 101. DECLARATION OF POLICY.

9 (a) FINDINGS.—The Congress finds and declares the
10 following:

11 (1) The oceans and their coastal margins are of

1 enormous value to the United States and to the world
2 because of the availability of ocean and coastal resources,
3 the capacity of the ocean for transporting commerce, the
4 relationship between the oceans and weather systems,
5 the need for national security, the necessity of protecting
6 the environment, as well as other significant uses of the
7 ocean.

8 (2) The oceans and coastal resources could, through
9 the development and wise application of management
10 skills, science and technology, and effective policy, satisfy
11 many human needs and contribute to national and inter-
12 national goals and aspirations.

13 (3) Marine science activities and oceanic affairs are
14 being conducted by twenty-one organizations in six de-
15 partments and five agencies, which results in inadequate
16 cooperation and coordination of national programs and
17 plans.

18 (4) Most civilian ocean, coastal, and atmospheric
19 programs and functions of the Federal Government
20 should be the responsibility of a single lead agency with
21 adequate authority and resources to develop and carry
22 out sound national policies for such activities.

23 (5) The ocean, coastal, and atmospheric activities,
24 programs, and functions of the Federal Government

1 should be conducted so as to contribute materially to one
2 or more of the following objectives:

3 (A) The enhanced management, conservation,
4 protection, development, and utilization of ocean
5 and coastal resources.

6 (B) Protection of the ocean and coastal en-
7 vironment, and the prevention, control, and reduc-
8 tion of pollution.

9 (C) The wise management of marine fisheries
10 and development of the Nation's commercial and
11 recreational fishing industries.

12 (D) The expansion of knowledge of the ocean
13 and coastal environment, its processes, and the
14 effects of man-induced changes upon that environ-
15 ment.

16 (E) Close consultation and cooperation with
17 State and local governments in dealing with prob-
18 lems associated with coastal zone management.

19 (F) Providing quality oceanic and atmospheric
20 services to all user groups efficiently and econom-
21 ically.

22 (G) The establishment of a Federal policy-
23 making process which avoids duplication of effort

1 and insures cooperation among all interested Federal
2 agencies.

3 (H) Wide dissemination of information about
4 the ocean, its resources and coastal margins through
5 advisory services, education, and public information.

6 (I) Advancement of education and training in
7 marine science and technology, ocean policy, and
8 other specialized areas relating to ocean manage-
9 ment or development.

10 (J) Cooperation by the United States with
11 other nations and groups of nations and international
12 organizations in ocean policy when deemed to be
13 in the interest of the Nation.

14 (K) The strengthening of national well-being
15 and security.

16 (b) PURPOSES.—It is therefore declared to be the pur-
17 pose of the Congress in this Act—

18 (1) to set forth a clear statement of national objec-
19 tives in regard to the ocean and the Nation's coastal
20 margin;

21 (2) to designate the National Oceanic and Atmos-
22 pheric Administration as the lead civilian agency with
23 responsibility for coordinating and carrying out national
24 ocean policy in order to improve the understanding,
25 assessment, development, utilization, conservation, and

1 protection of ocean and coastal resources, and the
2 atmosphere.

3 (c) POLICY.—It is further declared to be the policy
4 of the Congress in this Act that—

5 (1) the Federal Government, in cooperation with
6 State and local governments, foreign states, and public,
7 private, and international organizations, utilize its capa-
8 bilities to create and maintain conditions under which
9 ocean and coastal, and the atmosphere resources may
10 be utilized without harming the environment so as to
11 fulfill the needs of present and future generations.

12 (2) the ocean and coastal resources within the sov-
13 ereign jurisdiction of the United States, being common
14 property resources, are held in trust by the Federal
15 Government for the benefit of all the citizens of the
16 United States;

17 (3) Federal programs which relate directly or indi-
18 rectly to the allocation, use, management, conservation,
19 protection, or enhancement of ocean and coastal re-
20 sources, and the atmosphere must be consistent with one
21 another in application, and coordination and cooperation
22 among administering agencies is vital;

23 (4) the national interest will be best realized if the
24 ocean and coastal resources and the marine environment
25 are periodically and systematically inventoried and

1 assessed and their present and future uses projected
2 through a scientific planning process; and

3 (5) results of civilian and unclassified military at-
4 mospheric and oceanographic research and technology,
5 which is supported by Federal grants, loans, or con-
6 tracts, should be made promptly available to other Fed-
7 eral agencies, State and local government, and the private
8 sector in a manner which will hasten and promote the
9 utilization of such knowledge and technology for the
10 benefit of the United States.

11 **SEC. 102. DEFINITIONS.**

12 Without altering in any way the meaning of the follow-
13 ing terms as used in any other statute (whether or not such
14 statute is referred to in, or amended by, this Act), as used
15 in this Act, unless the context otherwise requires:

16 (1) The term "activities, programs, and functions"
17 means all responsibilities for the administration of laws
18 and programs assigned to the National Oceanic and
19 Atmospheric Administration by statute, reorganization
20 plan, delegation, or by this Act.

21 (2) The term "Administration" means the National
22 Oceanic and Atmospheric Administration.

23 (3) The term "Administrator" means the Admin-
24 istrator of the National Oceanic and Atmospheric
25 Administration.

1 (4) The term "coastal environment" means the
2 coastal zone as defined in section 304 (2) of the Coastal
3 Zone Management Act of 1972 (16 U.S.C. 1453 (a)).

4 (5) The term "coastal resource" means any living,
5 nonliving, or manmade resource of, or any other tangible
6 or intangible, actual or potential, resource located in,
7 derived from, or traceable to, the coastal environment.
8 Such term includes the habitat of any such living re-
9 sources, the coastal space, the ecosystems, the nutrient-
10 rich areas, and the other components of the coastal
11 environment which contribute to or provide (or which
12 are capable of contributing to or providing) recreational,
13 scenic, esthetic, historic, cultural, ecological, habitational,
14 commercial, economic, or conservation values. Living
15 resources include natural and cultured plant life, fish,
16 shellfish, marine mammals, and wildlife. Nonliving re-
17 sources include energy sources, minerals, and chemical
18 substances.

19 (6) The term "marine environment" means the
20 coastal environment, the seabed, subsoil, and waters of
21 the territorial sea of the United States; the waters of the
22 fisheries conservation zone of the United States; the
23 waters of the high seas; and the seabed and subsoil of
24 and beyond the Outer Continental Shelf.

25 (7) The term "ocean resource" means the marine

1 environment and any living, nonliving, or manmade re-
2 source of, or any other tangible or intangible, actual or
3 potential, resource located in, derived from, or traceable
4 to, the marine environment. Such term includes the habi-
5 tat of any such living resources, the coastal space, the
6 ecosystems, the nutrient-rich areas, and other com-
7 ponents of the marine environment which contribute to
8 or provide (or which are capable of contributing to or
9 providing) recreational, scenic, esthetic, historical, cul-
10 tural, ecological, habitational, commercial, economic, or
11 conservation values. Living resources include natural
12 and cultural plantlife, fish, shellfish, marine mammals,
13 and wildlife. Nonliving resources include energy sources,
14 minerals, and chemical substances.

15 (8) The term "Secretary" means the Secretary of
16 Commerce.

17 TITLE II—THE NATIONAL OCEANIC AND
18 ATMOSPHERIC ADMINISTRATION

19 SEC. 201. ESTABLISHMENT.

20 There is hereby established in the Department of Com-
21 merce an agency which shall be known as the National
22 Oceanic and Atmospheric Administration.

23 SEC. 202. OFFICERS.

24 (a) ADMINISTRATOR.—There shall be at the head of
25 the Administration an Administrator who shall be appointed

1 by the President, by and with the advice and consent of the
2 Senate, and shall be compensated at the rate provided for
3 level III of the Executive Pay Rates (5 U.S.C. 5314). The
4 Administrator shall have a broad background, professional
5 knowledge, and substantial experience in ocean or atmos-
6 pheric affairs, including, but not limited to, any field relat-
7 ing to marine or atmospheric science and technology, bio-
8 logical sciences, engineering, as well as education, eco-
9 nomics, government affairs, planning, law, or international
10 affairs.

11 (b) DEPUTY ADMINISTRATOR.—There shall be in the
12 Administration a Deputy Administrator who shall be ap-
13 pointed by the President, by and with the advice and consent
14 of the Senate, and shall be compensated at the rate now or
15 hereafter provided for level IV of the Executive Schedule
16 Pay Rates (5 U.S.C. 5315). The Deputy Administrator
17 shall perform such functions as the Administrator shall from
18 time to time assign or delegate, and shall act as Administra-
19 tor during the absence or disability of the Administrator or
20 in the event of a vacancy in the office of Administrator.

21 (c) ASSOCIATE ADMINISTRATOR.—There shall be in
22 the Administration an Associate Administrator who shall be
23 appointed by the President, by and with the advice and con-
24 sent of the Senate, and shall be compensated at the rate now
25 or hereafter provided for level IV of the Executive Pay Rates

1 (5 U.S.C. 5315). The Associate Administrator shall perform
2 such functions as the Administrator shall from time to time
3 assign or delegate, and shall act as Administrator during the
4 absence or disability of the Administrator and Deputy Ad-
5 ministrator.

6 (d) ASSISTANT ADMINISTRATOR FOR COASTAL ZONE
7 MANAGEMENT.—There shall be in the Administration an
8 Assistant Administrator for Coastal Zone Management who
9 shall be appointed by the President by and with the advice
10 and consent of the Senate, and shall be compensated at the
11 rate now or hereafter provided for level V of the Executive
12 Schedule Pay Rates (5 U.S.C. 5316). Such assistant ad-
13 ministrator shall be an individual who is, by reason of back-
14 ground and experience, especially qualified to direct the
15 implementation and administration of the Coastal Zone Man-
16 agement Act of 1972 (16 U.S.C. 1451 et seq.).

17 (e) ADDITIONAL ASSISTANT ADMINISTRATORS.—
18 There shall be in the Administration four additional Assistant
19 Administrators who shall perform such functions as the Ad-
20 ministrator shall from time to time assign or delegate. Each
21 such Assistant Administrator shall be appointed by the Pres-
22 ident, by and with the advice and consent of the Senate, and
23 shall receive compensation at the rate now or hereafter
24 provided for level V of the Executive Schedule Pay Rates
25 (5 U.S.C. 5316).

1 (f) GENERAL COUNSEL.—There shall be in the Ad-
2 ministration a General Counsel appointed by the President,
3 by and with the advice and consent of the Senate, who shall
4 be compensated at the rate now or hereafter provided for
5 level V of the Executive Pay Rates (5 U.S.C. 5316). The
6 General Counsel shall serve as the chief legal officer for all
7 legal matters which may arise in connection with the conduct
8 of the functions of the Administration.

9 (g) COMMISSIONED OFFICERS.—(1) The President
10 may appoint in the Administration, by and with the advice
11 and consent of the Senate, two commissioned officers to serve
12 at any one time as the designated heads of two principal con-
13 stituent organizational entities of the Administration, or the
14 President may designate one such officer as the head of such
15 an organizational entity and the other as the head of the
16 commissioned corps of the Administration. Any such desig-
17 nation shall create a vacancy on the active list and the officer
18 while serving under this subsection shall have the rank, pay,
19 and allowances of a rear admiral (upper half).

20 (2) Any commissioned officer of the Administration
21 who has served under subsection (c) or paragraph (1)
22 and is retired while so serving or is retired after the com-
23 pletion of such service while serving in a lower rank or
24 grade, shall be retired with the rank, pay, and allowances
25 authorized by law for the highest grade and rank held by

1 him; but any such officer, upon termination of his appoint-
2 ment in a rank above that of captain, shall, unless appointed
3 or assigned to some other position for which a higher rank
4 or grade is provided, revert to the grade and number he
5 would have occupied had he not served in a rank above
6 that of captain and such officer shall be an extra number
7 in that grade.

8 **SEC. 203. TRANSFERS TO THE ADMINISTRATOR**

9 The following are hereby transferred to the Adminis-
10 trator:

11 (a) All functions vested by law in the Bureau of Com-
12 mercial Fisheries of the Department of the Interior or in its
13 head, together with all functions vested by law in the Secre-
14 tary of the Interior of the Department of the Interior which
15 are administered through that Bureau or are primarily re-
16 lated to the Bureau, exclusive of functions with respect to
17 (1) Great Lakes fishery research and activities related to the
18 Great Lakes Fisheries Commission, (2) Missouri River
19 Reservoir research, (3) the Gulf Breeze Biological Labora-
20 tory of the said Bureau at Gulf Breeze, Florida, and (4)
21 Trans-Alaska pipeline investigations.

22 (b) The functions vested in the Secretary of the
23 Interior by the Act of September 22, 1959 (Public Law
24 86-359, 73 Stat. 642, 16 U.S.C. 760e-760g; relating to
25 migratory marine species of game fish).

1 (c) The functions vested by law in the Secretary of the
2 Interior, or in the Department of the Interior or in any
3 officer or instrumentality of that Department, which are
4 administered through the Marine Minerals Technology
5 Center of the Bureau of Mines.

6 (d) All functions vested in the National Science Foun-
7 dation by the National Sea Grant College and Program Act
8 of 1966 (80 Stat. 998), as amended (33 U.S.C. 1121
9 et seq.).

10 (e) Those functions vested in the Secretary of Defense
11 or in any officer, employee, or organizational entity of the
12 Department of Defense by the provision of Public Law 91-
13 144, (83 Stat. 326), under the heading "Operation and
14 maintenance, general" with respect to "surveys and charting
15 of northern and northwestern lakes and connecting waters,"
16 or by other law, which come under the mission assigned as of
17 July 1, 1969, to the United States Army Engineer District,
18 Lake Survey, Corps of Engineers, Department of the Army
19 and relate to (1) the conduct of hydrographic surveys of the
20 Great Lakes and their outflow rivers, Lake Champlain, New
21 York State Barge Canals, and the Minnesota-Ontario border
22 lakes, and the compilation and publication of navigation
23 charts, including recreational aspects, and the Great Lakes
24 Pilot for the benefit and use of the public, (2) the concep-
25 tion, planning, and conduct of basic research and develop-

1 ment in the fields of water motion, water characteristics,
2 water quantity, and ice and snow, and (3) the publication of
3 data and the results of research projects in forms useful to the
4 Corps of Engineers and the public, and the operation of a
5 Regional Data Center for the collection, coordination, anal-
6 ysis, and the furnishing to interested agencies of data relating
7 to water resources of the Great Lakes.

8 (f) So much of the functions of the transferor officers and
9 agencies referred to in or affected by the foregoing provisions
10 of this section as is incidental to or necessary for the per-
11 formance by the Administrator of the functions transferred
12 by those provisions or relates primarily to those functions.
13 The transfers to the Administrator made by this section shall
14 be deemed to include the transfer of authority, provided by
15 law, to prescribe regulations relating primarily to the trans-
16 ferred functions.

17 **SEC. 204. RESPONSIBILITIES OF THE ADMINISTRATOR.**

18 The responsibilities of the Administrator shall include,
19 but are not limited to—

20 (1) such functions, powers, and duties as are trans-
21 ferred to him under section 203;

22 (2) activities, programs, and functions relating to
23 ocean and atmospheric monitoring and prediction,
24 weather forecasting, and storm warnings, pursuant to
25 chapter 9 of title 15, United States Code;

1 (3) administering all activities, programs, and
2 functions assigned to the Administration;

3 (4) providing charts for the safety of marine and
4 air navigation, a network of geodetic control, and ob-
5 serve, chart, and measure the marine environment and
6 ocean resources;

7 (5) preparing and maintaining on a continuing
8 basis an inventory of ocean and coastal resources;

9 (6) undertaking a program of ocean and atmos-
10 phere research and development;

11 (7) collecting and disseminating information relat-
12 ing to the oceans and the atmosphere, and their use and
13 protection, to all interested parties;

14 (8) undertaking activities involving the integra-
15 tion of domestic and international policy relating to the
16 oceans and the atmosphere, including the provision of
17 technical advice to the President on international nego-
18 tiations involving ocean resources, ocean technologies,
19 and climate matters;

20 (9) assure incorporation of national environ-
21 mental goals in the formulation and implementation of
22 ocean and atmospheric programs;

23 (10) provide for, encourage, and assist public par-
24 ticipation in the development and implementation of
25 ocean and atmospheric programs;

1 (11) environmental research and development ac-
2 tivities that are necessary to advance the Nation's ocean
3 engineering and technology expertise, including the de-
4 velopment and operation of manned research submersi-
5 bles, underwater laboratories, data buoys, and improved
6 instruments and calibration methods, and the advance-
7 ment of undersea diving techniques;

8 (12) encouraging progress in ocean engineering
9 activities, in order to implement a wide ranging program
10 to meet basic ocean engineering needs;

11 (13) developing and improving geodetic and map-
12 ping methods and studies of geophysical phenomena
13 such as crustal movement, earth tides, and the circula-
14 tion of water in estuarine and coastal waters;

15 (14) collecting, analyzing, and disseminating en-
16 vironmental data, in support of environmental research
17 and development, including data in the fields of clima-
18 tology, oceanography, geology, geophysics, and solar-
19 terrestrial relationships; and

20 (15) administering satellite systems, with coopera-
21 tion of the National Aeronautics and Space Administra-
22 tion, that can monitor global and regional atmospheric
23 weather conditions and related oceanic, solar, hydrologi-
24 cal, and other environmental conditions, collect informa-
25 tion required for research on weather, climate and re-

1 lated environmental matters, and monitor the extent of
2 man-induced changes in the lower and upper atmosphere
3 and the related environment.

4 **SEC. 205. GENERAL POWERS.**

5 (a) **PERSONNEL AND SERVICES.**—The Administrator
6 is authorized—

7 (1) in addition to the officers provided for by sec-
8 tion 202, and subject to the applicable provisions of
9 title 5, United States Code, governing classification and
10 general schedule pay rates, to select, appoint, employ,
11 and fix the compensation of such other assistant adminis-
12 trators, officers, and employees, including attorneys, as
13 are necessary to perform the functions now or hereafter
14 vested in him and to prescribe their powers and duties;

15 (2) to obtain expert and consultant services as pro-
16 vided by section 3109 of title 5 of the United States
17 Code;

18 (3) to pay transportation expenses, and per diem in
19 lieu of subsistence expenses, in accordance with chapter
20 57 of title 5 of the United States Code;

21 (4) to utilize, on a reimbursable basis, the services
22 of any personnel made available by any department,
23 agency, or instrumentality, including any independent
24 agency of the Government;

1 (5) to establish advisory boards, in accordance with
2 the provisions of the Federal Advisory Committee Act
3 (Public Law 92-463), to advise with and make recom-
4 mendations to the Administrator on legislation, policies,
5 administration, research and other matters;

6 (6) to employ persons who are not citizens of the
7 United States in expert, scientific, technical, or profes-
8 sional capacities whenever he deems it in the public
9 interest; and

10 (7) notwithstanding any other provisions of this
11 Act, including paragraph (1) of this subsection, to
12 establish and fix the compensation for eight new posi-
13 tions within the Administration without regard to the
14 competitive provisions of chapter 51 of title 5, United
15 States Code, at rates not in excess of the maximum
16 rate for GS-18 of the General Schedule under section
17 5332 of such title. Any persons appointed to such
18 positions shall serve at the pleasure of the Administrator.
19 Positions authorized by this paragraph shall be in addi-
20 tion to the number of positions otherwise authorized
21 by law.

22 (b) FACILITIES.—Except for public buildings as de-
23 fined in the Public Buildings Act of 1959, as amended, and
24 with respect to leased space subject to the provisions of

1 Reorganization Plan Numbered 18 of 1950, the Adminis-
2 trator is authorized to acquire (by purchase, lease, con-
3 demnation, or otherwise), construct, improve, repair, oper-
4 ate, and maintain facilities and real property as the Admin-
5 istrator deems to be necessary in and outside of the District
6 of Columbia. Such authority shall apply only to facilities re-
7 quired for the maintenance and operation of laboratories,
8 research and testing sites and facilities, quarters, and re-
9 lated accommodations for employees and dependents of em-
10 ployees of the Administration, and such other special-pur-
11 pose real property as the Administrator deems to be neces-
12 sary in and outside the District of Columbia. Title to any
13 property or interest therein, real, personal, or mixed,
14 acquired pursuant to this section, shall be in the United
15 States.

16 (c) EMPLOYEE SERVICES.—(1) The Administrator
17 is authorized to provide, construct, or maintain, as necessary
18 and when not otherwise available, the following for em-
19 ployees and their dependents stationed at remote locations:

- 20 (A) Emergency medical services and supplies.
21 (B) Food and other subsistence supplies.
22 (C) Messing facilities.
23 (D) Audiovisual equipment, accessories, and sup-
24 plies for recreation and training.

1 (E) Reimbursement for food, clothing, medicine,
2 and other supplies furnished by such employees in emer-
3 gencies for the temporary relief of distressed persons.

4 (F) Living and working quarters and facilities.

5 (G) Transportation for school-age dependents of
6 employees to the nearest appropriate educational
7 facilities.

8 (2) The furnishing of medical treatment under sub-
9 paragraph (A) of paragraph (1) and the furnishing of
10 services and supplies under paragraphs (B) and (C) of
11 paragraph (1) shall be at prices reflecting reasonable value
12 as determined by the Administrator.

13 (3) Proceeds derived from reimbursements under this
14 section shall be deposited in the Treasury and may be with-
15 drawn by the Administrator to pay directly the cost of such
16 work or services, to repay or make advances to appropri-
17 ations or funds which do or will bear all or a part of such
18 cost, or to refund excess sums when necessary; except that
19 such payments may be credited to a service or working
20 capital fund otherwise established by law, and used under
21 the law governing such funds, if the fund is available for
22 use by the Administrator for performing the work or serv-
23 ices for which payment is received.

24 (d) COPYRIGHTS AND PATENTS.—The Administrator
25 is authorized to acquire any of the following described rights

1 if the property acquired thereby is for use in, or is useful to,
2 the performance of functions vested in him:

3 (1) Copyrights, patents, and applications for pat-
4 ents, designs, processes, specifications, and data.

5 (2) Licenses under copyrights, patents, and appli-
6 cations for patents.

7 (3) Releases, before suit is brought, for past in-
8 fringement of patents or copyrights.

9 (e) GIFTS AND BEQUESTS.—The Administrator is au-
10 thorized to accept, hold, administer, and utilize gifts, and
11 bequests of property, both real and personal, for the purpose
12 of aiding or facilitating the work of the Administration. Gifts
13 and bequests of money and proceeds from sales of other prop-
14 erty received as gifts or bequests shall be deposited in the
15 Treasury and shall be disbursed upon the order of the Admin-
16 istrator. For the purposes of Federal income, estate, and gift
17 taxes, property accepted under this section shall be consid-
18 ered as a gift or bequest to the United States.

19 **SEC. 206. WORKING CAPITAL FUND.**

20 (a) ESTABLISHMENT.—There is hereby established a
21 working capital fund (hereinafter referred to as the “fund”)
22 for the purpose of carrying out the activities of the National
23 Oceanic and Atmospheric Administration. This fund shall be
24 available without fiscal year limitation for expenses necessary
25 for furnishing, in accordance with the Federal Property and

1 Administrative Services Act of 1949 (63 Stat. 377, as
2 amended), and regulations promulgated thereunder, supplies
3 and equipment services in support of the activities of the
4 Administration, including but not limited to, the purchase
5 or construction of facilities, equipment, and services within
6 the limitations set forth in appropriations made for the
7 Administration.

8 (b) CONTENTS.—(1) The initial capital of the fund
9 shall consist of appropriations made for the purposes specified
10 in subsection (a) together with the fair and reasonable value
11 at the fund's inception of the inventories, equipment, receiv-
12 ables, and other assets, less liabilities, transferred to the fund.
13 The Secretary is authorized to make such subsequent transfers
14 to the fund as may be deemed appropriate in connection with
15 the activities to be carried on through the fund.

16 (2) The fund shall be credited with payments from
17 appropriations and funds of the Administration, other agen-
18 cies of the Department of Commerce, other Federal agencies,
19 and other sources, as authorized by law, at rates approxi-
20 mately equal to the cost of furnishing the facilities, supplies,
21 equipment, and services (including depreciation and accrued
22 annual leave). Such payments may be made in advance in
23 connection with firm orders, or by way of reimbursement.

1 **SEC. 207. STUDIES, COOPERATIVE AGREEMENTS, AND CON-**
2 **TRIBUTIONS.**

3 (a) **IN GENERAL.**—The Secretary may conduct such
4 activities, including investigations, studies, and experiments,
5 as may be necessary within the Administration, in cooper-
6 ation with other Federal agencies or other persons for the
7 purpose of complying with the requirements of this Act.

8 (b) **COOPERATIVE ARRANGEMENTS.**—Subject to the
9 provisions of applicable law, the Secretary may enter into
10 contracts and cooperative agreements involving the activi-
11 ties of the Administration as authorized by law.

12 **SEC. 208. RULES AND REGULATIONS.**

13 The Secretary, with respect to the activities of the Ad-
14 ministration, shall promulgate rules and regulations to carry
15 out the purposes of this Act. The promulgation of such rules
16 and regulations shall be governed by the provisions of chap-
17 ter 5 of title 5, United States Code.

18 **SEC. 209. ANNUAL REPORT.**

19 (a) The Secretary shall submit to the President a re-
20 port each year which shall include but not be limited to—

21 (1) a comprehensive description of the ocean pro-
22 grams and the accomplishment of all agencies and de-
23 partments of the United States;

1 (2) an evaluation of such ocean programs and
2 accomplishments in terms of the objectives set forth in
3 the Program and Statement of Policy provided for in
4 sections 302 and 303 of this Act, respectively;

5 (3) an analysis of the Federal budget allocated to
6 ocean programs including estimates of the funding
7 requirements of each such agency or department for
8 ocean programs during the succeeding fiscal year; and

9 (4) recommendations for legislation that is neces-
10 sary or desirable for the attainment of the objectives set
11 forth in the Program and Statement of Policy provided
12 for in sections 302 and 303 of this Act respectively.

13 (b) The President shall transmit the annual report pur-
14 suant to this section to the Speaker of the House of Repre-
15 sentatives and the President of the Senate not later than
16 December 31 of each calendar year.

17 (c) Each Federal agency and department shall coop-
18 erate by providing such data and information without cost
19 as may be requested by the Secretary for the purpose of this
20 section. Each Federal agency and department shall provide
21 services and personnel on a cost reimbursable basis at the
22 request of the Secretary for the purpose of accomplishing the
23 requirements of this section.

24 **SEC. 210. AUTHORIZATION OF APPROPRIATION.**

25 (a) **IN GENERAL.**—There are hereby authorized to be

1 appropriated such sums as are necessary to carry out the
2 purposes and provisions of this Act. After October 1, 1978,
3 no sums shall be appropriated to carry out any activity,
4 program, or function under this or any other Act unless—

5 (1) such sums are specifically authorized to be
6 appropriated as of the date of the enactment of this Act;
7 or

8 (2) are authorized to be appropriated in accordance
9 with subsection (b).

10 (b) BIENNIAL AUTHORIZATION.—Consistent with sec-
11 tion 607 of the Congressional Budget Act of 1974 (31
12 U.S.C. 1301) and beginning May 15, 1978, the Secretary
13 shall submit to the Speaker of the House of Representatives
14 and the President of the Senate a request for the authoriza-
15 tion of funds for all activities, programs, and functions of the
16 Administration for the 2 fiscal years beginning October 1,
17 1979, and shall submit similar requests every 2 years after
18 such date.

19 TITLE III—MISCELLANEOUS PROVISIONS

20 SEC. 301. TRANSFERS.

21 All personnel, positions, records, and unexpended bal-
22 ances of appropriations, allocations, and other funds em-
23 ployed, used, held, available, or to be made available in
24 connection with the functions specified by the Reorganiza-

1 tion Plan Number 4 (84 Stat. 2090), or subsequent
2 delegations by the Secretary of Commerce, are hereby trans-
3 ferred to the Administration established by this Act. The
4 personnel transferred under this subsection shall be so trans-
5 ferred without reduction in classification or compensation
6 except, that after such transfer, such personnel shall be
7 subject to reductions in classification or compensation in the
8 same manner, to the same extent, and according to the same
9 procedure as other employees of the United States classified
10 and compensated according to the General Schedule in title
11 5, United States Code.

12 **SEC. 302. INTERIM APPOINTMENTS.**

13 In the event that one or more officers required by this
14 Act to be appointed by and with the advice and consent of
15 the Senate shall not have entered upon office on the effective
16 date of this Act, the President may designate any officer,
17 whose appointment was required to be made, by and with
18 the advice and consent of the Senate, and who was such an
19 officer immediately prior to the effective date of the Act,
20 to act in such office until the office is filled as provided in
21 this Act. While so acting such persons shall receive com-
22 pensation at the rates provided by this Act for the respective
23 offices in which they act.

24 **SEC. 303. SAVINGS PROVISIONS.**

25 (a) **CONTINUE EFFECT.**—All orders, determinations,

1 rules, regulations, permits, contracts, certificates, licenses,
2 and privileges—

3 (1) which have been issued, made, granted, or
4 allowed to become effective by the President, any
5 Federal department or agency or official thereof, or by a
6 court of competent jurisdiction, in the performance of
7 functions which are transferred under this Act to the
8 Administration after the date of enactment of this Act,
9 and

10 (2) which are in effect at the time this Act takes
11 effect,

12 shall continue in effect according to their terms until modi-
13 fied, terminated, superseded, set aside, or revoked in accord-
14 ance with law by the President, the Administrator or other
15 authorized officials, a court of competent jurisdiction, or by
16 operation of law.

17 (b) PENDING ACTIONS.—(1) The provisions of this
18 Act shall not affect any proceedings or any application for
19 any license, permit, certificate, or financial assistance pend-
20 ing at the time this Act takes effect before any department,
21 agency, commission, or component thereof, functions of
22 which are transferred by this Act; but such proceedings
23 and applications, to the extent that they relate to functions so
24 transferred, shall be continued. Orders shall be issued in such
25 proceedings, appeals shall be taken therefrom, and payments

1 shall be made pursuant to such orders, as if this Act had not
2 been enacted; and orders issued in any such proceedings
3 shall continue in effect until modified, terminated, superseded,
4 or revoked by a duly authorized official, by a court of com-
5 petent jurisdiction, or by operation of law. Nothing in this
6 subsection shall be deemed to prohibit the discontinuance or
7 modification of any such proceeding under the same terms
8 and conditions and to the same extent that such proceeding
9 could have been discontinued or modified if this Act had
10 not been enacted.

11 (2) the Administrator is authorized to promulgate reg-
12 ulations providing for the orderly transfer of such proceed-
13 ings to the Administration.

14 (c) EFFECTS ON SUITS.—Except as provided in sub-
15 section (d) —

16 (1) the provisions of this Act shall not affect suits
17 commenced prior to the date this Act takes effect, and,

18 (2) in all such suits, proceedings shall be had,
19 appeals taken, and judgments rendered in the same
20 manner and effect as if this Act had not been enacted.

21 (d) ABATEMENT.—(1) No suit, action, or other pro-
22 ceeding commenced by or against any officer in his official
23 capacity as an officer of any department or agency, functions
24 of which are transferred by this Act, shall abate by reason of
25 the enactment of this Act. No cause of action by or against

1 any department or agency, functions of which are transferred
2 by this Act, or by or against any officer thereof in his official
3 capacity shall abate by reason of the enactment of this Act.

4 (2) If, before the date on which this Act takes effect,
5 any department or agency, or officer thereof in his official
6 capacity, is a party to a suit, and under this Act any function
7 of such department, agency, or officer is transferred to the
8 Administrator or any other official, then such suit shall be
9 continued with the Administrator or other official, as the
10 case may be, substituted.

11 **SEC. 304. SEVERABILITY.**

12 If any provision of the Act or the application thereof
13 to any person or circumstance is held invalid, the validity
14 of the remainder of the Act and of the application of such
15 provision to other persons and circumstances shall not be
16 affected thereby.

17 **SEC. 305. CONFORMING AMENDMENTS.**

18 (a) Title I of the Marine Resources and Engineering
19 Development Act of 1966 (80 Stat. 203) is hereby
20 repealed.

21 (b) Reorganization Plan Numbered 4 of October 3,
22 1970 (84 Stat. 2090) is hereby superseded.

23 (c) Section 5316 of title 5, United States Code, is
24 amended by striking "associate" in paragraph 140 and in-
25 serting "assistant" in lieu thereof.

1 (d) Section 1511a of title 15, United States Code, is
2 deleted.

3 **SEC. 306. SUNSET PROVISIONS.**

4 (a) **COMPREHENSIVE REVIEW.**—Not later than May
5 15, 1979, and every 5 years thereafter, the President shall
6 prepare and submit to the Congress a comprehensive review
7 of each program of the Administration. Each such review
8 shall be made available to the committee or committees of
9 the Senate and House of Representatives having jurisdiction
10 with respect to the annual authorization of funds for each
11 program for the fiscal year beginning October 1, 1979.

12 (b) **DETAIL.**—Each comprehensive review prepared
13 for submission under subsection (a) shall include—

14 (1) the name of the component of the Administra-
15 tion responsible for administering the program;

16 (2) an identification of the objectives intended for
17 the program and the problem or need which the pro-
18 gram was intended to address;

19 (3) an identification of any other programs hav-
20 ing similar or potentially conflicting or duplicative
21 objectives;

22 (4) an assessment of alternative methods of achiev-
23 ing the purposes of the program;

24 (5) a justification for the authorization of new
25 budget authority, and an explanation of the manner

1 in which it conforms to and integrates with other
2 efforts;

3 (6) an assessment of the degree to which the
4 original objectives of the program have been achieved,
5 expressed in terms of the performance, impact, or ac-
6 complishments of the program and of the problem or
7 need which it was intended to address, and employing
8 the procedures or methods of analysis appropriate to
9 the type or character of the program;

10 (7) a statement of the performance and accom-
11 plishments of the program in each of the previous four
12 completed fiscal years and of the budgetary costs in-
13 curred in the operation of the program;

14 (8) a statement of the number and types of bene-
15 ficiaries or persons served by the program;

16 (9) an assessment of the effect of the program on
17 the national economy, including, but not limited to, the
18 effects on competition, economic stability, employment,
19 unemployment, productivity, and price inflation, includ-
20 ing costs to consumers and to businesses;

21 (10) an assessment of the impact of the program
22 on the Nation's health and safety;

23 (11) an assessment of the degree to which the over-
24 all administration of the program, as expressed in the
25 rules, regulations, orders, standards, criteria, and deci-

1 sions of the officers executing the program, are believed
2 to meet the objectives of the Congress in establishing
3 the program;

4 (12) a projection of the anticipated needs for ac-
5 complishing the objectives of the program, including
6 an estimate if applicable of the date on which, and the
7 conditions under which, the program may fulfill such
8 objectives;

9 (13) an analysis of the services which could be
10 provided and performance which could be achieved if
11 the program were continued at a level less than, equal
12 to, or greater than the existing level; and

13 (14) recommendations for necessary transitional
14 requirements in the event that funding for such program
15 is discontinued, including proposals for such executives
16 or legislative action as may be necessary to prevent such
17 discontinuation from being unduly disruptive.

18 **SEC. 307. SUNSHINE IN GOVERNMENT.**

19 (a) **CONFLICTS.**—Each officer or employee of the Ad-
20 ministrator who—

21 (1) performs any function or duty under this Act;
22 and

23 (2) has any known financial interest in any person
24 who (A) applies for or receives any permit, lease, right-
25 of-way, or contract under, or (B) applies for or ac-

1 quires any land or interests therein under, or (C) is
2 otherwise subject to the provisions of, this Act,
3 shall, beginning on February 1, 1977, annually file with the
4 Administrator a written statement concerning all such in-
5 terests held by such officer or employee during the preceding
6 calendar year. Such statement shall be available to the
7 public.

8 (b) DEFINITIONS.—The Administrator shall—

9 (1) act within 90 days after the date of enactment
10 of this Act—

11 (A) to define the term “known financial in-
12 terests” for the purposes of subsection (a) of this
13 section; and

14 (B) to establish the methods by which the
15 requirement to file written statements specified in
16 subsection (a) of this section will be monitored and
17 enforced, including appropriate provisions for the
18 filing by such officers and employees of such state-
19 ments and the review by the Administrator of such
20 statements; and

21 (2) report to the Congress on June 1 of each
22 calendar year with respect to such disclosures and the
23 actions taken in regard thereto during the preceding
24 calendar year.

25 (c) EXEMPTIONS.—In the rules prescribed in sub-

1 section (b) of this section, the Administrator may identify
2 specific positions within the Administration which are of a
3 nonregulatory or nonpolicymaking nature and provide that
4 officers or employees occupying such positions shall be
5 exempt from the requirements of this section.

6 (d) PENALTY.—Any officer or employee who is sub-
7 ject to, and knowingly violates, this section, shall be fined not
8 more than \$2,500 or imprisoned not more than 1 year, or
9 both.

95TH CONGRESS
1ST SESSION

H. R. 9708

A BILL

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

By Mr. MURPHY of New York and Mr. BREAUX

OCTOBER 20, 1977

Referred jointly to the Committees on Merchant Marine
and Fisheries and Ways and Means