



UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

November 14, 2003

The Honorable Richard Pombo
Chairman, Committee on Resources
House of Representatives
Washington, DC 20515-6201

Dear Mr. Chairman:

This letter provides you with the Department of Commerce's views on H.R. 958, the "Hydrographic Services Amendments of 2003". Last year, the 107th Congress passed legislation reauthorizing the Hydrographic Services Improvement Act of 1998 (HSIA) for five years, and the President signed the bill into law (Public Law No. 107-372). The pending legislation, H.R. 958, includes several provisions that were considered but ultimately were not included in Public Law No. 107-372.

The Department supports the purposes and goals of the HSIA to promote safe and efficient marine commerce. The Department respectfully requests that H.R. 958 be amended to reflect the views and recommendations provided for in an enclosure, and looks forward to working with you as this bill moves through the legislative process.

Finally, the Department requests that all funding authorized under this bill be consistent with the President's FY 2004 budget. The Department of Commerce appreciates the opportunity to present views on H.R. 958 and looks forward to working with you as this bill moves through the legislative process.

The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program.

Sincerely,

Jane T. Dana
Deputy General Counsel

Enclosure

cc: The Honorable Nick J. Rahall II, Ranking Minority Member
The Honorable Wayne Gilchrest, Chairman, Subcommittee on Fisheries
Conservation, Wildlife, and Oceans
The Honorable Frank Pallone, Jr., Ranking Minority Member, Subcommittee
on Fisheries Conservation, Wildlife, and Oceans

**DEPARTMENT OF COMMERCE RECOMMENDATIONS FOR AMENDING
H.R. 958, THE HYDROGRAPHIC SERVICES AMENDMENTS OF 2003**

The Department provides the following recommendations for consideration in further amending H.R. 958:

Section 102(a) Regional Navigation Response Teams

This provision would provide authority to expand outreach, coordination, and operational efforts to make sure that the National Oceanic and Atmospheric Administration (NOAA) is meeting the most pressing needs for surveys, oceanographic, geodetic, and charting data. The section would support and promote NOAA's policy of working locally and in coordination and consultation with the Coast Guard, U.S. Army Corps of Engineers, local authorities, mariners and other experts and interests whenever practical and possible. However, the Department believes the establishment of the Regional Navigation Response Teams should be discretionary and requests that it be moved from Subsection 303(a) on Responsibilities of the Administrator to Subsection 303(b) on Authorities of the Administrator. Further, the word "may" should be inserted at the beginning before the word "establish."

Section 102(b) Authority to Accept Volunteer Services

With respect to section 102(b) of the bill ("Authority to Accept Volunteers Services"), the Department of Justice has advised us that it has significant concerns about the potential legal liabilities of the Federal Government under the proposed program and the coverage of the proposed volunteers under conflicts of interest and ethics provisions, and intends to provide the Committee with suggested improvements in the near future.

Section 102(b) Participation in Joint Institute

The Department supports this provision but recommends changing the last word from "section" to "Act."

Section 103(a) Quality Assurance Program

The Department believes existing authority under the HSIA is sufficient because NOAA is already developing a quality assurance program that will be completed within two years. In addition, the foreign policy objectives of this section should be advisory and be included in the Committee Report on the bill.

Section 103(b) Implementation of Executive Order and OMB Circular

The Department believes that subsection (f) should not be a part of the bill language, but advisory in the Committee Report. This section would require NOAA to study annually and report to the panel created under Subsection 105 of the HSIA on NOAA's implementation of White House policies contained in Executive Order 12906 and OMB Circular A-16. The Department is aware of, and currently implementing, its Executive Branch policies on geospatial information.

Section 104 Acquisition of Hydrographic Survey Vessel

The Department opposes this section because it is too restrictive and would require that two vessels be replaced by one. NOAA currently has sufficient authority to acquire hydrographic vessels, including authority under Section 303(b)(1) of the Hydrographic Services Improvement Act.

Section 106 Depiction of Same Shorelines on Charts and Mapping Products

The Department has no objection to the intent of this language, which would codify existing efforts to create a more standardized depiction of the Nation's shoreline and be consistent with the OMB Geospatial Initiative. The Department recommends replacing the term "the same" with "common." Agencies depict the shoreline to meet a variety of mission requirements and the term "the same" could be interpreted as overly constraining. In addition, the Department recommends that the term "digital" be inserted before the terms "nautical charts" and "mapping products." This will ensure that the requirement is for the plan to be prospective.

Technical Correction

The transfer of the United States Coast Guard to the Department of Homeland Security requires a technical amendment to 44 U.S.C. §1307. This statute requires consultation with the Secretary of Transportation, which has always been understood to mean the Coast Guard. NOAA would like the consultation requirement in 44 U.S.C. §1307(a)(2)(B) to be amended by striking Section 1307(a)(2)(B) and replacing it with:

(a)(2)(B) The Secretary, after consultation with the Commandant of the Coast Guard, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

Authorization of Appropriations

Finally, the Department requests that all funding authorized under this bill be consistent with the President's FY 2004 budget.