

STRENGTHENING SCIENCE AT THE ENVIRONMENTAL
PROTECTION AGENCY ACT

NOVEMBER 30, 2001.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BOEHLERT, from the Committee on Science,
submitted the following

R E P O R T

[To accompany H.R. 64]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 64) to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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I. AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening Science at the Environmental Protection Agency Act”.

SEC. 2. DEFINITIONS.

For purposes of this Act—

- (1) the term “Administrator” means the Administrator of the Agency;
- (2) the term “Agency” means the Environmental Protection Agency;
- (3) the term “Deputy” means the Deputy Administrator for Science and Technology appointed under section 4; and
- (4) the term “research” means research, development, and demonstration.

SEC. 3. RESEARCH MISSION OF AGENCY.

Conducting, sponsoring, and evaluating environmental science and technology research shall be a central mission of the Agency. The results of such research shall be used to help initiate, formulate, and carry out the Agency’s agenda, and the Agency shall seek to increase the public’s understanding of environmental science and technology by making those research results available to the public.

SEC. 4. DEPUTY.

(a) **APPOINTMENT.**—The President shall appoint, by and with the advice and consent of the Senate, a Deputy Administrator for Science and Technology, who shall coordinate and oversee the science and technology activities of the Agency and ensure that Agency decisions are informed by the results of appropriate and relevant research.

(b) **RESPONSIBILITIES.**—The Deputy shall—

- (1) provide advice to the Administrator regarding science and technology issues and their relationship to Agency policies, procedures, and decisions;
- (2) participate in developing the Agency’s strategic plans and policies and review the science and technology aspects of those plans and policies;
- (3) coordinate the acquisition and compilation of relevant science and technology information available from academic sources, government agencies, and the private sector;
- (4) develop and oversee guidelines for the dissemination of research results conducted, sponsored, or cited by the Agency to the public, including historically black colleges and universities, Hispanic-serving institutions, minority communities, and rural communities; and
- (5) develop and oversee guidelines for peer review of science and technology research.

(c) **QUALIFICATIONS.**—An individual appointed under subsection (a) shall be a person who has an outstanding science and technology background, including research accomplishments, scientific reputation, and public policy experience.

(d) **CONSULTATION.**—Before appointing an individual under subsection (a), the President shall consult with the National Academy of Sciences, the National Academy of Engineering, the Science Advisory Board of the Agency, and other appropriate scientific organizations.

(e) **COMPENSATION.**—The Deputy shall be compensated at the rate provided for level III of the Executive Schedule pursuant to section 5314 of title 5, United States Code.

(f) **CONFORMING AMENDMENT.**—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Administrator for Science and Technology of the Environmental Protection Agency.”.

SEC. 5. ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT.

(a) **TITLE AND TERM.**—There shall be an Assistant Administrator for Research and Development of the Agency, who shall also have the title of Chief Scientist of the Agency. Appointments to such position made after the date of the enactment of this Act shall be for a term of 5 years unless sooner removed by the President.

(b) **QUALIFICATIONS.**—An individual appointed under subsection (a) shall be a person who has an outstanding science and technology background, including research accomplishments, scientific reputation, and experience in leading a research and development organization.

II. PURPOSE OF THE BILL

The purpose of H.R. 64 is to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency. The legislation would also set a fixed term for the Assistant Administrator for the Office of Research and Development and give this position the additional title of “Chief Scientists” of the Agency.

III. BACKGROUND AND NEED FOR THE LEGISLATION

The Environmental Protection Agency (EPA) is responsible for protecting environmental health and safety through environmental regulation, enforcement, and remediation. To carry out its mission, the EPA is organized into 13 offices in Washington, D.C. and 10 regional offices. Assistant Administrators (AA) head 9 of the 13 regulatory, science, and information offices. The AAs are of equal rank and report to the Deputy Administrator and the Administrator of the Agency.

While the EPA’s mission is largely regulatory, the Agency does carry out a broad scientific research agenda to support regulatory decisions. The Office of Research and Development (ORD) is the scientific arm of the Agency primarily responsible for carrying out this agenda. ORD conducts intramural research and administers an extramural research program to support the Agency’s decision-making process. However, the Agency’s regulatory offices also conduct various research efforts on issues specific to their mission.

Expert panels commissioned by the EPA and Congress have reviewed the EPA’s science programs and have recommended structural and management changes to strengthen the role science plays in the decision-making process. In general, the reports (which are described in more detail below) have concluded that the Agency needs to establish top-level scientific leadership to better coordinate science within the Agency and create a culture that fosters the use of science as a basis for regulatory action. The current structure has led to budget disputes, overlapping research, and decisions where scientific input was incorporated too late in the regulatory process. These key obstacles need to be addressed if the EPA is to have a strong science-based regulatory decision-making process.

In 1992, the EPA commissioned an expert panel of scientists to identify how the Agency could improve the scientific foundation for policy and program decisions. The report, *Safeguarding the Future: Credible Science, Credible Decisions* found that the credibility of environmental regulatory decision-making rests on how science is incorporated in the process. Specifically, the report found, “The science advice function—that is, the process of ensuring that policy decisions are informed by a clear understanding of the relevant science—is not well defined or coherently organized within the EPA.” (page 5) To remedy this problem the authors recommended that the Administrator should appoint a “science advisor” to ensure that credible science guides the Agency’s decision-making process.

In the 1995 Departments of Veterans Affairs and Housing and Urban Development Appropriations Act, Congress directed the EPA to obtain an independent review of the overall structure and management of EPA’s research program and evaluate scientific peer-review procedures used by the Agency. The National Academy of

Sciences released four reports in response to this charge. The final report, *Strengthening Science at the U.S. Environmental Protection Agency: Research-Management and Peer-Review Practices*, was released in June 2000. Its findings serve as the basis for this legislation.

The primary recommendation of the 2000 Academy report called for the establishment of a new Deputy Administrator for Science and Technology. This proposal built upon the recommendation of the earlier report to establish a “science advisor” to the Administrator, and a recommendation from the Academy’s interim report in 1995 that called for the AA for ORD to serve as the Agency’s top science official. However, in the 2000 report, the Academy found that this step alone was insufficient. The panel clearly stated that the only way to effectively address problems raised in the various studies was to establish top-level scientific leadership at the Agency.

According to the Academy report, a new Deputy for Science and Technology is needed to serve as an advocate for science within upper management at the Agency and is needed to coordinate research among the regulatory and scientific arms of the Agency. The authors argued that since the new Deputy would rank higher than the existing AAs, this person could foster research relationships between ORD and the Agency’s regulatory offices. The report found the AA for ORD could not establish effective relationships because this person did not have agency-wide scientific authority. Furthermore, past efforts to develop and oversee an agency-wide inventory of scientific activities have had limited success because there is no central science-policy authority to administer this work. The report found that a new Deputy Administrator for Science and Technology would have the appropriate authority to ensure that the best possible peer-review and research-planning practices are used for all of the Agency’s scientific endeavors.

Most significantly, the Academy report concluded that the new position would elevate the role of science in the decision-making process. The Administrator could draw on the expert advice of the Deputy when deciding how to proceed with the regulatory process. The Academy concluded, “The importance of science in EPA decision-making process should be no less than that afforded to legal considerations. Just as the advice of the agency’s general counsel is relied upon by the administrator to determine whether a proposed action is legal, an appropriately qualified and adequately empowered scientific official is needed to attest to the administrator and the nation that the proposed action is scientific.” (page 130)

The report also recommended that the AA for ORD be turned into a six-year appointed position to help ensure greater continuity in long-term research programs. The tenure of an AA at ORD averages two to three years and is typically a lower priority appointment in new administrations. Under the current political appointment model, this position changes at least as often as the Administration changes. The Academy report noted that frequently changing goals, priorities, practices, structure or funding are particularly disruptive to research organizations because of the long-term nature of research activities. Research endeavors cannot be easily stopped and then started again without significantly hurting productivity. According to the report, a longer tenure for the AA would

help insulate the office during changes in the Administration, thereby providing more continuity for research conducted at the Agency.

While the first recommendation, to establish a Deputy Administrator for Science and Technology, is intended to increase the political clout that science has at the Agency, the second recommendation seeks to decrease political pressures on the AA for ORD. The report notes, "Although the political aspect of the Assistant Administrator's job often receives considerable attention, the most important aspects of the job are not political." (page 132) Since the new Deputy could bear many of the political pressures inside the Agency, the AA for ORD could refocus his or her role as the Chief Scientist of the EPA.

The report captured the challenge that the EPA's science mission faces in the future and the need to strengthen science at the Agency by saying, "In the three decades since the U.S. Environmental Protection Agency was created, great progress has been achieved in cleaning the nation's worst and most obvious environmental pollution problems. Belching smokestacks and raw-sewage discharges are now scarce, and air pollution alerts and beach closing are more rare. EPA deserves a significant share of the credit for the accomplishments, but some of the most difficult and challenging tasks remain. Many past illusions about simple and easy solutions to environmental problems have been replaced by greater realization that environmental protection is a complicated and challenging mission." (page 23)

IV. SUMMARY OF HEARINGS

March 29, 2001—H.R. 64: A proposal to Strengthen Science at the Environmental Protection Agency

The purpose of the hearing was to receive testimony on H.R. 64. The legislation would codify two of the primary recommendations of the recently released National Research Council report titled Strengthening Science at the U.S. Environmental Protection Agency.

The Committee heard from: (1) Dr. Ray Loehr, a Professor of Civil Engineering at the University of Texas at Austin, and a member of the National Academy of Sciences' Committee on Research and Peer Review in EPA; (2) Dr. Bill Glaze, a Professor of Environmental Science and Engineering and the Director of the Carolina Environmental Program at the University of North Carolina, and Chairman of the EPA's Science Advisory Board; and (3) Mr. Rick Blum, a Policy Analyst at OMB Watch.

Dr. Loehr testified in support of H.R. 64, which he said would elevate science considerations to parity with legal considerations in EPA decision-making processes. He noted that:

- The bill would provide for better coordination of scientific information within the agency by separating the management of research programs from the management of the use of science and engineering knowledge in the regulatory process.
- Extending the Assistant Administrator for the Office of Research and Development's term to six years would create more stability and strategic leadership for ORD science.

- The National Research Council's report on strengthening science at the EPA outlines the science coordination problems that H.R. 64 would solve.

Dr. Glaze also testified in support of H.R. 64. He said that it would send a "strong signal that we plan to make science a stronger and more integral part of the EPA." He also said that it would help the agency prepare to handle difficult environmental problems of the future and take advantage of new science in new fields. He emphasized that:

- Placing a person of high scientific reputation into the new Deputy Administrator position would positively affect the quality of decisions being made, guide the agency towards a stronger role in setting the environmental and technology agenda of the country, and begin to shift the EPA's culture toward a greater emphasis on using science in decision making.

- Under the structure proposed in H.R. 64, the Assistant Administrator of ORD could better manage the science apparatus, serve as a better liaison with other agencies and other program offices within EPA, and thus promote better science upon which to make decisions.

- These organizational changes would lead the agency to think more carefully about its use of emerging sciences (genomics, proteomics, etc.).

Mr. Blum argued that H.R. 64 could "help overcome shortcomings in EPA's efforts to collect high-quality, timely information." He also mentioned that the new Deputy Administrator position could play a useful role in establishing good data collection practices within the Agency. But he was concerned that:

- There would be significant overlap between the roles of the new Deputy Administrator and the strengthened Assistant Administrator for ORD and those of the recently formed Environmental Information Office (EIO).

- Neither ORD nor EIO would have appropriate authority to ensure that their recommendations are carried out in the program offices.

- The new Deputy Administrator's emphasis on science and technology, rather than information management and public access, might lead the agency to choose inaction if there is any level of uncertainty in the science.

V. COMMITTEE ACTIONS

Congressman Vernon J. Ehlers introduced H.R. 64 on January 3, 2001. On March 29, 2001, the Environment, Technology, and Standards Subcommittee held a hearing on this bill.

The Subcommittee on Environment, Technology, and Standards met on May 17, 2001, to consider the bill. Subcommittee Chairman Vernon Ehlers and Ranking Member James Barcia offered a manager's amendment, which was adopted by voice vote. The Subcommittee favorably reported the bill, H.R. 64, as a single amendment in the nature of a substitute, by voice vote.

On October 3, 2001, the Science Committee considered H.R. 64. Congresswoman Sheila Jackson-Lee offered an amendment that sought to clarify that the guidelines for the dissemination of research results, as called for in the legislation, should include dissemination to the public, historically black colleges and univer-

sities, Hispanic serving institutions, and other minority and rural communities. Chairman Boehlert offered a second-degree amendment to the amendment to further clarify the intent of Congresswoman Jackson-Lee's amendment, which was adopted. The Committee then adopted Congresswoman Jackson-Lee's amendment, as amended.

The Committee favorably reported the bill as amended, by voice vote, and authorized the staff to make technical and conforming changes as necessary.

VI. SUMMARY OF MAJOR PROVISIONS OF THE BILL

There are three major provisions of the bill:

- The legislation establishes a research mission for the Agency. While the EPA conducts an extensive extramural and intramural research program, the Agency has been seen as having a regulatory mission not a scientific one. This provision would make environmental research one of the central missions of the Agency;
- The legislation establishes a Deputy Director for Science and Technology, equal in rank to the current Deputy Administrator and reporting directly to the Administrator. The new Deputy would be responsible for coordinating scientific research among the scientific and regulatory arms of the Agency and ensuring that sound science informs regulatory decisions; and
- The legislation sets a term of five years for the head of the Office of Research and Development (ORD) at EPA, providing more continuity in the scientific work of the Agency across administrations, and enabling the head of ORD to focus on the science conducted at the Agency. The legislation also gives this person the additional title of "Chief Scientist" to reflect the oversight this position has over scientific and peer-review activities at the Agency.

VII. SECTION-BY-SECTION ANALYSIS (BY SECTION)/COMMITTEE VIEWS

Section 1. Short title

This Act is named the "Strengthening Science at the Environmental Protection Agency Act".

Section 2. Definitions

Four terms are defined for purposes of the Act: "Administrator", "Agency", "Deputy", and "research".

Section 3. Research mission of Agency

The Agency shall carry out science and technology research to support its mission. The results of this research shall be used to help initiate, formulate, and carry out the Agency's agenda. The Agency shall disseminate this information to help increase the public's awareness and understanding of environmental science and technology research conducted by the agency.

Section 4. Deputy

The President shall appoint, with advice and consent of the Senate, a Deputy Administrator for Science and Technology at the EPA. This person shall coordinate and oversee the science and technology activities of the Agency and ensure that Agency decisions are informed by the results of appropriate and relevant research. The Deputy is specifically responsible for:

- Providing advice to the Administrator regarding science and technology issues and their relationships to Agency policies, procedures, and decisions;
- Participating in developing the Agency's strategic plans and policies and reviewing the science and technology aspects of those plans and policies;
- Coordinating the acquisition and compilation of relevant science and technology information available from various sources;
- Developing and overseeing the guidelines for the dissemination of research conducted, sponsored, or cited by the Agency to the public including historically black colleges and universities, Hispanic-serving institutions, minority communities and rural communities; and
- Developing and overseeing guidelines for peer review in the Agency.

An individual seeking appointment to this position shall have, among other things, an outstanding science and technology background.

The new Deputy shall be compensated at level III of the Executive Schedule.

The President shall consult with the National Academy of Sciences, the National Academy of Engineering, the Science Advisory Board of the EPA, and other appropriate scientific organizations when seeking an individual for this position.

Section 5. Assistant Administrator for Research and Development

One of the statutorily designated Assistant Administrators shall be designated as the Assistant Administrator for Research and Development, and shall also have the title of Chief Scientist of the EPA. The individual appointed under this section shall serve for a term of five years, unless sooner removed by the President.

An individual seeking appointment to this position shall have, among other things, an outstanding science and technology background.

VIII. COMMITTEE VIEWS

Section 3. Research mission of Agency

When President Nixon established the EPA through executive action (Reorganization Plan No. 3 of 1970), he recognized the need for a science mission at the Agency. The reorganization statement said that one of the roles of EPA would include "the conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes."

The Committee notes that while the EPA has always carried out a research agenda, Congress has never made this a central mission of the Agency. It is the Committee's view that science must serve as a foundation for regulatory decision-making, and that the Agency should conduct world-class research to help initiate, formulate, and carry out the Agency's agenda.

Section 4. Deputy

Several studies have found that the EPA needs to strengthen the role that science plays in the regulatory decision-making process. Scientific and technical knowledge should not be used as a mere adjunct to the regulatory system; rather, science should be used at the beginning, middle, and end of the Agency's decision-making process. Science can help the Administrator make informed decisions about, among other things, the relative risks of environmental threats, whether or not the Agency needs to address certain threats, and how to allocate resources to address possible threats.

The Committee expects that the new Deputy Administrator for Science and Technology will help strengthen the role that science plays in EPA's decision-making process by demanding rigorous, balanced, peer reviewed, and transparent scientific analysis throughout the entire regulatory process. The new Deputy should foster a culture within the EPA where science is used as a foundation for regulatory decisions. The Committee expects that the new Deputy will coordinate and oversee all scientific activities of the Agency, foster cooperation on scientific endeavors among the regulatory and scientific arms of the Agency, and promote the use of the best possible peer-review and research-planning practices. The Committee also expects that the new Deputy Administrator will advise the Administrator and Congress regarding the relative risks of new and emerging environmental threats and assist the Administrator and Congress in deciding which areas should become priorities for regulatory action.

One of the key responsibilities of the new Deputy will be to oversee the peer-review guidelines of the Agency and update them as necessary. The Committee is aware that the EPA Science Advisory Board (SAB), the National Academy of Sciences, and the General Accounting Office have conducted independent assessments of the Agency's peer-review program and provided recommendations for strengthening the process. The Committee believes that the new Deputy should ensure a strong peer-review process within EPA. The new Deputy should report back to the Committee by September 30, 2002 on what reforms the Agency has made to the peer-review process, and what further steps the Agency contemplates are necessary in order to have a strong peer-review program.

The Committee is aware that EPA's Science Advisory Board and the National Academy of Sciences have expressed specific concern about potential conflicts of interest on the part of peer-review leaders because current agency policy allows the same individual to be a project manager for the development of a particular work product as well as the peer-review leader for the same work. The SAB and the Academy recommended that the Agency strengthen the scientific peer-review process by more strictly separating the management of the work product being reviewed from the management of the peer review of that work. The Committee agrees with this rec-

ommendation and expects that the Agency will take the necessary steps to ensure greater independence of peer reviews.

It is the Committee's view that the President should consult with the National Academy of Sciences, the National Academy of Engineering, the SAB of the EPA, and other appropriate scientific organizations when seeking a candidate to serve as Deputy. However, this role should be advisory and does not give these entities authority over this selection.

The Committee agrees with the Academy's recommendation that this person should have an outstanding scientific and technical background. This would include, among other attributes, extensive research experience and accomplishments, experience in public forums, and the respect of scientific peers.

Section 5. Assistant Administrator for Research and Development

Conducting a world-class intramural and extramural research program is a critical component of understanding how to protect the environment. The AA for ORD is responsible for providing strong leadership and guidance in developing this program. The Committee expects that the newly designated Chief Scientist of the EPA will assist the new Deputy in coordinating and overseeing the scientific activities of both ORD and the regulatory arms of the Agency. The Chief Scientist should also continually review the Agency's science portfolio to help inform regulators about the most up-to-date research results regarding potential environmental threats. The Committee also expects that this person will ensure that cutting-edge environmental and health research conducted inside the Agency, as well as from outside sources such as universities, other federal agencies, and international governments, is incorporated into the Agency's understanding of the environment.

It is the Committee's view that this person should have an outstanding scientific and technical background. This would include, among other attributes, extensive research experience and accomplishments, experience in public forums, experience in managing a scientific organization, and the respect of scientific peers.

IX. COST ESTIMATE

Rule XIII, clause 3(d)(2) of the House of Representatives requires each committee report accompanying each bill or joint resolution of a public character to contain: (1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years); (2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with an estimate of such costs made by any Government agency and submitted to such committee; and (3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law. However, House Rule XIII, clause 3(d)(3)(B) provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report

and included in the report pursuant to the House Rule XIII, clause 3(c)(3). A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted to the Committee on Science prior to the filing of this report and is included in Section X of this report pursuant to House Rule XIII, clause 3(c)(3).

Rule XIII, clause 3(c)(2) of the House of Representatives requires each committee report that accompanies a measure providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974 and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law. H.R. 64 does not contain any new budget authority credit authority, credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 64 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section X of this report.

X. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 16, 2001.

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 64 the Strengthening Science at the Environmental Protection Agency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 64—Strengthening Science at the Environmental Protection Agency Act

Summary: CBO estimates that implementing this legislation would cost about \$10 million over the next five years, assuming appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 64 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2002, that estimated funding will be appropriated each year, and that outlays will occur at rates for similar activities. The

estimated budgetary impact of H.R. 64 is shown in the following table. The cost of this legislation falls within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	2	2	2	2	2
Estimated outlays	2	2	2	2	2

Basis of estimate: Enacting H.R. 64 would establish two new positions at the Environmental Protection Agency (EPA). One position would be for the Deputy Administrator for Science and Technology, who would be responsible for coordinating and overseeing the science and technology activities of EPA and for ensuring that decisions are made using appropriate scientific research. The other position would be for the Assistant Administrator for Research and Development. Individuals for both positions would be appointed by the President with the advice and consent of the Senate.

Based on information from EPA, CBO estimates that implementing H.R. 64 would cost about \$2 million a year. This funding would cover salaries and expenses of 12 new staff positions associated with the work assigned to the new positions that would be created under the legislation. During the first year phase-in of these new staff, certain one-time costs are expected for contractor support for special studies and analyses, furniture, and computer equipment.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 64 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Susanne S. Mehlman; impact on state, local, and tribal governments: Elyse Goldman; impact on the private sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

XI. COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 64 contains no unfunded mandates.

XII. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Rule XIII, clause 3(c)(1) of the House of Representatives requires each committee report to include oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X. The Committee on Science’s oversight findings and recommendations are reflected in the body of this report.

XIII. STATEMENT ON GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of House Rule XIII, the goals of H.R. 64 are to strengthen the role that science plays in regulatory decision-making at the EPA, establish a Deputy Administrator for

Science and Technology, and provide more continuity for the position of AA for ORD during changes in administration.

Section 4 of this Act, establishes a Deputy Administrator for Science and Technology responsible for coordinating scientific research between the scientific and regulatory arms of the Agency and ensuring that science is a basis for regulatory decisions. It is the performance objective of this section that the EPA should use science to identify the most important sources of risk to human health and the environment as well as the best means to detect, abate, and avoid environmental problems. Achieving this objective will allow the new Deputy to advise the Administrator on the best ways to establish priorities, policies and deployment of resources.

XIV. CONSTITUTIONAL AUTHORITY STATEMENT

Rule XIII, clause 3(d)(1) of the House of Representatives requires each report of a committee on a bill or joint resolution of a public character to include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 64.

XV. FEDERAL ADVISORY COMMITTEE STATEMENT

H.R. 64 does not establish, nor authorize the establishment of, any advisory committee.

XVI. CONGRESSIONAL ACCOUNTABILITY ACT

The Committee finds that H.R. 64 does not release to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

XVII. STATEMENT ON PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt any state, local, or tribal law.

XVIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in roman):

SECTION 5314 OF TITLE 5, UNITED STATES CODE

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * *

Deputy Administrator for Science and Technology of the Environmental Protection Agency.

XIX. COMMITTEE RECOMMENDATIONS

On October 3, 2001, a quorum being present, the Committee on Science favorably reported the Strengthening Science at the Environmental Protection Agency Act, by voice vote, and recommends its enactment.

XX. COMMENTS ON LEGISLATION

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, November 2, 2001.

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for agreeing to work with me to strengthen the role of science and the use of science at the Environmental Protection Agency (EPA). The bill recently approved by your Committee, H.R. 64, contains several provisions that will promote many of our common goals, including the recruitment of a world-class scientist to lead the agency's efforts to bring better science into all of its programs. I also recognize that the ideas on scientific leadership in H.R. 64 are drawn from a report of the National Academy of Sciences.

I am concerned, however, that the bill also includes provisions which are unnecessary and would make inappropriate staffing decisions. A statutory directive to create a new position of Deputy Administrator for Science and Technology would create another layer of bureaucratic review and, rather than promoting the role of science in every EPA program office, it would suggest that the responsibility for sound science resides somewhere other than in each program office.

Sharing your belief that the agency needs to make better use of sound science in its regulatory process, I established a Task Force shortly after arriving at EPA to review current internal requirements for the rule-making process and to make recommendations to me on needed improvements. The Task Force found that the existing system for writing regulations—the Action Development Process—was basically sound, but improvement could be made in several areas.

One recommendation of the Task Force to ensure that science plays a more prominent role in Agency decision-making was appointment of an EPA Science Advisor to provide leadership in establishing specific mechanisms for ensuring that sound science plays a prominent role in regulatory decisions. I have accepted the Task Force recommendation and have announced my intention to appoint an EPA Science Advisor.

Again, I appreciate your leadership and the opportunity to work with you to promote sound science at EPA and to identify effective ways to recruit first-rate scientific leadership to the agency.

The Office of Management and Budget advises that there is no objection to the submission of this report to Congress from the standpoint of the President's program.

Sincerely yours,

CHRISTINE TODD WHITMAN,
Administrator.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, October 25, 2001.

Hon. CHRISTINE TODD WHITMAN,
Administrator, Environmental Protection Agency, Ariel Rios Building, Pennsylvania Avenue, NW, Washington, DC.

DEAR ADMINISTRATOR WHITMAN: I am writing to request the Administration's position on H.R. 64, the Strengthening Science at the Environmental Protection Agency Act.

On October 3, 2001 the Science Committee favorably approved the bill by a voice vote. Like you, I am interested in ensuring that science at the EPA is well coordinated and integrated into the Agency's mission. I request that you transmit to us as soon as possible your position on the bill along with details of any administrative plans you may have to increase the role that science plays in the Agency's decision-making process.

Thank you for your consideration of this matter. I look forward to working with you on this legislation.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

The Committee has also received letters of support for the legislation from the following groups:

American Chemical Society.
National Association of Manufacturers.
The Business Roundtable.
American Industrial Hygiene Association.
American Society of Agronomy.
American Society of Animal Science.
American Society of Mechanical Engineers.
Crop Science Society of America.
Entomological Society of America.
Health Physics Society.
Soil Science Society of America.
National Association of State Universities and Land-Grant Colleges.
Copper & Brass Fabricators Council.
American Analytical Laboratories.
National Association of Chemical Distributors.
American Society for Microbiology.
The Society of Toxicology.
The American Phytopathological Society.
American Electroplaters and Surface Finishers Society.
National Association of Metal Finishers.
Metal Finishing Suppliers Association.

Association Connecting Electronics Industries.

XXI. PROCEEDINGS OF THE SUBCOMMITTEE MARKUP

PROCEEDINGS OF THE MARKUP ON H.R. 64, TO PROVIDE FOR THE ESTABLISHMENT OF THE POSITION OF DEPUTY ADMINISTRATOR FOR SCIENCE AND TECHNOLOGY OF THE ENVIRONMENTAL PROTECTION AGENCY, AND FOR OTHER PURPOSES, HELD BY THE SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS, MAY 17, 2001

The Subcommittee met, pursuant to call, at 9:45 a.m., in room 2325 of the Rayburn House Office Building, Hon. Vernon Ehlers (chairman of the subcommittee) presiding.

Chairman EHLERS. The Subcommittee is in order. Pursuant to notice, the Subcommittee on Environment, Technology, and Standards is meeting today to consider the following measure: H.R. 64, a bill to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes.

I ask unanimous consent for the authority to recess the Committee at any point and without objection, this is so ordered.

I will proceed with opening remarks and then we will recognize Mr. Barcia for his remarks. I want to welcome the Members and the public to the first mark-up of our Subcommittee, which I am also pleased to note, is the very first mark-up the Science Committee has held this Congress.

[Statement of Chairman Ehlers follows:]

OPENING STATEMENT OF CHAIRMAN VERNON EHLERS

I want to welcome the Members and the public to the first markup of our Subcommittee, which, I am proud to say, is also the very first markup the Science Committee has held this Congress.

Today we will mark-up H.R. 64, legislation which will strengthen the role that science plays in the Environmental Protection Agency's decision-making process. This legislation is based on recommendations made to Congress in a National Research Council (NRC) report and on numerous other studies calling for strengthening science at the EPA. The Subcommittee held a hearing on the NRC report last year, and held another hearing on March 29 of this year, specifically on H.R. 64.

We used the comments from the Committee's hearings and from other interested parties in drafting the bipartisan substitute amendment that I will be offering with the Ranking Member, Mr. Barcia. I am pleased Mr. Barcia and I were able to continue our long-standing tradition, which dates all the way back to our days as junior members of the Michigan State House, of working together to craft bipartisan legislation.

In addition to the bipartisan support this legislation has inside of the Committee, it also has broad support from various representatives of local government, business organizations and the scientific community. The Subcommittee has thus far received letters of support from:

- The American Chemical Society;
- The Business Roundtable;
- The National Association of Manufacturers;
- The Health Physics Society;
- The American Society of Mechanical Engineers;
- The Entomological Society of America;
- The American Society for Animal Science;
- The American Society of Agronomy;
- The Crop Science Society of America;
- The Soil Science Society of America;
- The American Industrial Hygiene Association; and
- The New York University School of Medicine.

I will also note that I have received numerous comments in support of the legislation from my congressional colleagues as well as from audiences at various speeches

I have made on this issue. This bill is a solid, measured response to a consensus-based call for strengthening science at the EPA.

As I mentioned in my opening statement at the hearing we held on H.R. 64, I am very interested in working with Governor Whitman on this legislation. Congress can show the American public we are serious about improving science at the EPA by quickly passing this legislation. I look forward to today's markup and to working with all interested parties to enact this legislation into law.

Chairman EHLERS. Today we will mark-up H.R. 64, legislation which will strengthen the role that science plays in the Environmental Protection Agency decision-making process. This legislation is based on recommendations made to Congress in a National Research Council report and on other numerous studies calling for strengthening science at the EPA. The Subcommittee held a hearing on the NRC report last year, and held another hearing on March 29 of this year, specifically on H.R. 64.

We used the comments from the Committee's hearings and from other interested parties in drafting the bipartisan substitute amendment that I will be offering with the Ranking Member, Mr. Barcia. I am pleased Mr. Barcia and I were able to continue our long-standing tradition, which dates all the way back to our days as members of the Michigan State House and Senate, of working together to craft bipartisan legislation.

In addition to the bipartisan support this legislation has inside of the Committee, it also had broad support from various representatives of local government, business organizations, and the scientific community. The Subcommittee has thus far received letters of support from the American Chemical Society, The Business Roundtable, The National Association of Manufacturers, The Health Physics Society, The American Society of Mechanical Engineers, The Entomological Society of America, the American Society for Animal Science, The American Society of Agronomy, The Crop Science Society of America, The Soil Science Society of America, The American Industrial Hygiene Association, and The New York University School of Medicine.

I would also note that just within the last two days I have been contacted by several other agencies or organizations indicating their support, and letters from them will be forthcoming.

In addition, I also note that I have received numerous comments in support of the legislation from my congressional colleagues as well as from audiences at various speeches I have made on this issue. This bill is a solid, measured response to a consensus-based call for strengthening science at the EPA.

As I mentioned in my opening statement at the hearing we held on H.R. 64, I am very interested in working with Governor Whitman on this legislation. Congress can show the American public we are serious about improving science at the EPA by quickly passing this legislation. I look forward to today's mark-up and to working with all interested parties to enact this legislation into law.

The Chair now recognizes Mr. Barcia, the Ranking Minority Member of the Subcommittee, for an opening statement.

Mr. BARCIA. Thank you, Mr. Chairman. I am pleased the Environment Technology and Standards Subcommittee is the first of the subcommittees to hold a mark-up in this session. And that you, my friend from Michigan, are building upon the strong record that this Subcommittee has as being one of the most active and productive in the Congress.

H.R. 64, the strengthening science at the Environmental Protection Agency Act, will ensure that science plays a proper role at the Environmental Protection Agency. We must be sure that science will serve as the basis for sound regulations that do not unduly impede economic development.

In particular, I appreciate the willingness, Mr. Chairman, of yourself to work with me on our bipartisan substitute. The amendment in the nature of a substitute addresses recommendations made by the National Academy of Science Report, as well as witnesses who have appeared before this Committee. One important addition to the original bill is Section 3, the Research Mission of Agency. This section emphasizes that research is integral to the mission of EPA to protect human health and the environment. The amendment also clarifies the duties of the new position at the Environmental Protection Agency.

The creation of a Deputy Administrator for Science and Technology will ensure that science has an equal seat at the table when important decisions are made. Any regulation issued by the EPA must be based on the best scientific information available. I hope that the elevated status of this new position will ensure that this is the case.

Again, I commend the Chairman for holding this mark-up and look forward to assisting him as H.R. 64 advances through the legislative process. Thank you.

[Statement of Mr. Barcia follows:]

OPENING STATEMENT OF HON. JAMES A. BARCIA

Mr. Chairman, I am pleased that the Environment, Technology and Standards Subcommittee is the first of the subcommittees to hold a markup in this session and that Chairman Ehlert is building upon the strong record this subcommittee has as being one of the most active and productive in the Congress.

H.R. 64, the Strengthening Science at the Environmental Protection Agency Act, will ensure that science plays a proper role at the Environmental Protection Agency. We must be sure that science will serve as the basis for sound regulations that do not unduly impede economic development.

In particular, I appreciate the willingness of my friend and colleague from Michigan to work with me on our bipartisan substitute. The Amendment in the Nature of a Substitute addresses recommendations made by the National Academy of Science report, as well as witnesses who have appeared before this committee.

One important addition to the original bill is section 3, the Research Mission of Agency. This section emphasizes that research is integral to the mission of EPA to protect human health and the environment. The amendment also clarifies the duties of the new position at the Environmental Protection Agency.

The creation of a Deputy Administrator for Science and Technology will ensure that science has an equal seat at the table when important decisions are made. Any regulation issued by the EPA must be based on the best scientific information available. I hope that the elevated status of this new position will ensure this is the case.

Again, I commend the Chairman for holding this mark-up and look forward to assisting him as H.R. 64 advances through the legislative process.

Chairman EHLERS. I thank the gentleman from Michigan. Without objection, all members—other members may place opening statements in the record.

[Statement of Mrs. Morella follows:]

OPENING STATEMENT OF HON. CONNIE MORELLA

Mr. Chairman, thank you for convening this hearing and for marking up this important legislation on strengthening the science at the Environmental Protection Agency. As issues which effect our environment become more technical and interdisciplinary in nature, it is critical that we have focused and coherent policies based on sound science. I can think of no better way to assure this than to have a dedi-

cated deputy administrator assume full responsibility for infusing science into all decisions at the EPA.

No one can seriously question the need for a stronger focus on science. With the environment fallout of MTBE's last year and the recent controversy over arsenic, there is a real sense that regulators at the EPA are rudderless, creating rules devoid of available science. While this impression is largely unfair, it nevertheless exists and undermines the confidence of the American people in the value and rationality of environmental regulations issued by the EPA.

People are asking very reasonable questions about some recent EPA guidelines. Some question the need for their existence while others stress that they don't go far enough. All too frequently, the EPA doesn't have a good response to either of them. Given the magnitude of the costs involved, economically and environmentally, this situation is unacceptable.

I don't mean to bash the EPA and I am on record as supporting many of its efforts. It is a good agency with dedicated individuals doing a difficult job. And I want to help them any way I can. That is why this markup and hearing are so important. A dedicated office at the EPA will go a long way toward providing sound science for EPA decisions and communicating the scientific rationale behind the policies to the American people. In addition, it will provide a champion for research and development when budget talks come around.

On that note, I am anxious to hear what the distinguished panelist thinks about the current budget and the direction the EPA is taking under the new administration. I would hope they would honestly discuss both its merits as well as its deficiencies and offer ideas as to how we can strengthen the EPA for the protection and well being of the American people.

Chairman EHLERS. We will now consider H.R. 64, a bill to provide for the establishment of the position of Deputy Administrator for Science and Technology of the EPA, and for other purposes.

I ask unanimous consent that the bill be considered as read and open to amendment at any point. Hearing no objection, so ordered.

Amending the bill—we will move to the first amendment on the roster, which is an amendment in the nature of a substitute offered by myself and Mr. Barcia. The clerk will report the amendment.

Ms. DERR. Amendment in the nature of a substitute to H.R. 64 offered by Mr. Ehlens and Mr. Barcia. Strike all after the enacting clause and insert the following: Section 1—

Chairman EHLERS. I ask unanimous consent to dispense with the reading. Without objection, so ordered. I recognize myself for 5 minutes to explain this bipartisan amendment.

As I mentioned in my opening statement, this amendment has been worked out with the minority and Mr. Barcia has agreed to co-sponsor it. The amendment makes several changes to the underlying legislation in order to clarify and address some of the concerns we have heard from interested parties. First, we have added a short title and definition section to the legislation. If this amendment is adopted, the legislation will be known as the "Strengthening Science at the Environmental Protection Agency Act."

Second, we have clarified the role of science at the EPA, and the duties of the new Deputy for Science and Technology. The amendment clearly outlines the responsibilities that this new deputy would have in regards to improving the role of science in the decision-making process at the EPA.

Third, we have changed the length of the term of the Assistant Administrator for the Office of Research and Development from the 6 years, that is in the original legislation, to 5 years. And we have included language to help give the new administration flexibility while still providing continuity for the head of this office.

Lastly, we have removed the sense of Congress language that was in the last section of the bill for right now. I will say that there are many important concepts in that section that we will be re-

viewing as this legislation moves through Congress, and as we write the Committee report on this legislation.

This is a summary of the major changes to the legislation. I believe this bipartisan amendment will improve the legislation, and I urge the Members to support it. I now yield to Mr. Barcia for any comments he may have on the amendment.

Mr. BARCIA. Mr. Chairman, my opening statement will suffice as my comments on the substitute. But if it is appropriate at this time, I would move the adoption of the amendment.

Chairman EHLERS. Thank you, Mr. Barcia. Is there any further discussion? If not, the vote occurs on the amendment. All in favor say aye. Those opposed, no. The aye's have it and the amendment is agreed to.

Are there any other—further amendments to the bill? Hearing none, the question is on the bill H.R. 64 as amended. All those in favor will say aye. All those opposed will say no. In the opinion of the Chair, the aye's have it.

I now turn to Mr. Barcia for another motion.

Mr. BARCIA. Mr. Chairman, I move that the Subcommittee favorably report H.R. 64 as amended to the full Committee, and that the Chairman take all such necessary steps to bring the bill before the full Committee for consideration. Further, I ask unanimous consent that the staff be instructed to make all necessary technical and conforming changes to the bill.

Chairman EHLERS. The Committee has heard the motion. Those in favor will say aye. Those opposed say, no. The aye's have it and the motion is agreed to. Without objection, the motion to reconsider is laid upon the table. And the Chair notes the presence of a reporting quorum.

This concludes our Subcommittee mark-up. We will now move onto the next item on our agenda, which is a hearing on EPA's Science and Technology Budget for the fiscal year 2002.

I thank you all for attending the mark-up. And we will reshuffle here and begin the hearing very shortly.

[Whereupon, at 9:55 a.m., the Subcommittee was adjourned.]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 64
OFFERED BY MR. EHLERS AND MR. BARCIA**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Strengthening Science
3 at the Environmental Protection Agency Act".

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term "Administrator" means the Ad-
7 ministrator of the Agency;

8 (2) the term "Agency" means the Environ-
9 mental Protection Agency;

10 (3) the term "Deputy" means the Deputy Ad-
11 ministrator for Science and Technology appointed
12 under section 4; and

13 (4) the term "research" means research, devel-
14 opment, and demonstration.

15 **SEC. 3. RESEARCH MISSION OF AGENCY.**

16 Conducting, sponsoring, and evaluating environ-
17 mental science and technology research shall be a central
18 mission of the Agency. The results of such research shall
19 be used to help initiate, formulate, and carry out the

1 Agency's agenda, and the Agency shall seek to increase
2 the public's understanding of environmental science and
3 technology by making those research results available to
4 the public.

5 **SEC. 4. DEPUTY.**

6 (a) APPOINTMENT.—The President shall appoint, by
7 and with the advice and consent of the Senate, a Deputy
8 Administrator for Science and Technology, who shall co-
9 ordinate and oversee the science and technology activities
10 of the Agency and ensure that Agency decisions are in-
11 formed by the results of appropriate and relevant re-
12 search, development, and demonstrations.

13 (b) RESPONSIBILITIES.—The Deputy shall—

14 (1) provide advice to the Administrator regard-
15 ing science and technology issues and their relation-
16 ship to Agency policies, procedures, and decisions;

17 (2) participate in developing the Agency's stra-
18 tegic plans and policies and review the science and
19 technology aspects of those plans and policies;

20 (3) coordinate the acquisition and compilation
21 of relevant science and technology information avail-
22 able from academic sources, government agencies,
23 and the private sector;

1 (4) develop and oversee guidelines for the dis-
2 semination of research results conducted, sponsored,
3 or cited by the Agency; and

4 (5) develop and oversee guidelines for peer re-
5 view of science and technology research.

6 (c) QUALIFICATIONS.—An individual appointed
7 under subsection (a) shall be a person who has an out-
8 standing science and technology background, including re-
9 search accomplishments, scientific reputation, and public
10 policy experience.

11 (d) CONSULTATION.—Before appointing an indi-
12 vidual under subsection (a), the President shall consult
13 with the National Academy of Sciences, the National
14 Academy of Engineering, the Science Advisory Board of
15 the Agency, and other appropriate scientific organizations.

16 (e) COMPENSATION.—The Deputy shall be com-
17 pensated at the rate provided for level III of the Executive
18 Schedule pursuant to section 5314 of title 5, United
19 States Code.

20 (f) CONFORMING AMENDMENT.—Section 5314 of
21 title 5, United States Code, is amended by adding at the
22 end the following:

23 “Deputy Administrator for Science and Tech-
24 nology of the Environmental Protection Agency.”.

1 **SEC. 5. ASSISTANT ADMINISTRATOR FOR RESEARCH AND**
2 **DEVELOPMENT.**

3 (a) **TITLE AND TERM.**—There shall be an Assistant
4 Administrator for Research and Development of the Agen-
5 cy, who shall also have the title of Chief Scientist of the
6 Agency. Appointments to such position made after the
7 date of the enactment of this Act shall be for a term of
8 5 years unless sooner removed by the President.

9 (b) **QUALIFICATIONS.**—An individual appointed
10 under subsection (a) shall be a person who has an out-
11 standing science and technology background, including re-
12 search accomplishments, scientific reputation, and experi-
13 ence in leading a research and development organization.

107TH CONGRESS
1ST SESSION

H. R. 64

To provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. EHLERS introduced the following bill; which was referred to the Committee on Science

A BILL

To provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, 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. DEPUTY ADMINISTRATORS.**

4 (a) DEPUTY ADMINISTRATOR FOR SCIENCE AND
5 TECHNOLOGY.—

6 (1) APPOINTMENT.—The President shall ap-
7 point, by and with the advice and consent of the
8 Senate, a Deputy Administrator for Science and
9 Technology of the Environmental Protection Agency.

1 (2) RESPONSIBILITIES.—The Deputy Adminis-
2 trator for Science and Technology shall have overall
3 responsibility for the scientific and technical founda-
4 tion of Environmental Protection Agency decisions,
5 including being responsible for—

6 (A) identifying and defining the important
7 scientific issues facing the Environmental Pro-
8 tection Agency, including those embedded in
9 major policy or regulatory proposals;

10 (B) developing and overseeing an inte-
11 grated agencywide strategy for acquiring, dis-
12 seminating, and applying information;

13 (C) ensuring that the complex scientific
14 outreach and communication needs of the Envi-
15 ronmental Protection Agency are met, including
16 the need to reach throughout the Agency for
17 credible science in support of the regulatory of-
18 fices, regions, and Agency-wide policy delibera-
19 tions, as well as the need to reach out to the
20 broader domestic and international scientific
21 community for scientific knowledge that is rel-
22 evant to an Agency policy or regulatory issue;

23 (D) coordinating and overseeing scientific
24 quality assurance and peer review practices

1 throughout the Environmental Protection Agen-
2 cy; and

3 (E) developing processes to ensure that ap-
4 propriate scientific information is used in deci-
5 sionmaking throughout the Environmental Pro-
6 tection Agency, and ensuring that the scientific
7 and technical information underlying each Envi-
8 ronmental Protection Agency regulatory deci-
9 sion is valid, appropriately characterized in
10 terms of scientific uncertainty and cross-media
11 issues, and appropriately applied.

12 (3) QUALIFICATIONS.—An individual appointed
13 under paragraph (1) shall have an outstanding tech-
14 nical background, including research accomplish-
15 ments, scientific reputation, and experience in public
16 forums.

17 (4) CONSULTATION.—Before appointing an in-
18 dividual under paragraph (1), the President shall
19 consult with the National Academy of Sciences, the
20 National Academy of Engineering, the Science Advi-
21 sory Board of the Environmental Protection Agency,
22 and other appropriate scientific organizations.

23 (5) COMPENSATION.—The Deputy Adminis-
24 trator for Science and Technology shall be com-
25 pensated at the rate provided for level III of the Ex-

1 executive Schedule pursuant to section 5314 of title 5,
2 United States Code.

3 (b) DEPUTY ADMINISTRATOR FOR POLICY AND MAN-
4 AGEMENT.—The position of Deputy Administrator of the
5 Environmental Protection Agency shall be redesignated as
6 the Deputy Administrator for Policy and Management,
7 and the individual serving in that position as of the date
8 of the enactment of this Act shall assume such title.

9 (c) CONFORMING AMENDMENT.—Section 5314 of
10 title 5, United States Code, is amended by striking the
11 item relating to the Deputy Administrator of the Environ-
12 mental Protection Agency and inserting the following:

13 “Deputy Administrator for Policy and Manage-
14 ment of the Environmental Protection Agency.

15 “Deputy Administrator for Science and Tech-
16 nology of the Environmental Protection Agency.”.

17 **SEC. 2. ASSISTANT ADMINISTRATOR FOR RESEARCH AND**
18 **DEVELOPMENT.**

19 (a) TITLE AND TERM.—One of the Assistant Admin-
20 istrators of the Environmental Protection Agency shall be
21 designated as the Assistant Administrator for Research
22 and Development, and shall also have the title of Chief
23 Scientist of the Environmental Protection Agency. Ap-
24 pointments to such position made after the date of the
25 enactment of this Act shall be for a term of 6 years.

1 (b) QUALIFICATIONS.—An individual appointed
2 under subsection (a) shall have an outstanding technical
3 background, including research accomplishments, sci-
4 entific reputation, and experience in leading a research
5 and development organization.

6 **SEC. 3. SENSE OF CONGRESS CONCERNING OTHER ACTIVI-**
7 **TIES OF OFFICE OF RESEARCH AND DEVEL-**
8 **OPMENT.**

9 It is the sense of Congress that—

10 (1) the Office of Research and Development
11 should—

12 (A) make a concerted effort to give re-
13 search managers of the Office a high degree of
14 flexibility and accountability, including empow-
15 ering the research managers to make decisions
16 at the lowest appropriate management level
17 consistent with the policy of the Environmental
18 Protection Agency and the strategic goals and
19 budget priorities of the Office;

20 (B) maintain approximately an even bal-
21 ance between core research and problem-driven
22 research;

23 (C) develop and implement a structured
24 strategy for encouraging, and acquiring and ap-
25 plying the results of, research conducted or

1 sponsored by other Federal and State agencies,
2 universities, and industry, both in the United
3 States and in foreign countries; and

4 (D) substantially improve the documenta-
5 tion and transparency of the decisionmaking
6 processes of the Office for—

7 (i) establishing research and tech-
8 nical-assistance priorities;

9 (ii) making intramural and extra-
10 mural assignments; and

11 (iii) allocating funds; and

12 (2) the Administrator of the Environmental
13 Protection Agency should—

14 (A) substantially increase the efforts of the
15 Agency—

16 (i) to disseminate actively the research
17 products and ongoing projects of the Office
18 of Research and Development;

19 (ii) to explain the significance of the
20 research products and projects; and

21 (iii) to assist other persons and enti-
22 ties inside and outside the Agency in ap-
23 plying the results of the research products
24 and projects;

1 (B)(i) direct the Deputy Administrator for
2 Science and Technology to expand on the
3 science inventory of the Agency by conducting,
4 documenting, and publishing a more com-
5 prehensive and detailed inventory of all sci-
6 entific activities conducted by Agency units out-
7 side the Office, which inventory should include
8 information such as—

9 (I) project goals, milestones, and
10 schedules;

11 (II) principal investigators and project
12 managers; and

13 (III) allocations of staff and financial
14 resources; and

15 (ii) use the results of the inventory to en-
16 sure that activities described in clause (i) are
17 properly coordinated through the Agency-wide
18 science planning and budgeting process and are
19 appropriately peer reviewed; and

20 (C) change the peer-review policy of the
21 Agency to more strictly separate the manage-
22 ment of the development of a work product
23 from the management of the peer review of that
24 work product, thereby ensuring greater inde-
25 pendence of peer reviews from the control of

1 program managers, or the potential appearance
2 of control by program managers, throughout
3 the Agency.

○

H.R. 64 - To provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes.

Section 1. Deputy Administrators.

Section 1 directs the President to appoint, by and with the advice and consent of the Senate, a Deputy Administrator for Science and Technology of the EPA. It shall be the responsibility of the Deputy Administrator for Science and Technology to oversee the scientific and technical foundation of EPA. This responsibility includes identifying and defining important scientific issues facing the EPA; implementing agencywide strategy for coordinating information; ensuring complex scientific outreach and communication needs of the EPA; overseeing scientific quality assurance and peer review practices at EPA; ensure that appropriate scientific information is used in EPA decisionmaking. The Deputy Administrator for Science and Technology shall possess an outstanding technical background. The president is directed to consult with the National Academy of Sciences, National Academy of Engineering, the Science Advisory Board of the EPA, et. al. The Deputy Administrator for Science and Technology will be paid at level III of the Executive Schedule.

Section 2. Assistant Administrator for Research and Development.

One of the ten statutorily designated Assistant Administrators shall be designated as the Assistant Administrator for Research and Development, and shall also have the title of Chief Scientist of the EPA. This individual shall possess an outstanding technical background.

Section 3. Sense of Congress Concerning Other Activities of Office of Research and Development.

It is the sense of Congress that ORD should give its research managers a great degree of flexibility and accountability; maintain a balance between core research and problem-driven research; develop a strategy to utilize research conducted by non EPA entities; improve the documentation and transparency of the decision making process. The Administrator of the EPA should promote the dissemination, significance and accessibility of ORD research. The Administrator should direct the Deputy Administrator of Science and Technology to expand on the science inventory of the EPA; use the inventory to coordinate EPA activities and ensure proper peer review. The Administrator should change the peer-review policy to separate the management of the development of a work product from the management of the peer review of the work product.

XXII. PROCEEDINGS OF THE FULL COMMITTEE MARKUP

PROCEEDINGS OF THE MARKUP ON H.R. 64, STRENGTHENING SCIENCE AT THE ENVIRONMENTAL PROTECTION AGENCY ACT, HELD BY THE COMMITTEE ON SCIENCE, OCTOBER 3, 2001

The Committee met, pursuant to call, at 10:17 a.m., in room 2318 of the Rayburn House Office Building, Hon. Sherwood L. Boehlert (chairman of the committee) presiding.

Chairman BOEHLERT. The meeting will come to order. First of all, let me start by doing something no politician likes to do. I want to apologize to my colleagues for inconveniencing them and all of you for delaying somewhat. It is 17 after. We were due to start at 10:00, and I pride myself on punctuality. But we have got a major piece of legislation, the Farm Bill, coming on the Floor today and tomorrow, and I was deeply engaged in some very important deliberations on that bill. So with that apology to all my colleagues and to the audience, let us start this meeting.

Pursuant to notice, the Committee on Science is meeting today to consider the following measure, H.R. 64, Strengthening Science at the Environmental Protection Agency. I ask unanimous consent for the authority to recess the Committee at any point and, without objection, so ordered. I ask unanimous consent that the substitute to H.R. 64, as adopted by the Subcommittee on Environment, Technology, and Standards, on May 17, 2001, be considered as original text for the purpose of the markup at Full Committee today. Hearing no objection, so ordered.

The Committee now considers H.R. 64. I will now recognize Mr. Hall for any—will, I will let Mr. Hall go first.

[The information, including H.R. 64 follows:]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

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<http://www.house.gov/science/welcome.htm>

Memorandum

To: Chairman Boehlert
From: Chairman Ehlers
Subject: Subcommittee Markup of H.R. 64
Date: September 24, 2001

I am pleased to report that on May 17, 2001, the Subcommittee on Environment, Technology, and Standards favorably reported H.R. 64 with an amendment in the nature of a substitute by a voice vote.

The amendment was offered by myself and the Honorable James A. Barcia, Ranking Member. It makes several changes to the underlying legislation:

- First, it adds a short title to the bill. The Act, as amended, is titled "Strengthening Science at the Environmental Protection Agency Act".
- Second, the amendment adds commonly used definitions for purposes of the Act.
- Third, it adds a new section, which mandates that the EPA carry out science and technology research to support its mission. The results of this research will be used to help initiate, formulate, and carry out the Agency's agenda. The Agency will also disseminate this information to help increase the public's awareness and understanding of environmental science and technology research conducted by the Agency.
- Fourth, the amendment clarifies the duties of the new Deputy Administrator for Science and Technology and makes minor changes to the qualifications for the new Deputy. The new Deputy serves the Administrator by coordinating and overseeing the science and technology activities of the Agency and ensuring that Agency decisions are informed by relevant research. The amendment also streamlines the responsibilities of the new Deputy to five specific duties to help strengthen science at the EPA.

(over)

- Fifth, the amendment changes the length of the term of the Assistant Administrator for the Office of Research and Development from the six years that is in the underlying legislation to five years. It also includes language to help give a new administration flexibility while still providing continuity for the head of this office.
- Sixth, the amendment strikes the “sense of Congress” language in the last section of the underlying bill. I will say that there are many important concepts in that section that we should review as this legislation moves through Congress and as we write the Committee report on this legislation.

No other Members offered amendments during subcommittee consideration.

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

**H.R. 64 – The Strengthening Science at the Environmental Protection Agency Act.
Section by Section Analysis (as amended by the Subcommittee)**

Section 1. Short Title

This Act is named the “Strengthening Science at the Environmental Protection Agency Act”.

Section 2. Definitions

Four terms are defined for purposes of the Act: “Administrator”, “Agency”, “Deputy”, and “research”.

Section 3. Research Mission of Agency

The Agency shall carry out science and technology research to support its mission. The results of this research shall be used to help initiate, formulate, and carry out the Agency’s agenda. The Agency shall also disseminate this information to help increase the public’s awareness and understanding of environmental science and technology research conducted by the agency.

Section 4. Deputy

The President shall appoint, with advice and consent of the Senate, a Deputy Administrator for Science and Technology at the EPA. This person shall coordinate and oversee the science and technology activities of the Agency and ensure that Agency decisions are informed by the results of appropriate and relevant research. The Deputy is specifically responsible for:

- Providing advice to the Administrator regarding science and technology issues and their relationships to Agency policies, procedures, and decisions;
- Participating in developing the Agency’s strategic plans and policies and reviewing the science and technology aspects of those plans and policies;
- Coordinating the acquisition and compilation of relevant science and technology information available from various sources;
- Developing and overseeing the guidelines for the dissemination of research conducted, sponsored, or cited by the Agency; and
- Developing and overseeing guidelines for peer review.

An individual seeking appointment to this position shall have, among other things, an outstanding science and technology background.

The new Deputy shall be compensated at level III of the Executive Schedule.

The President shall consult with the National Academy of Sciences, the National Academy of Engineering, the Science Advisory Board of the EPA, and other appropriate scientific organizations when seeking an individual for this position.

Section 5. Assistant Administrator for Research and Development

One of the ten statutorily designated Assistant Administrators shall be designated as the Assistant Administrator for Research and Development, and shall also have the title of Chief Scientist of the EPA. The individual appointed under this section shall serve for a term of five years, unless sooner removed by the President.

An individual seeking appointment to this position shall have, among other things, an outstanding science and technology background.

H.R. 64, AS REPORTED
BY THE SUBCOMMITTEE ON ENVIRONMENT,
TECHNOLOGY, AND STANDARDS
ON MAY 17, 2001

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Strengthening Science
3 at the Environmental Protection Agency Act”.

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “Administrator” means the Ad-
7 ministrator of the Agency;

8 (2) the term “Agency” means the Environ-
9 mental Protection Agency;

10 (3) the term “Deputy” means the Deputy Ad-
11 ministrator for Science and Technology appointed
12 under section 4; and

13 (4) the term “research” means research, devel-
14 opment, and demonstration.

15 **SEC. 3. RESEARCH MISSION OF AGENCY.**

16 Conducting, sponsoring, and evaluating environ-
17 mental science and technology research shall be a central
18 mission of the Agency. The results of such research shall

1 be used to help initiate, formulate, and carry out the
2 Agency's agenda, and the Agency shall seek to increase
3 the public's understanding of environmental science and
4 technology by making those research results available to
5 the public.

6 **SEC. 4. DEPUTY.**

7 (a) APPOINTMENT.—The President shall appoint, by
8 and with the advice and consent of the Senate, a Deputy
9 Administrator for Science and Technology, who shall co-
10 ordinate and oversee the science and technology activities
11 of the Agency and ensure that Agency decisions are in-
12 formed by the results of appropriate and relevant re-
13 search, development, and demonstrations.

14 (b) RESPONSIBILITIES.—The Deputy shall—

15 (1) provide advice to the Administrator regard-
16 ing science and technology issues and their relation-
17 ship to Agency policies, procedures, and decisions;

18 (2) participate in developing the Agency's stra-
19 tegic plans and policies and review the science and
20 technology aspects of those plans and policies;

21 (3) coordinate the acquisition and compilation
22 of relevant science and technology information avail-
23 able from academic sources, government agencies,
24 and the private sector;

1 (4) develop and oversee guidelines for the dis-
2 semination of research results conducted, sponsored,
3 or cited by the Agency; and

4 (5) develop and oversee guidelines for peer re-
5 view of science and technology research.

6 (e) QUALIFICATIONS.—An individual appointed
7 under subsection (a) shall be a person who has an out-
8 standing science and technology background, including re-
9 search accomplishments, scientific reputation, and public
10 policy experience.

11 (d) CONSULTATION.—Before appointing an indi-
12 vidual under subsection (a), the President shall consult
13 with the National Academy of Sciences, the National
14 Academy of Engineering, the Science Advisory Board of
15 the Agency, and other appropriate scientific organizations.

16 (e) COMPENSATION.—The Deputy shall be com-
17 pensated at the rate provided for level III of the Executive
18 Schedule pursuant to section 5314 of title 5, United
19 States Code.

20 (f) CONFORMING AMENDMENT.—Section 5314 of
21 title 5, United States Code, is amended by adding at the
22 end the following:

23 “Deputy Administrator for Science and Tech-
24 nology of the Environmental Protection Agency.”.

1 **SEC. 5. ASSISTANT ADMINISTRATOR FOR RESEARCH AND**
2 **DEVELOPMENT.**

3 (a) **TITLE AND TERM.**—There shall be an Assistant
4 Administrator for Research and Development of the Agen-
5 cy, who shall also have the title of Chief Scientist of the
6 Agency. Appointments to such position made after the
7 date of the enactment of this Act shall be for a term of
8 5 years unless sooner removed by the President.

9 (b) **QUALIFICATIONS.**—An individual appointed
10 under subsection (a) shall be a person who has an out-
11 standing science and technology background, including re-
12 search accomplishments, scientific reputation, and experi-
13 ence in leading a research and development organization.

Mr. EHLERS. Okay.

Mr. HALL. Mr. Chairman, thank you, and I thank you for holding the markup. I think anything this Committee can do to improve the science that is used by the Agency to make rules is always welcome. And I think Chairman Ehlers and Ranking Member Barcia have a very good bill that we can—most of us can support and help ensure that the most recent science is considered when the Administrator has to make regulatory decisions.

Ultimately, it is going to be up to the Administrator to listen to the scientists, but this bill is going to provide them with an opportunity to make their case, and I like that. I have some questions about it. And I guess one question is whether or not we have, as a Committee, officially asked the EPA for its views on H.R. 64. That would have some influence on how I voted. A lot of times if I know how the EPA is going, I know which direction I want to go.

We—it might be good if we knew for a fact that Administrator Whitman was opposed to this bill. And if the Administrator is, I would like to know that, and I may be harder for it than I thought I was. And if you can help me clear up that little understanding, I would appreciate it. If you can't, I would understand. But if we can obtain the views of the EPA before reporting the bills to the House, I would like that. And I yield back my time to the very capable Chairman. Thank you.

Chairman BOEHLERT. Well, we have every intention of continuing our consultation with the Environmental Protection Agency. We don't yet have an official position from EPA. We would anticipate one being forthcoming. We know there are some differences of opinion as we approach this issue, which won't surprise you. But I want to move ahead now with the assurance to you and everyone that we certainly will get the views of the Environmental Protection Agency.

Mr. HALL. That is good.

Chairman BOEHLERT. Okay. Let me also say—I am going to utter three words that everybody likes to hear from the Chair. I will be brief. I would simply point out that this bill won unanimous support in Subcommittee and that it would implement the well thought out recommendations of a panel put together by the National Academy of Sciences. Moreover, the goal of the bill is one with which no one disagrees. In the words of the Academy, "Strengthening Science at the Environmental Protection Agency."

I expect the bill to move through this Committee with all due speed. We will continue to work with the Administration as the bills moves to the floor to allay any concerns EPA or any member might have.

So I want to thank Congressmen Ehlers and Barcia for their excellent work, particularly thank them both for working so well—it is a Michigan duo here—in bringing forward a revised version of H.R. 64. And I would urge its approval. I will now recognize Dr. Ehlers for any opening remarks he may care to make.

[Statement of Mr. Boehlert follows:]

OPENING STATEMENT OF HON. SHERWOOD BOEHLERT

I will keep my remarks about this bill quite brief, both to expedite this mark-up and to allow its author, Dr. Ehlers, a chance to lay out its provisions and virtues.

I will simply point out that this bill won unanimous support in Subcommittee and that it would implement the well thought out recommendations of a panel put to-

gether by the National Academy of Sciences. Moreover, the goal of the bill is one with which no one disagrees—in the words of the Academy: “Strengthening Science at the Environmental Protection Agency.”

I expect the bill to move through this Committee with alacrity. We will continue to work with the Administration as the bill moves to the floor to allay any concerns EPA may have.

So I want to thank Congressmen Ehlers and Barcia for their excellent work in bringing forward a revised version of H.R. 64, and I urge its approval.

Mr. EHLERS. I want to thank Chairman Boehlert for recognizing me and thank him and Ranking member Hall for bringing this legislation before the Committee today. I appreciate their continued leadership on science and science policy issues. I have heard from virtually all of my colleagues during my years here—we have to strengthen science at the EPA. And this is our chance to do it.

Science and environmental regulation go hand in hand. When appropriately applied, science can help initiate and reform the regulatory decision-making process. In fact, it provides a critical foundation for environmental regulations. While the EPA is tasked with protecting our environment, the Agency is not inherently a scientific one. Since EPA was created, the Agency has struggled with the appropriate way to apply relevant research to the regulatory decision-making process.

I first addressed this issue in the review of our National Science Policy that I prepared in 1998 for this very Committee, a document which was later approved by both the Committee and the House of Representatives. The recommendation in that report that received the most favorable public response was that science be used differently in the regulatory and judicial processes. It should not be used in an adversarial fashion in the courts and should not be used as a mere adjunct to the regulatory system. Rather, science should be used at the beginning, middle, and end of an agency’s decision-making process. Science can help us make informed decisions about the relative risks of a threat, whether or not we need to address it, and about how to allocate resources to address a threat.

The Environmental Protection Agency has reached a similar conclusion in various internal reports over the past decade. In 1992, the EPA issued a report titled, “Safeguarding the Future: Credible Science, Credible Decisions,” which found that the process of ensuring that policy decisions are informed by a clear understanding of the relevant science is not well defined or coherently organized within the EPA. And that was a very relevant bit of self-criticism. The authors of the report then went on to recommend that the Administrator should appoint a science advisor to address this problem. Eight years and several similar reports later, the National Research Council also weighed in and issued a report which further refined this idea by calling for EPA to establish a Deputy Administrator for Science and Technology.

It is finally time for Congress to heed all of the reports and address this problem, and I am pleased that Chairman Boehlert is doing so by moving H.R. 64 through the Science Committee.

I also want to thank Chairman Boehlert, Ranking member Hall, and the Ranking member of any Subcommittee, Mr. Barcia, for helping craft a bipartisan amendment that we unanimously adopted at the Subcommittee, and that is what is before us today.

The amendment in the nature of a substitute that was adopted in the Subcommittee makes several changes to improve the under-

lying legislation. The amendment establishes a new Deputy Director for Science and Technology. It also clarifies the role of science at the EPA and the duties of a new Deputy for Science and Technology.

The amendment clearly outlines the responsibilities that this new Deputy would have in regards to improving the role of science in the decision-making process at the EPA. The new Deputy would also be an expert science advisor for the Administrator when deciding how to move forward with the regulatory process. Finally, we have changed the length of the term of the Assistant Administrator for the Office of Research and Development, from the 6 years in the original legislation, and changed it to 5 years.

Before I close, let me mention the broad support this legislation has garnered from a wide array of outside groups. I have received support from prestigious scientific groups, such as, the American Chemical Society, the American Society of Mechanical Engineers, and The Society of Toxicology; from business groups, including the National Association of Manufacturers and the Business Roundtable; and university and other interested parties, including the National Association of State Universities and Land-Grant Colleges, as well as some members of EPA's Scientific Advisory Board. And these are just a few of the groups supporting this legislation. Before each of the Committee members should be a list of all the groups that have endorsed this.

I urge all of my colleagues to support this bipartisan legislation. I am looking forward to working with the Administration and my colleagues when bringing this legislation before the House of Representatives and eventually the Senate. And I want to also give a special commendation to Mr. Barcia, who I mentioned before. He and I have worked very hard on all the legislation in that Subcommittee. We have been able to achieve good bipartisan rapport and we have produced a number of bills that have come out of that Subcommittee and I certainly appreciate his help in all of these issues. Thank you, Mr. Chairman.

[Statement of Mr. Ehlers follows:]

PREPARED STATEMENT OF VERNON J. EHLERS

I want to thank Chairman Boehlert and Ranking Member Hall for bringing this legislation before the Committee today. I appreciate their continued leadership on science and science policy issues.

Science and environmental regulation go hand in hand. When appropriately applied, science can help initiate and inform the regulatory decision-making process. In fact, it provides a critical foundation for environmental regulations. While the Environmental Protection Agency (EPA) is tasked with protecting our environment, the Agency is not inherently a scientific one. Since EPA was created the Agency has struggled with the appropriate way to apply relevant research to the regulatory decision-making process.

I addressed this issue in the review of our National Science Policy that I prepared in 1998 for the House Science Committee. The recommendation in that report that received the most favorable public response was that science be used differently in the regulatory and judicial process. It should not be used in an adversarial fashion in the courts and should not be used as a mere adjunct to the regulatory system; rather, science should be used at the beginning, middle and end of an agency's decision-making process. Science can help us make informed decisions about the relative risks of a threat, whether or not we need to address it, and about how to allocate resources to address a threat.

The Environmental Protection Agency has reached a similar conclusion in various internal reports over the past decade. In 1992, the Environmental Protection Agency (EPA) issued a report titled: "Safeguarding the Future: Credible Science, Credible Decisions," which found that "the process of ensuring that policy decisions are in-

formed by a clear understanding of the relevant science is not well defined or coherently organized within the EPA." The authors of the report then went on to recommend that the Administrator should appoint a "science advisor" to address this problem. Eight years and several similar reports later, the National Research Council issued a report which further refined this idea by calling for EPA to establish a Deputy Administrator for Science and Technology.

It is finally time for Congress to heed all of these reports and address this problem, and I am pleased that Chairman Boehlert is doing so by moving H.R. 64 through the Science Committee.

I want to thank Chairman Boehlert, Ranking Member Hall, and the Ranking Member of my Subcommittee, Mr. Barcia, for helping craft a bipartisan amendment that we unanimously adopted at the Subcommittee and is before us today.

The amendment in the nature of a substitute that was adopted in the Subcommittee makes several changes to improve the underlying legislation. The amendment, like the underlying legislation, establishes a new Deputy Director for Science and Technology. It also clarifies the role of science at the EPA, and the duties of a new Deputy for Science and Technology. The amendment clearly outlines the responsibilities that this new Deputy would have in regards to improving the role of science in the decision-making process at the EPA. The new Deputy would also be an expert science advisor for the Administrator when deciding how to move forward with the regulatory process. Finally, we have changed the length of the term of the Assistant Administrator for the Office of Research and Development, from the six years that is in the original legislation, to five years.

Before I close, let me mention the broad support this legislation has garnered from a wide array of outside groups. I have received support from prestigious scientific groups such as, the American Chemical Society, the American Society of Mechanical Engineers, and The Society of Toxicology; from business groups including the National Association of Manufacturers and the Business Roundtable; and university and other interested parties including the National Association of State Universities and Land-Grant Colleges, and some Members of EPA's Scientific Advisory Board. And these are just a few of the groups supporting this legislation.

I urge all of my colleagues to support this bipartisan legislation, and I am looking forward to working with the Administration and my colleagues when bringing this legislation before the House of Representatives.

Organizations who have written letters in support of H.R. 64, the Strengthening Science at the Environmental Protection Agency Act:

American Chemical Society.
 National Association of Manufacturers.
 The Business Roundtable.
 American Industrial Hygiene Association.
 American Society of Agronomy.
 American Society of Animal Science.
 American Society of Mechanical Engineers.
 Crop Science Society of America.
 Entomological Society of America.
 Health Physics Society.
 Soil Science Society of America.
 National Association of State Universities and Land-Grant Colleges.
 Copper & Brass Fabricators Council.
 American Analytical Laboratories.
 National Association of Chemical Distributors.
 American Society for Microbiology.
 The Society of Toxicology.
 The American Phytopathological Society.
 American Electroplaters and Surface Finishers Society.
 National Association of Metal Finishers.
 Metal Finishing Suppliers Association.
 Association Connecting Electronics Industries.

Chairman BOEHLERT. Well, thank you, Dr. Ehlers. And I, too, wish to commend Mr. Barcia for working so well with you. You are a good team and you have produced a very good product. Without objection, all members may place opening statements in the record at this point.

[Statements of Mr. Smith, Mr. Hall, and Mrs. Morella follow.]

OPENING STATEMENT OF HON. NICK SMITH

I want to thank the Chairman and Ranking Member for recognizing that good science must be the foundation of the Environmental Protection Agency (EPA) policy decisions and for the need to strengthen science at the EPA.

Although the EPA is primarily a regulatory agency, decisions about environmental protection must be based on sound, peer-reviewed scientific data and risk assessments. Unfortunately, the EPA's science has often been weak, inefficient, ineffectual and sometimes just plain ignored in regulatory decisions. The Office of Research and Development (ORD), the science-arm of EPA has been plagued by poor management, scientific work of varying quality, redundancy and the willingness of EPA to fit science to policy rather than make policy based on sound science.

I applaud Chairman Ehler's effort to give science a voice in decision-making by creating a Deputy Administrator for Science and Technology with agency-wide responsibility for overseeing the S&T activities of the agency and ensuring these activities are properly peer reviewed, published, and applied to policy decisions. It is especially critical for the EPA to increase their commitments to peer-review to ensure high-quality and reliable technical information for policy and regulatory decision making. I am pleased that this legislation has incorporated my ideas for ensuring this.

Thank you, Mr. Chairman for bringing forward this legislation and for supporting our efforts to improve the scientific base for environmental regulation.

OPENING STATEMENT OF HON. RALPH HALL

Thank you Mr. Chairman.

I appreciate your holding this mark-up today on H.R. 64. It is no secret that I have at times been highly critical of the way in which EPA runs its regulatory program. Anything this committee can do to improve the science that is used by the Agency to make rules is welcome.

I believe Chairman Ehlers and Ranking Member Barcia have carted a good bill that will help ensure that the best and most recent science is considered when the Administrator must make regulatory decisions. Ultimately, it will be up to the Administrator to listen to the scientists, but this bill will provide them with an opportunity to make their case.

I do have one question for the Chairman. Chairman Boehlert, it is my understanding that the Committee has not officially asked the EPA for its views on H.R. 64, although I understand that EPA is not supportive of the bill in its current form. It would make it easier for me to support the bill if I knew for a fact that Administrator Whitman was opposed.

Can you tell me if my understandings are correct? If so, will the Chairman attempt to obtain the views of EPA before reporting the bill to the House?

Mr. Chairman, thank you for those assurances and I yield back the balance of my time.

PREPARED STATEMENT OF HON. CONNIE MORELLA

Mr. Chairman, I am delighted to see that today H.R. 64—the Strengthening Science at the Environmental Protection Agency Act will be voted on by the Full Committee.

I fully endorse this legislation.

A lot of thought was given to crafting this bill, and toward improving our science and technology programs at the Environmental Protection Agency.

I remember earlier this year when the House Subcommittee on Environment, Technology, and Standards held a hearing and received testimony on this legislation.

I commend my good friend and colleague Chairman Ehlers for introduction of this bill.

H.R. 64 codifies two primary recommendations of the recently released National Research Council (NRC) report titled Strengthening Science at the U.S. Environmental Protection Agency. Congress requested the NRC report in the Fiscal Year 1995 VA-HUD Appropriations Conference Report.

The legislation requires the President to appoint a Deputy Administrator for Science and Technology of the Environmental Protection Agency. The new Deputy Administrator will be responsible for the overall scientific and technical foundation of the EPA's decisions.

Second, the legislation sets a five-year term for the Assistant Administrator of the Office of Research and Development (ORD), to serve at the pleasure of the Presi-

dent. It also gives the Assistant Administrator of the ORD the additional title of "Chief Scientist of the Environmental Protection Agency."

It is my hope that the new Deputy will be an advocate for science within upper management at EPA, and play a strong role in coordinating research among the offices. Since the new Deputy would rank higher than the existing Assistant Administrators, this person could effectively coordinate research relationships between the Agency's scientific and regulatory arms.

This new Deputy will also have the authority to ensure the best possible peer-review and research-planning practices are used for all of EPA's scientific endeavors.

Thank you.

Chairman BOEHLERT. I ask unanimous consent that the bill be considered as read and open to amendment at any point. I ask the Members to proceed with the amendments in the order of the roster. And the first amendment on the roster is the amendment offered by Congresswoman Jackson-Lee. And just let me say what my hope and expectation is.

As you all know, from the fine work we did on a bipartisan basis, on the math/science partnership, I mean everybody on this Committee has their fingerprints on that very good bill. And Ms. Jackson-Lee is one who was a leader there. I would ask that she offer her amendment, speak to her amendment so we all can better understand it. Then I would hope that she would withdraw it with the understanding from the Chair that we will continue as we have been right along, working at a bipartisan basis, make sure we fully understand the full implications of the amendment, and then think in terms of having report language that would address the subject matter. I would hope that what would be the case, but it is up to Ms. Jackson-Lee. The Chair recognizes Ms. Jackson-Lee for 5 minutes.

Ms. JACKSON-LEE. I thank the Chair very much. I am hoping that I may be able to answer the concerns of the Chair. I hope the amendment is being passed out to—is the amendment—

Chairman BOEHLERT. The Clerk will report the amendment.

Ms. JACKSON-LEE [continuing]. Thank you. I have an amendment at the desk. I am sorry.

The CLERK. Amendment to H.R. 64, offered by Ms. Jackson-Lee of Texas. On page 3, line 3, strike, "by the Agency," and replace with, "by the Agency,".

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered. Ms. Jackson-Lee is recognized for 5 minutes.

Ms. JACKSON-LEE. Thank you very much, Mr. Chairman. First of all, I want to commend the gentleman from Michigan, Mr. Ehlers, and, of course, Mr. Barcia, for the leadership on this issue. I was reading through the statement of the proponent of this legislation dealing with the purpose and reason for it and the emphasis on the importance of science at the EPA is overwhelming.

Many of us throughout our tenure on this Committee have emphasized the expansion of this whole issue of technology and science to institutions and communities that have been underserved. There is no doubt that we have documented the underserved communities that involved Historically Black Colleges, Hispanic-Serving Institutions, minority communities, and rural communities.

This is a simple amendment and it simply adds emphasis on ensuring that the information is received by Historically Black Col-

leges and Universities, Hispanic-Serving Institutions, minority communities, and rural communities. I believe it is an expansive amendment and I regret greatly the request of the Chairman. But let me try to respond to the Chairman's concerns.

We have substantial jurisdictions over institutions of higher education through our NSF jurisdictions, so that keeps this within our parameters and jurisdiction. Likewise, we have been successful in passing a number of amendments and bills that wisely have focused on the underserved communities, such as the Morella bill, and, as well, this does not amend any statute in any other committee which would lend itself to jurisdiction.

In my inquiry to the parliamentarian on this particular language, the parliamentarian has said that there is no problem adding this language to the bill for the bill then to be subjected to other Committee jurisdiction. So this is a modified version. It only says emphasis on ensuring that information is received by Historically Black Colleges and Universities, Hispanic-Serving Institutions, minority communities, and rural communities.

I am frequently in meetings with Members of our—the Congressional Members from rural communities who are always emphasizing the need to translate information to their communities. If we are putting in place a new Administrator who will have new duties, I certainly believe that it would not, in any way, either inhibit, diminish, or disadvantage anyone else by ensuring that information is disseminated to these documented, underserved communities.

I would ask my colleagues to see the spirit in which I am offering it and to know that I made every effort to ensure that there would be no obstacles to Mr. Ehlers' legislation by adding this language, that we would not expand the jurisdiction. Rural communities need information. Constantly, we are looking for ways to expand, them understanding. And with this overhanging issue of biowarfare and other issues, I think any time we can acknowledge the greater need for information to these particular groups that culturally serve a lot of different Americans, I think we are doing the right thing. I would ask my colleagues to support this amendment.

Chairman BOEHLERT. Are you finished? And—

Ms. JACKSON-LEE. Thank you, Mr. Chairman.

Chairman BOEHLERT [continuing]. Do you—are you determined to proceed with seeking a vote on the amendment, or would you honor the request from the Chair that you withdraw it and we work to get the language and report language—

Mr. HALL. Would the gentleman yield?

Chairman BOEHLERT [continuing]. I would be glad to.

Mr. HALL. It seems that her language is only a reassuring language and almost prefatory in nature. And it seemed like something that you all really could work out if you would give her some assurance time-wise as to when it would be worked out. Would that be before it goes to Rules or before it goes out of here to—

Chairman BOEHLERT. By all means, before it goes to Rules. And we work it within the family before we go to these other guys.

Mr. HALL [continuing]. I represent Texas College, and it is probably the oldest black college in the southwest. And their short of receiving information. And this—I think this would be helpful to them. And, of course, I have some rural communities in northeast Texas. And I think it is a good amendment. I don't—

Chairman BOEHLERT. Mr. Hall, let me ask—I think we have had some consultation with Dr. Ehlers—

Mr. HALL. All right.

Chairman BOEHLERT [continuing]. And staff and everything. Let me ask Ms. Jackson-Lee. You have the language of the amendment before you. If we make this slight modification, see if it would be acceptable. On page 3, line 3, strike, “by the Agency,” and replace with, “by the Agency to the public, including Historically Black Colleges and Universities, Hispanic-Serving Institutions, minority communities, and rural communities.” So it is, “To the public, including,” and not just exclusive. So we would just add after “by the Agency to the public, including,” and then it accommodates all the groups you want to accommodate. And I think it is the will of the Committee we want to accommodate.

Ms. JACKSON-LEE. Mr. Chairman, I am reading this and I am—believe that this will work. I am trying to look at the action verb. Could you just give me one moment?

Chairman BOEHLERT. Sure.

Mr. HALL. It seems like this just includes some of my poor white universities over there in east Texas. And that is what you have added.

Chairman BOEHLERT. We are always trying to accommodate your people.

Mr. BACA. Mr. Chairman, if I can, I would like to speak in reference to supporting the motion and I am going to wait for her to look at it to see if she would. But I do—

Ms. JACKSON-LEE. I would yield to the gentleman and then I will respond, Mr. Chairman, if that is okay.

Chairman BOEHLERT. By all means.

Ms. JACKSON-LEE. Thank you.

Chairman BOEHLERT. You are recognized.

Mr. BACA. Thank you very much, Mr. Chairman. I do believe that we have the responsibility to disseminate information. And I think it is important, as we look at the growth in the population of our country right now. And the amendments are simple, whether we accept the additional amendment. I think it is important that we disseminate information, not only to black colleges, but Hispanic-Serving Institutions that I see growth—the numbers that are growing throughout. As we see more and more of our students that are going into these institutions, we want to make sure that they have the same kind of information as everybody else, along with minority communities and rural communities.

We have the responsibility in the form of education to educate our public and that they receive the information. And I would be inclined to support the amendment and I will wait and yield back to the person coming back—

Chairman BOEHLERT. And let the Chair stress, I couldn't agree more with the general thrust of the amendment, as you well know, and with your excellent intervention. And I think we have got it all worked out. Ms. Jackson-Lee.

Ms. JACKSON-LEE. Mr. Chairman, let me thank the proponent of the legislation and the Chairman and certainly the Ranking Member. Yes. This is where—this is what we would like to have. We want to ensure—and I thank Mr. Baca, as well. He comes from an

area that has an enormously diverse community. It is very important to get information

And might I conclude my sentence simply by saying, Mr. Chairman, this goes right to, I hope what we will be doing in the next couple of weeks. We wish we weren't doing it, but I hope we will be looking into bioterrorism. All of this is based upon getting information to the public, and these institutions are able to convey it through certain segments of our community that otherwise would not get it. And so I would accept this language. Mr. Baca.

Chairman BOEHLERT. Thank you very much, Ms. Jackson-Lee. Dr. Ehlers.

Mr. EHLERS. Well, Mr. Chairman, as the sponsor of the bill, I just want to say I am very pleased to accept the amendment as modified by you. Clearly, this is—we want to have the information go to the Historically Black Colleges and Universities, Hispanic-Serving Institutions, and all of the minority and rural communities. There is no question about that. And by calling attention to this, we are probably improving the bill. So I am pleased to accept the amendment as modified.

Chairman BOEHLERT. Thank you very much. So just let me read the amendment as amended. On page 3, line 3, strike, “by the Agency,” and replace with, “by the Agency to the public, including Historically Black Colleges and Universities, Hispanic-Serving Institutions, minority communities, and rural communities.” All those in favor of the amendment as amended, say aye. Opposed, no. The ayes have it. And now the base amendment. All in favor say aye. Thank you very much. That is the spirit of cooperation that is so evident—

Ms. JACKSON-LEE. Thank you very much.

Chairman BOEHLERT [continuing]. In all our endeavors on this Committee. Are there any further amendments? Hearing none, the question is on the bill, H.R. 64, Strengthening Science at the Environmental Protection Agency, as amended. All those in favor, say aye. All opposed, say no. It is the opinion of the Chair the ayes have it. And I now recognize Mr. Hall to offer an amendment—a motion.

Mr. HALL. Mr. Chairman, I move that the Committee favorably report H.R. 64, as amended, to the House with the recommendation that the bill, as amended, do pass. Furthermore, I move that the staff be instructed to prepare the legislative report and make necessary technical and conforming changes and that the Chairman take all the necessary steps to bring this bill before the House for consideration. I yield back my time.

Chairman BOEHLERT. The Chair notes the presence of a reporting quorum. The question is on the motion to report the bill favorably. Those in favor of the motion will signify by saying aye. Opposed, no. The ayes appear to have it, and the bill is favorably reported.

I move that members have two subsequent calendar days in which to submit supplemental minority or additional views on the measure. I move pursuant to Clause I of Rule 22 of the Rules of the House of Representatives that the Committee authorize the Chairman to offer such motions as may be necessary in the House to go to the conference with the Senate on the bill. With that, our business is concluded. The hearing is adjourned. Good show.

[Whereupon, at 10:40 a.m., the Committee was adjourned.]

