



## **FULL COMMITTEE**

### **HEARING CHARTER**

#### ***“Establishing an Independent NOAA”***

**Tuesday, April 18, 2023**

**10:00 a.m.**

**2318 Rayburn House Office Building**

#### **Purpose**

The purpose of the hearing is to discuss the future of the National Oceanic and Atmospheric Administration (NOAA) as an independent scientific agency in statute. This hearing will serve as a legislative hearing for a NOAA Organic Act.

#### **Witnesses**

- **The Honorable Dr. Conrad C. Lautenbacher, VADM USN Ret., NOAA Administrator, 2001-2008.**
- **The Honorable Dr. Tim Gallaudet, RDML USN Ret., Acting NOAA Administrator, 2017-2019.**
- **The Honorable Dr. Neil Jacobs, Acting NOAA Administrator, 2019-2021.**

#### **Overarching Questions**

- What are the benefits of an independent NOAA, established in statute and functioning outside of any existing Cabinet-level department?
- If NOAA continues to operate under its current structure, what challenges will it face in the future?
- What impact would a NOAA Organic Act have on stakeholder and community engagement, collaborations, and partnerships with NOAA?
- How would NOAA, as an independent scientific agency, contribute to the larger federal government ecosystem?

## Background

The National Oceanic and Atmospheric Administration was established within the Department of Commerce by President Richard Nixon in 1970 under Reorganization Plan No. 4.<sup>1</sup> It has never been comprehensively authorized in statute. In FY 2023, NOAA received more than \$6.8 billion in appropriations and has a workforce of more than 12,000 civilian employees.<sup>2</sup> The agency consists of six line offices – the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), Oceanic and Atmospheric Research (OAR), the National Weather Service (NWS), the National Environmental Satellite, Data, and Information Service (NESDIS), and the Office of Marine and Aviation Operations (OMAO).

### NOAA History

NOAA traces its roots to 1807, when President Thomas Jefferson and Congress established the United States Survey of the Coast as the first scientific agency of the United States Government with the purpose of mapping the Atlantic Coast.<sup>3</sup> Today's NOAA can be considered a collection of administrations, departments, and bureaus that have been consolidated into the Department of Commerce over time.

In 1870, Congress created the Weather Bureau as part of the U.S. Army Signal Corps.<sup>4</sup> The Weather Bureau was transferred to the Department of Agriculture in 1890 and remained there until its transfer to the Department of Commerce in 1940. In 1970, its name was changed to the National Weather Service.<sup>5</sup> NMFS was established as the U.S. Commission of Fish and Fisheries in 1871 and was integrated into the Department of Commerce when created in 1903.<sup>6</sup> Additionally, other elements of modern NOAA were created and functioned as part of the Environmental Science Services Administration (ESSA), which has been part of the Department of Commerce since 1965.<sup>7</sup>

In 1966, Congress passed the Marine Resources and Engineering Development Act, which established the Commission on Marine Science, Engineering, and Resources led by Julian Stratton.<sup>8</sup> The Stratton Commission, as it would be known, produced recommendations which influenced the development of several pieces of legislation, including the National Environmental Policy Act, the National Sea Grant College Program Act, the Coastal Zone Management Act, and the Endangered Species Act.

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<sup>1</sup> Reorganization Plan No. 4, Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.

<sup>2</sup> National Oceanic and Atmospheric Administration, *FY24 Congressional Justification*, NOAA.GOV (Apr. 2024), [https://noaa.gov/sites/default/files/2023-04/NOAA\\_FY24\\_CJ.pdf](https://noaa.gov/sites/default/files/2023-04/NOAA_FY24_CJ.pdf).

<sup>3</sup> Eileen L. Shea, *A History of NOAA: Being a Compilation of Facts and Figures Regarding the Life and Times of the Original Whole Earth Agency* (1987).

<sup>4</sup> Gary K. Grice, *National Weather Service Snapshots: Portraits of a Rich Heritage* (1991).

<sup>5</sup> *Ibid.*

<sup>6</sup> National Oceanic and Atmospheric Administration, *NOAA Fisheries: About Us*, NOAA.GOV, <https://www.fisheries.noaa.gov/about-us#our-history> (last visited Apr. 10, 2023).

<sup>7</sup> National Oceanic and Atmospheric Administration, *Celebrating 50 years of AOML*, CLIMATE.GOV, <https://www.climate.gov/news-features/feed/celebrating-50-years-aoml> (last visited Apr. 10, 2023).

<sup>8</sup> P.L. 89-454, *Marine Resources and Engineering Development Act of 1966*.

One of the commission's recommendations was to create an independent agency responsible for civilian marine and atmospheric programs.<sup>9</sup> However, President Nixon's Attorney General, John Mitchell, would only agree to support the creation of a new agency within an existing Cabinet-level department.<sup>10</sup>

Two departments were considered for the new agency: Interior and Commerce. According to apocryphal tales from the time, President Nixon struck "Interior" and wrote "Commerce" into his presidential reorganization order out of anger at Secretary of Interior Wally Hackel's opposition to the Vietnam War.<sup>11</sup> The more plausible explanation for placing NOAA in Commerce was due to the ESSA and Weather Bureau already being located within the Department.

Because today's NOAA was created through administrative action and approved by Congress rather than through legislation, no organic act exists – such as the National Aeronautics and Space Act of 1958 for NASA – to provide an underlying purpose for the agency. Additionally, NOAA currently operates under nearly 200 separate legislative authorities, while lacking a single overarching statutory framework.<sup>12</sup> This hodgepodge of legislative authorities makes authorizations, oversight, and coordination of activities exceedingly difficult for Congress to direct and oversee.

### Prior Legislative Efforts

There have been several attempts to pass an organic act dating back to 1977, with all but one bill originating in the House. The most successful effort was in the 109<sup>th</sup> Congress by Rep. Vern Ehlers (R-MI), whose bill passed the House by voice vote in September 2006 but was not taken up by the Senate.<sup>13</sup> Rep. Ehlers introduced organic act legislation again during the 110<sup>th</sup> and 111<sup>th</sup> Congresses, but neither bill was taken up.

In his 2011 State of the Union address, President Barack Obama highlighted bureaucratic inefficiencies by noting that freshwater salmon are regulated by Interior's Fish and Wildlife Services, while saltwater salmon are regulated by NOAA.<sup>14</sup> The resulting proposal from the White House, which moved NOAA in its entirety into the Department of the Interior, was met with objections from both Congressional Republicans and Democrats with a common anecdote being "Just rearranging the deck chairs on the Titanic."<sup>15</sup>

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<sup>9</sup> William J. Merrell, et al., *The Stratton Commission: The Model for a Sea Change in National Marine Policy*, THE OCEANOGRAPHY SOCIETY, Vol. 14, No. 2 (2001).

<sup>10</sup> Alan Neuschatz, *Managing the Environment*, Vol. 1, WASHINGTON ENVIRONMENTAL RESEARCH CENTER (1974).

<sup>11</sup> Richard J. Lazarus, *The Tragedy of Distrust in the Implementation of Federal Environmental Law*, GEORGETOWN UNIVERSITY LAW CENTER (1991).

<sup>12</sup> Tim Hall & Mary Kicza, *An Organic Act for NOAA to Formalize Its Purpose and Authorities*, THE AEROSPACE CORPORATION (Aug. 2018).

<sup>13</sup> American Institute of Physics, *NOAA Authorization Passes House*, AIP.ORG (Nov. 9, 2006), <https://www.aip.org/fyi/2006/noaa-authorization-passes-house>.

<sup>14</sup> The White House, *Remarks by the President in State of Union Address* (Jan. 25, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/01/25/remarks-president-state-union-address>.

<sup>15</sup> David Goldston, *Between the Devil and the Deep Blue Sea: Why NOAA Shouldn't Be Moved to the Interior Department*, NATURAL RESOURCES DEFENSE COUNCIL (Jan 15, 2012), <https://www.nrdc.org/bio/david-goldston/between-devil-and-deep-blue-sea-why-noaa-shouldnt-be-moved-interior-department>.

Multiple NOAA Administrators have supported the need for an organic act while serving as the head of the agency. In May 2005, Administrator Lautenbacher appeared before the House Natural Resources Committee to testify in support of a proposed NOAA Organic Act, H.R. 50.<sup>16</sup> In March of 2020, Administrator Jacobs answered a question from Senate Commerce Ranking Member Sen. Cantwell saying that NOAA would benefit from an organic act.<sup>17</sup>

### Proposed Legislation

The NOAA Organic Act proposed by Chairman Lucas takes a streamlined approach that is similar to previous House-passed legislation. The bill would establish NOAA as an independent agency within the executive branch, give it formal statutory authority, and authorize its critical mission.<sup>18</sup> In doing so, the NOAA Organic Act will promote scientific integrity and strategic research within the agency.

Additionally, the NOAA Organic Act ensures the National Weather Service will continue to operate within NOAA and provide critical weather forecasts, monitor severe weather, and communicate life-saving information to communities and government agencies.<sup>19</sup>

It also consolidates NOAA's work by refocusing on its core mission areas. It moves the Office of Commercial Space out of NOAA and elevates the office within the Department of Commerce, making it an individual office with an Undersecretary reporting directly to the Secretary of Commerce.<sup>20</sup> Additionally, the bill directs a study from the National Academy of Public Administration on transferring part or all of NOAA's work on endangered species and marine mammal protection to the Department of the Interior, which has extensive expertise in this area.<sup>21</sup>

Legislation authorizing NOAA, if signed into law, would fulfill recommendations made by the U.S. Commission on Ocean Policy, the Pew Oceans Commission, and the Joint Ocean Commission Initiative.<sup>22</sup> More importantly, an independent NOAA would eliminate the multi-level bureaucratic hurdles that come with a science agency operating within a larger executive department.

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<sup>16</sup> Testimony of Undersecretary of Commerce for Oceans and Atmosphere Vice Admiral Conrad Lautenbacher to House Natural Resources Committees, *Subcommittee on Fisheries and Oceans Legislative Hearing on H.R. 50*, available at <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=164738>.

<sup>17</sup> The Honorable Neil Jacobs in response to Sen. Marie Cantwell, U.S. Senate Committee on Commerce, Science, and Transportation, *Nominations Hearing* (Mar. 11, 2020), available at <https://www.commerce.senate.gov/2020/3/nominations-hearing>.

<sup>18</sup> Committee on Science, Space, and Technology, *Lucas Releases Draft Legislation to Establish NOAA as an Independent Agency*, SCIENCE.HOUSE.GOV (Dec. 21, 2022), <https://science.house.gov/press-releases?id=DB5DEB69-F287-4C80-B97D-1D556B4F06E3>.

<sup>19</sup> Draft Text of National Oceanic and Atmospheric Administration Act of 2022, Section 205, [https://republicans-science.house.gov/index.cfm?a=Files.Serve&File\\_id=3CED2FD1-25B8-471F-8A2E-22CE0356053C](https://republicans-science.house.gov/index.cfm?a=Files.Serve&File_id=3CED2FD1-25B8-471F-8A2E-22CE0356053C).

<sup>20</sup> *Id.*, Sec. 207.

<sup>21</sup> *Id.*, Sec. 208.

<sup>22</sup> *Ocean Commissions: Ocean Policy Review and Outlook*, EVERYCRSREPORT.COM, <https://www.everycrsreport.com/reports/RL33603.html> (last visited Apr. 9, 2023).