

**WRITTEN STATEMENT OF
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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE**

**LEGISLATIVE HEARING ON H.R. 50, THE
“NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT,”
BEFORE THE
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES AND OCEANS
U.S. HOUSE OF REPRESENTATIVES**

MAY 19, 2005

Mr. Chairman and members of the Committee thank you for inviting me to discuss the National Oceanic and Atmospheric Administration (NOAA) Organic Act. The Department strongly supports the Committee’s efforts to pass a NOAA organic act, legislation we believe should codify the establishment and purposes of NOAA. We appreciate the actions taken by members of Congress to begin work on this legislation and look forward to working with Congress to complete action this Congress.

The Need for a NOAA Organic Act

NOAA’s history is an intrinsic part of the United States’ history and the development of its science and commercial infrastructure. Our predecessor agencies include the United States Coast Survey established by President Jefferson in 1807, the United States Weather Bureau established in 1870 as part of the Army Signal Corps, and parts of the United States Commission of Fish and Fisheries established in 1871.

In response to a recommendation of the Stratton Commission, President Nixon created NOAA in 1970 through Reorganization Plan No. 4. NOAA was a reorganization of existing bureaus (e.g. the Bureau of Commercial Fisheries from Interior, the National Sea Grant College Program from the National Science Foundation) that made more sense to group together as an agency than leave distributed throughout the government. Since then, NOAA has accumulated a large number of diverse responsibilities and relies on close to two hundred separate legislative authorities that sometimes apply only to narrow parts of the agency. Some of these predate NOAA, such as the Merchant Marine Act of 1936, the Agricultural Marketing Act of 1946, and the Coast and Geodetic Survey Act of 1947.

Although this compilation of authorities is useful in guiding the direction of NOAA’s missions, it is not definitive. First, there is no NOAA-wide organic act to rely on in defining overall missions and purposes. Second, our authorities are gleaned from program specific authorizations that vary greatly. While some level of variation may be

appropriate, there are core authorizations that would improve agency operations and performance if they were agency-wide.

The Hollings Marine Laboratory in Charleston, South Carolina provides a good example of the problems NOAA faces without the type of specific authorities that should be included in an organic act. A lack of legal authorities allowing participation in a collaborative research program with a consortium of federal, state and university organizations required the enactment of special legislation in the Consolidated Appropriations Act, 2004. A separate legislative effort should not be necessary for NOAA to enter into such relationships.

The increasing economic and environmental importance of ocean and atmospheric assessment, research and stewardship creates an acute need to enhance NOAA's ability to protect the environment and contribute to our nation's safety, health and prosperity. Because the Nation's economy depends on NOAA products and services, we have placed an emphasis on science that has a clear application to NOAA's programs. In line with that stated need, NOAA has worked extensively with stakeholders to identify the following mission goals:

- Protect, restore, and manage the use of ocean and coastal resources through an ecosystem approach to management.
- Understand climate variability and change to enhance society's ability to plan and respond.
- Serve society's need for weather and water information.
- Support the Nation's commerce with information for safe, efficient, and environmentally sound marine transportation.
- Provide critical support for NOAA's mission.

We believe it is time to advance from an outdated Reorganization Plan to unified, coherent legislation. Doing so would greatly strengthen NOAA's ability to manage ocean and coastal resources, to undertake NOAA's research activities, and to engage in outreach and education activities. The U.S. Commission on Ocean Policy (Commission) reached this same conclusion. In its report, *An Ocean Blueprint for the 21st Century*, the Commission recommends immediate Congressional action on an organic act to enhance NOAA's ability to conduct operations "consistent with the principles of ecosystem-based management and with its primary functions." Admiral James Watkins, Commission Chairman, emphasized the importance of a NOAA organic act before the House Science Committee on May 5, 2004. The Administration concurs fully and, with the transmittal to Congress of an Administration legislative proposal, has acted upon this recommendation from the Commission. At the inaugural meeting of the Committee on Ocean Policy on April 5, 2005, Secretary Gutierrez discussed the need for an organic act with his cabinet colleagues. Consistent with President Bush's U.S. Ocean Action Plan, we re-transmitted to Congress that day the Administration's proposed NOAA Organic Act, and I have attached a copy of the proposed bill for the record.

Administration Bill

Organic acts are typically used to create an agency or office within the government. They establish a statutory basis for existence and describe the purposes of the agency or office. An organic act provides basic authorities to conduct the activities needed to meet the missions of the agency. They are not intended to be changed frequently, however, but rather to provide guidance for the long term. The level of detail in an organic act can vary widely. For example, the organic act for the National Park Service is two pages long and provides general detail about structure and function. Congress provides the National Park Service greater specificity about requirements through a variety of authorization legislation for specific program implementation such as Wild and Scenic Rivers Act or the Wilderness Act. These authorizations are routinely revisited by Congress.

The recently transmitted Administration bill mirrors the general language found in many organic acts, such as that for the National Science Foundation. It is not intended to be prescriptive but to provide a framework for the future. This framework would provide the opportunity for NOAA's programs and structure to evolve over time just as national priorities and the state of science evolve. Greater specificity can be found in our program authorizing statutes. We appreciate the ongoing efforts of the Committee to move legislation of importance to NOAA this Congress including the Magnuson-Stevens Fishery Conservation and Management Act, the Coastal Ocean Observation System Integration and Implementation Act of 2005, the Endangered Species Act, and the Marine Mammal Protection Act.

The science and management conducted by NOAA for the Nation is critically important and contributes to the foundation for a healthy economy touching daily approximately one-third of the Gross Domestic Product. Our proposed bill would greatly strengthen NOAA's ability to provide stewardship of living and non-living marine resources, to undertake research activities in support of its missions, to disseminate information, and to assess and forecast changes in ocean, coastal, and Great Lakes ecosystems, and the atmosphere by codifying in one place its core administrative authorities. For example, our proposed bill grants to NOAA –

- Authority to operate through partnerships and enter into agreements with non-Federal entities to facilitate cooperative conservation and research activities.
- Authority to acquire property interests that could, for example, have positive results for managing natural resource damage and restoration programs, by confirming that NOAA has authority to acquire directly property to be used for habitat restoration projects.
- Authority to accept gifts and bequests, consistent with similar authorities provided to other Federal agencies. The ability to accept such gifts or bequests could be used, for example, to obtain weather radio towers.
- Authority to conduct education and outreach activities for all NOAA programs and not just a few specifically authorized programs including Sea Grant, National Marine Sanctuary Program, and Coral Reef Conservation Program.

While NOAA has many of these authorities under statutes for specific programs, or under the Department's general authorities, this bill provides clear authorities on a NOAA-wide basis, and places the NOAA authorities together in one public law.

H.R. 50

While the Department supports the intent of H.R. 50, we have serious concerns about the bill and prefer the recently transmitted Administration bill. Attached is a copy of our views letter on H.R. 50.

Sections of H.R. 50 read more like an authorization bill than a true organic act. We believe it would be more appropriate to handle specific programmatic charges through authorization bills that are revisited every few years. While we are interested in working with Congress to pass a NOAA organic act this session, we want to be sure it is the right bill. History teaches us that it may take years - if not decades - before further legislative changes are possible. During that period, the Nation's priorities and the state of science will inevitably change and evolve. H.R. 50 does not allow NOAA sufficient flexibility to make those organizational and programmatic changes that may be needed to meet future developments and challenges. Furthermore, it is not necessary for Congress to include such detailed structural requirements for NOAA in an organic act, because Congress already has multiple opportunities to influence NOAA's structure. For example, Congress can provide views in oversight hearings, deny reprogramming requests, and address program organization issues in authorizing legislation.

In a similar vein, H.R. 50 highlights several NOAA purposes and missions by reference to specific NOAA programs and activities. For example, the bill directs the Secretary to maintain within NOAA a National Weather Service (NWS), and delineates the NWS mission, goals and functions in great detail. The bill also directs the Secretary to maintain within NOAA operational and service programs to support routine data collection and direct services and products relating to satellite, observations, and coastal, ocean and Great Lakes information. In addition, the bill directs the Secretary to maintain within NOAA programs to conduct and support research and education and the development of technologies relating to weather, climate and the coasts, oceans and Great Lakes. We prefer not to highlight the importance of some NOAA programs through their inclusion in an organic act, while inadvertently or inappropriately neglecting others. An organic act should encompass the full spectrum of NOAA's responsibilities, including programs to protect and restore the Nation's marine fisheries and its responsibilities to provide products fostering safe transportation on marine highways.

Organization Structure -

We believe the bill should be amended to allow NOAA to determine how best to structure the organization to meet current and future challenges. An organizational structure that serves the Nation well today may not be the best structure to serve the Nation in twenty years. NOAA's ability to fulfill its mission would be strengthened if the bill directed establishment of only three positions, the Under Secretary (Administrator), Assistant Secretary (Deputy Administrator) and Deputy Under Secretary, giving NOAA flexibility to decide what additional senior positions should be established or maintained.

Soon after I was confirmed as Under Secretary, I initiated a top-to-bottom review of the agency's operations. As a result, we have instituted a matrix management system based on our mission goals that cuts across the line office structural organization. This system has resulted in better planning, programming, budgeting, and execution in a very short time. We continue to evaluate progress and program structure and have made adjustments as necessary. Inability to do so would greatly hamper agency performance.

Impact on Other Federal Agencies -

In light of the broad scope of H.R. 50 overall, we believe it is necessary to include a clause similar to Section 108 in the Administration Bill that this Act will not affect or otherwise supersede other laws or responsibilities of other Federal agencies. Otherwise, there is a risk of confusing long-standing divisions of responsibilities between NOAA and sister agencies. Additionally, some of the changes to the proposed NOAA Science Advisory Board and reporting requirements for NOAA should be amended to more appropriately reflect that they apply only to NOAA's programs and functions and not to parallel activities that are the responsibility of other agencies.

Creation of Advisory Board -

H.R. 50 would establish a 15-member science advisory board similar to the current board established by the Secretary of Commerce and chartered in September 1997 under the Federal Advisory Committee Act. Currently, members are appointed by the NOAA Administrator to advise him on long- and short-range strategies for research, education, and the application of science to resource management and environmental assessment and prediction.

H.R. 50's proposed board is narrower in scope than the NOAA Advisory Committee on Oceans and Atmosphere outlined in the Administration Bill. The Administration would like to expand the scope of the present science board to include the full spectrum of NOAA issues. We believe this broader scope would be a logical extension of issues considered by a science board, better reflecting the depth and breadth of the policy issues embedded in NOAA's missions and purposes. Such a panel could provide NOAA senior leaders with the critical perspective of highly qualified, independent experts who could bring useful outside perspectives to the challenges NOAA faces.

Conclusion

The Department of Commerce appreciates the opportunity to present views on H.R. 50 and looks forward to working with you to ensure passage of a satisfactory NOAA organic act codifying the establishment and purposes of NOAA. I would be happy to answer any questions.