



Report In Brief

JANUARY 16, 2013

Background

The legislation that directs how NOAA manages the nation's fisheries and the principal law that governs the fishery rulemaking process is the Magnuson-Stevens Fishery Conservation and Management Act (MSA). A primary goal of the MSA is to end and prevent overfishing through the use of annual catch limits and accountability measures. Eight regional Fishery Management Councils (FMCs), established by the MSA, work with NOAA and the public to prepare and maintain fishery management plans for fisheries under their authority. Fishery management plans are intended to preserve and repair fisheries while minimizing adverse effects on dependent communities through a formal process that incorporates scientific data, the knowledge of council members and advisory bodies, and public input.

Why We Did This Review

On August 17, 2011, Congressmen Barney Frank and John F. Tierney asked OIG to review controls and processes used by NOAA's FMCs to develop rules for the commercial fishing industry—known as fishery rulemaking. The request was prompted by concerns that NOAA's National Marine Fisheries Service (NMFS) had abandoned its core missions of "development of the commercial fishing industry" and "increasing industry participation." We are conducting this review of rulemaking in several phases and plan to generate additional reports. In this first phase, we evaluated the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the MSA. Subsequent products will look further into NOAA and the FMCs and the rules they develop.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fisheries Management

OIG-13-011-I

WHAT WE FOUND

FMC voting members' financial disclosures do little to increase transparency and lack effective review. We reviewed 72 publicly available disclosure statement forms for current voting council members and noted more than 20 instances where required information was missing.

NMFS has not fully implemented regulatory streamlining remedies. In 2003, NMFS developed a Regulatory Streamlining Project (RSP) in response to criticisms of the fishery management process from Congress and its constituents (such as fishers). Although NMFS received \$2.5 million in its FY 2005 appropriation for the RSP, it has still not been fully implemented.

Maintenance of rules packages and administrative records needs to be consistent. Record-keeping and file organization are not uniform across NMFS regional offices, which make it difficult for NMFS headquarters to provide oversight.

WHAT WE RECOMMEND

We recommend that the Assistant Administrator for NOAA Fisheries:

1. strengthen policy guidance on financial disclosure by FMC voting members, with emphasis on how NOAA intends to handle specific consequences for conflicts or potential conflicts it identifies;
2. strengthen processes for formal reviews of financial interest disclosures, considering the time period that the disclosure covers, how financial interest amounts relate to voting restrictions, and when affiliations with outside organizations should be reported;
3. strengthen criteria for identifying conflicts of interest and processes to follow up on any conflicts that are identified;
4. finalize draft Operational Guidelines and provide them to NMFS regional offices;
5. finalize regional operating agreements between NMFS regional offices and FMCs; and
6. develop uniform procedures for the collection, management, and maintenance of documents supporting decisions and administrative records associated with fishery regulations.