



UNITED STATES DEPARTMENT OF COMMERCE  
The Inspector General  
Washington, D.C. 20230

October 27, 2011

The Honorable Barney Frank  
2252 Rayburn House Office Building  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John F. Tierney  
2238 Rayburn House Office Building  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressmen Frank and Tierney:

This letter responds to your joint letter of August 17, 2011 expressing concerns over the fisheries regulatory process and requesting that I investigate rulemaking at the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service, and the New England Fishery Management Council (NEFMC).

Our previous work on NOAA fisheries enforcement programs and operations identified the complexities of rulemaking as a significant factor contributing to industry concerns about enforcement, particularly in the Northeast. Subsequently, NOAA undertook an independent review of fisheries management processes in the Northeast. As you note in your correspondence, the review identified serious issues.

The April 2011 independent report included a series of recommendations to strengthen New England's fishery management processes, including increased "collection and use of socioeconomic data in fishery management plans in order to make socioeconomic analysis a more visible and meaningful part of the process." NOAA announced short and long-term actions in response to recommendations from the review, and NOAA and the NEFMC plan to provide an update at the NEFMC meeting on November 18, 2011.

As a result of the foregoing, we have been paying increased attention to the significance of NOAA's fisheries rulemaking, to include speaking with industry and community representatives in the Northeast to hear their perspectives. We also note that the Senate Commerce Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard recently conducted a hearing on this matter. Based on your request, the results of NOAA's outside review, and concerns expressed to us, we will be undertaking an evaluation to address several key areas concerning fisheries rulemaking. Our efforts will center on three primary objectives:

1. Evaluate how the Fishery Management Councils (FMCs) established pursuant to the Magnuson-Stevens Fishery Conservation and Management Act are complying with the statutory and regulatory requirements under the Act, specifically focusing on National Standard 8 of the Act regarding the socioeconomic impact of regulations on fishermen and fishing communities.



2. Assess best practices across the FMCs for addressing operational requirements, including NOAA's role in providing oversight of the Councils under the regulations.
3. Conduct comparative analyses of fisheries rulemaking in relation to other federal rulemaking processes, and assess how NOAA ensures compliance with process requirements.

We are presently completing follow-up audit work on both NOAA's Asset Forfeiture Fund and the agency's implementation of the recommendations presented in our 2010 reports on fisheries enforcement. We intend to initiate our rulemaking evaluation following issuance of our reports in those reviews.

If you have any questions or if we can be of further assistance, please do not hesitate to contact me at (202) 482-4661.

Sincerely,

A handwritten signature in black ink that reads "Todd J. Zinser". The signature is written in a cursive, flowing style.

Todd J. Zinser