



Report In Brief

JANUARY 31, 2012

Background

This review follows up our January 21, 2010, *Review of NOAA Fisheries Enforcement Programs and Operations*. The report found the following: (1) NOAA senior leadership and headquarters elements need to exercise substantially greater management and oversight of the agency's regional enforcement operations. (2) NOAA needs to strengthen policy guidance, procedures, and internal controls in its enforcement operations, to address a common industry perception that its civil penalty assessment process is arbitrary and unfair. (3) NOAA needs to reassess its Office of Law Enforcement (OLE) workforce composition (presently 90 percent criminal investigators), to determine if this criminal-enforcement-oriented structure is the most effective for accomplishing its primarily regulatory mission.

In response, NOAA identified activities planned or already taken to improve its Office of Law Enforcement, along with its Office of the General Counsel Enforcement Section. In a February 3, 2010, memo, a March 18, 2010, response, and several public announcements, NOAA identified 47 immediate and long-term activities to address OIG findings and recommendations

Why We Did This Review

We conducted this review to (1) provide an interim assessment of NOAA's corrective actions, (2) determine the effectiveness of actions already taken, and (3) identify constructive measures NOAA should consider going forward. We targeted the scope of our review to the NOAA action plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Follow-up Review of NOAA Fisheries and Enforcement Programs and Operations

OIG-12-017-I

WHAT WE FOUND

NOAA made progress in completing many key action plan items.

During the past two years, NOAA has completed or implemented a majority of the 47 action items, to include (1) requiring a high-level review of all proposed charges for alleged violations and of all settlements by the General Counsel for NOAA, (2) finalizing a rule to place the burden of justifying a particular civil penalty or sanction on NOAA rather than the respondent in cases before Administrative Law judges, and (3) developing a new penalty policy.

Regional and national priorities for OLE have not been finalized.

OLE had deferred finalizing its enforcement priorities until it hired a permanent director, who has been on board since September 4, 2011.

NOAA's placement of the compliance liaison within OLE raises independence concerns.

As part of its action plan, NOAA established a compliance liaison in OLE's Northeast office. However, the liaison reports directly to the Northeast office's Special Agent in Charge, which may foster the appearance that the position's independence may be impaired.

NOAA's workforce analysis is one year behind schedule.

As of December 2011, NOAA had not begun the implementation phase of its workforce analysis, which was scheduled to begin October 2010.

Enforcement case management system data integrity issues have not been resolved.

OLE and GCEL have not fully addressed data integrity issues within and between their two case management systems: JustWare and the Law Enforcement Accessible Database System.

OLE and Enforcement Section policies and procedures manuals need to include a consistent method for handling prior violation information.

Neither manual provides a method for documenting, storing, or obtaining prior violation information, an important factor when deciding a penalty assessment or sanction.

Enforcement Section participation in Fishery Management Council Meetings has been limited and inconsistent.

NOAA had planned to increase communications with the Fishery Management Council by ensuring availability of Enforcement section attorneys at meetings. However, participation has been limited in two regions.

E-hotline and "Complaints and Compliments" web page effectiveness is uncertain. Having different methods of submitting complaints of enforcement improprieties may be confusing for complainants.