



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

January 3, 2011

Scott W. Lang, Mayor
City of New Bedford
City Hall, Room 311
133 William St.
New Bedford, MA 02740

Dear Mayor Lang:

Thank you for your letter of November 5, 2010, requesting that we investigate the fisheries regulation process in the Northeast carried out by the National Oceanic and Atmospheric Administration (NOAA), NOAA's National Marine Fisheries Service (NMFS), and the New England Fisheries Management Council (NEFMC). In assessing your request and the issues raised in your correspondence, we considered the City of New Bedford's present lawsuit against the Department, et al,¹ which includes a September 2010 filing referencing and attaching an excerpt of our January 2010 report, *Review of NOAA Fisheries Enforcement Programs and Operations*, and also referencing our July 2010 report, *Review of NOAA Fisheries Enforcement Asset Forfeiture Fund*. Given the pendency of this litigation, we have concluded that we will not at this time undertake a review addressing the same or related matters involved in the litigation, including the catch share/limit rules.²

However in order to gain a better understanding of relevant NOAA initiatives underway, we met with Eric Schwaab, NOAA's Assistant Administrator for Fisheries, who has commissioned a fishery management review in October 2010, beginning in the Northeast with potential expansion and applicability to other regions. Mr. Schwaab explained that this external review is based on concerns raised to the Secretary by the Chairman of the NEFMC, underscored by other members of the Council Coordination Committee composed of all regional FMCs. More specifically, the review stems from industry frustration about implementing new requirements under the Magnuson-Stevens Act, and concern that the goals established by the Act are not attainable and inadequately supported by essential science resources. The review includes soliciting input from stakeholders and focusing on the relationships between the NEFMC, NOAA's Northeast Regional Office, and its Northeast Fisheries Science Center.

¹ *City of New Bedford, et al. v. Gary Locke, et al.*, U.S. District Court for the District of Massachusetts, Civil Action No. 10-10789-RWZ, filed in May 2010.

² In April 2010, NMFS published Amendment 16 to the Northeast Multispecies Fishery Management Plan, adopted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801, et seq.).

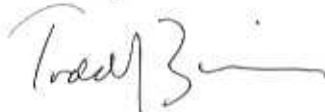


We also reviewed NOAA's procurement and statement of work and deliverables for this expected 6-12 month review. The requirements for the contractor include stakeholder analysis; interviews, focus groups, and surveys of approximately 200 persons/parties; compiling and analyzing data; and presenting recommendations to improve fisheries management processes.

Mr. Schwaab committed to keeping our office apprised of the review's progress and promptly sharing its findings with us. Further, he assured us that the final report, a specific deliverable under the contract, will be publicly released. We are monitoring this ongoing review. In addition, prior to receiving your correspondence, we committed to and are initiating a review of issues and circumstances involving a particular fisheries rulemaking in another region. That review may result in observations about NOAA's rulemaking process in general. We would appreciate the opportunity to discuss our review once it is underway and will follow up with you at the appropriate time.

Thank you again for your letter. If you have any questions, or if we can be of further assistance, please feel free to call me at 202-482-4661.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd J. Zinser". The signature is stylized with a large initial "T" and a long horizontal flourish extending to the right.

Todd J. Zinser