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October 31, 2001

The Honorable Ernest F. Hollings
Senate Appropriations Committee
Commerce, Justice, State and the Judiciary Subcommittee
U.S. Senate
SR-125, U.S. Capitol
Washington, DC

Dear Mr. Chairman:

In its Conference Report accompanying the 2001 appropriations for the National Oceanic and Atmospheric Administration (NOAA) and, specifically, the National Marine Fisheries Service (NMFS), Congress directed that the National Academy of Public Administration (the Academy) and the National Academy of Sciences (NAS) conduct a study of NMFS's ability to meet its legal and mission requirements.

The Academy and NAS currently are conducting that review. This work builds upon several recent reports:

- A January 2000 report by an Academy Panel entitled *Improving the NOAA Budget and Financial Management Process*,
- A June 2000 report by the then Director of the National Institute of Science and Technology (NIST) entitled *An Independent Assessment of the Resource Requirements For the National Marine Fisheries Service*, hereafter referred to as the resource requirements report
- A Marine Fisheries Advisory Committee (MAFAC) December 2000 report entitled *A Perspective on the National Marine Fisheries Service: Issues and Recommendations*.

The resource requirements report specifically recommended significant program budget increases and reaffirmed the importance for NMFS of some of the Academy Panel recommendations to improve NOAA's budget process. NOAA and NMFS are in various stages of implementing the recommendations contained in these reports.

This letter report and its attachment respond to the Appropriations Subcommittees' request that the Academy provide an interim report with findings and recommendations pertinent to the upcoming 2004 budget formulation process.

CONTEXT

Under the Magnuson Stevens Act (MSA), as amended by the Sustainable Fisheries Act of 1996, and other legislation, NMFS's mission has substantially evolved from managing fishing within the U.S. exclusive economic zone (EEZ) to placing greater emphasis on broader fishery and marine resource conservation and environmental considerations. The Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA), as well as other statutes and Executive Orders, have considerably increased NMFS's need to consider social, economic, environmental, and community issues. NMFS now is responsible for managing and sustaining a broad array of living marine resources as well as essential fish habitats in both the EEZ and state jurisdictions with cooperation of coastal states. NMFS also has scientific and management responsibilities for conserving marine resources under numerous international treaties and agreements, as well as responsibility for enforcing numerous marine laws and fishery regulations.

NMFS carries out these responsibilities through its headquarters staff, five regional offices, and five science centers in conjunction with eight regional fishery management councils created under the MSA. NMFS's management oversees the development of the fishery management plans (FMPs) by the councils, approves them, and drafts regulations implementing approved plans and other activities affecting marine and endangered species. NMFS management also prepares recovery plans and regulations covering threatened and endangered species and marine mammals. At every stage, NMFS relies heavily on its five science centers, as well as their labs and field sites, to conduct marine-related research and to collect and analyze scientific data necessary to inform the decision process and carry out NMFS's conservation and management functions.

OBJECTIVES OF THE INTERIM REPORT

The June 2000 resource requirements report offered recommendations that focused directly on NMFS budget and program issues; consequently, it serves as the primary basis for this interim report. It recommended funding increases for seven specific NMFS activities or programs. In FY 2001, appropriations increased for many of the areas identified in the report though it is difficult to make a direct correlation between the two sets of increases. The report also addressed three process changes directly related to planning and budgeting. It recommended that NMFS improve planning and budgeting by conducting a continuing base budget analysis as the Academy Panel had recommended at the NOAA level and improve planning through developing a comprehensive management plan for fisheries, marine mammal, and habitat programs. It also endorsed the Academy Panel's recommendation that NOAA develop a clear and formal corporate cost requirements process.

This letter summarizes action on the recommendations, and the attachment provides details of: (1) background on the areas where recommendations were made, (2) a brief re-statement of the specific recommendations, and (3) the status of NMFS and/or NOAA actions on each recommendation, including how increased FY 2001 funds were used.

HIGHLIGHTS OF NMFS ACTIONS

NMFS has taken steps to implement most program budget resource and process recommendations included in the resource requirements report and the earlier Academy Panel study. It has acquired some of the resources needed to do so and has initiated management actions to improve its activities. A summary of the status of implementation follows:

- **Adjustments for Non-discretionary Cost Increases:** The government's budgeting process makes it nearly impossible to recover inflationary and other non-discretionary adjustments to its base that, as a matter of NOAA policy, were not provided from 1996 to 2000. However, NOAA has abandoned that policy, and NMFS has been increasingly successful in identifying and justifying these adjustments to prevent further erosion to its base resources.
- **Socio-economic Analysis:** NMFS has identified the steps to acquire additional data, economists, and social scientists. A temporary hiring freeze imposed by the new administration slowed hiring, but NMFS is aggressively pursuing actions to improve the economic and social analyses increasingly required by the regulatory process.
- **Stock Assessment Improvements:** Stock assessments are fundamental to NMFS responsibilities, and NMFS has recently approved a major improvement plan for these activities. Funding increases for stock assessment improvements in selected fisheries have been substantial, and further improvements are being pursued within the context of the larger plan. However, NMFS has yet to integrate its multiple initiatives related to stock assessment, including its data acquisition plan, fisheries information plan, and other initiatives.
- **NEPA and Litigation Related Workload:** NMFS has initiated administrative actions to correct acknowledged deficiencies in its environmental analyses and improve its administrative records process to support regulatory actions and litigation. Initial efforts have focused on contracts that revise and update environmental impact assessments. Staff specializing in environmental analyses are being acquired.
- **Law Enforcement:** NMFS is expanding cooperative enforcement efforts through new agreements with 25 states and territories. Also, it is adding staff to handle these arrangements and pursue the additional enforcement actions associated with these programs. The recent detailing of NMFS agents to duties combating terrorism will reduce enforcement activities, at least temporarily.
- **Protected Resources Activities:** NMFS has begun to improve its marine mammal protection and endangered species activities in several areas. Substantial resources

have been added to address emerging public and congressional concerns about stellar sea lions, an issue that threatened the viability of the Alaska groundfish industry.

- **Observer and Cooperative Statistics Programs:** NMFS has increased its number of observers nation-wide and has initiated greater data collection and analysis efforts with industry and regional and state authorities. These steps should help to reinforce other actions underway to improve NMFS's stock assessment, information on bycatch, and enforcement activities.
- **Comprehensive Management Planning:** The resource requirements report urged NMFS to develop a comprehensive management plan for living marine resources paralleling ones developed for its science activities. Some NMFS actions implicitly address this need, but NMFS has yet to implement the recommendation or to commit to develop a comprehensive management plan for marine resources.
- **Corporate Costs:** NOAA is taking steps to improve its process of developing and assessing corporate costs, and NMFS is pursuing efforts to ensure that it is in a better position to understand and justify these resources. Further improvements are possible, and NOAA—not NMFS—should take actions to improve the rationale and allocation of these costs in the 2004 budget formulation process.
- **Base Budget Review:** NOAA has not initiated a base budget review system as recommended by an Academy Panel, but NMFS has taken significant actions to improve its financial management system and program budget process. These include identification of base budget categories used for congressional discussion and internal budgeting activities. These broader actions are critical to improving its budget formulation, execution, and performance evaluation activities. They should be strongly pursued and mitigate the immediacy of a comprehensive base review.

FINDINGS AND RECOMMENDATIONS

NMFS has made substantial progress in implementing most of the resource and some of the program budget process recommendations included in the resource requirements report. NMFS is attempting to integrate its response with recommendations contained in other reports, including those of the Marine Fisheries Advisory Committee and in-house charter teams. Yet, progress has been slowed by the change in administrations, uncertainties associated with development of the new administration's budget priorities and management agenda, several key higher level vacancies, a large number of NMFS personnel in acting positions, and a temporary government-wide hiring freeze. Nonetheless, NMFS has made progress in obligating funds associated with the resource increases included in its final 2001 appropriations action, and it has initiated the management actions to review specific program and process changes this year.

Congressional funding increases in 2001 have advanced progress in such areas as socio-economic analysis, stock assessment, NEPA and litigation related workload, law enforcement, observer programs, and protected resources activities. NOAA-level policy and

implementation changes have eased NMFS difficulties related to corporate costs and base adjustments for non-discretionary cost increases.

From a management perspective, NMFS's varied data collection and scientific analysis initiatives should be incorporated into a coherent integrated plan. Its priorities with regard to its stock assessment improvement, national observer programs, and its other data acquisition and analysis activities are unclear. These are vulnerable to resource and/or management disruptions without more specific planning. Both the resource requirements report and NMFS's own internal stock assessment improvement plan recognize the need to integrate these multiple initiatives so that NMFS has a corporate sense of goals and priorities in the scientific area.

This type of corporate planning effort may be even more urgently needed on the management side. The resource requirements report recommended development of a comprehensive management plan, paralleling its scientific efforts; this appears merited. A NMFS Executive Board meeting in late October 2001 sought clarification on the status of implementation of recommendations pertinent to a comprehensive management plan, and further action is necessary. Due to delays associated with the September 11 terrorist attacks, the Academy Panel has had limited opportunity to develop informed judgments and specific recommendations here. In the months ahead, however, it will examine NMFS's follow-on actions in this area more closely as it assesses the regulatory process and litigation support activities.

Finally, NMFS is taking actions to reform its program, budget and evaluation system, though it is unclear the extent to which these changes will satisfy the long-term need for a continuing base review. NMFS's ability to justify its on-going activities is improving, but its ability to relate its spending to these activities appears weak and is a source of friction with its constituents, the executive and legislative branches, and the public. In light of the other demands on NMFS management resources, the Panel recommends that NMFS undertake a base review in at least one pilot area during the 2004 budget formulation process. Based on the results of that test, this review could be expanded to other NMFS activities as part of either the later stages of the 2004 budget process or budget formulation in subsequent years.

Sincerely yours,



Mary A. Gade
Chair
Panel on National Marine Fisheries Service

Attachment

cc: Lila Helms
Luke Nachbar

NATIONAL MARINE FISHERIES SERVICE
PROJECT STATUS REPORT
Monthly Report # 9
April 16, 2002

PROJECT ACTIVITIES

The research phase of the Academy's review of the National Marine Fisheries Service (NMFS) is essentially completed. The Panel has reviewed draft findings, conclusions, and recommendations, and a full draft of the report is now in preparation for Panel review and approval. Highlights for the last month include:

- Held third Panel Meeting on April 4 to discuss draft issues, findings, and recommendations and provide Panel guidance on its recommendations.
- Met with NOAA's budget and personnel officials to review status of personnel and budget development activities
- Held additional interviews with NMFS, Congressional Research Service, recreational fishers, and environmental groups to discuss areas of interest in more detail.
- Completed contract modification with NMFS to allow for extension.

Preparation of Draft Report

The study team transitioned from emphasis on research to the process of drafting findings, conclusions, and recommendations for consideration for the Panel meeting on April 4. The Panel provided guidance on several issues, reached closure on most of the proposed recommendations, and agreed on a schedule to complete draft and final reports. The staff is now drafting chapters on fisheries litigation, fisheries regulatory processes, NMFS program budget, and constituent relations, in addition to necessary background and introductory material. Each chapter is intended to provide a discussion of the respective area and data analyzed, discussion of problems, concern and/or opportunities for improvements, and findings and recommendations. The Panel scheduled a May 8 meeting to review the draft report and make final decisions on findings and recommendations.

Some supplemental interviews in key areas were also conducted in late March and early April. These were intended to fill in gaps, refine or clarify data, and/or confirm information that had recently been obtained. Some additional contacts were initiated to round out an already extensive list of interviewees.

Additional discussions were also held with Congressional authorization subcommittee staff to provide an update, and obtain their perspective on possible legislative changes. Contacts with the Ocean Policy Commission have continued, and an additional meeting with commission staff was held in late March to discuss a possible project that would support the timely completion of their activities. The Panel was tentatively invited to present its report and recommendations to one of the Commission's public meetings later this year.

NMFS issued a modification to our contract on April 9, which extended the time for completion of the project through July 2002, and provided addition funding of \$71,000. A revised schedule provides for delivery of a "for comment" draft report to NMFS and appropriate congressional staff in mid-May. A final report should be available by mid-June with a printed report by the end of June.

The NAS Report

The draft report of the NAS committee report is in peer review, and should be available in draft for the Panel review during the May 8 meeting. Tentatively, the full NAS report is scheduled to be printed as a separate report by its committee, with a summary, conclusions, and recommendations of the NAS report incorporated in the final Panel report.