

February 2013

GOVERNMENT REORGANIZATION

Potential Benefits and Drawbacks of Merging the National Marine Fisheries Service into the Fish and Wildlife Service



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Why GAO Did This Study

NMFS and FWS have primary federal responsibility for managing fish and wildlife. The missions of NMFS and FWS have some broad similarities, which have prompted long-standing questions about whether merging the agencies would improve the efficiency or effectiveness of their programs. This report examines (1) the extent to which NMFS and FWS share key programmatic responsibilities, (2) potential benefits and drawbacks identified by agency officials and stakeholders of merging NMFS into FWS, and (3) potential benefits and drawbacks identified by agency officials and stakeholders of alternative organizational options. To address these issues, GAO reviewed agency documents and conducted 97 semistructured interviews with current and former agency officials and a wide array of the agencies' stakeholders, including organizations representing fishing and conservation interests. GAO performed a content analysis of interview responses.

GAO is not making any recommendations. This report presents information that Congress and the administration could consider in determining whether to reorganize federal fish and wildlife agencies. GAO provided a draft of this report for review and comment to the Departments of Commerce and the Interior. Commerce provided technical comments that were incorporated, as appropriate. Interior did not provide comments.

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What GAO Found

While the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) share certain key programmatic responsibilities, they also have programmatic responsibilities unique to each agency. The agencies largely carry out their shared responsibilities independently. For example, both agencies implement the Endangered Species Act, but NMFS generally does so for species found in marine habitats and FWS for species found in fresh water or on land. NMFS and FWS also have responsibilities that are unique to each agency. One of NMFS's unique responsibilities is the federal management of marine fisheries and one of FWS's unique responsibilities is the management of the National Wildlife Refuge System.

Officials and stakeholders identified several potential benefits and drawbacks in a possible merger of NMFS into FWS. In many cases, officials and stakeholders differed in their views, as illustrated by the following:

- One potential benefit is improving the efficiency of implementing the Endangered Species Act. Currently, when a proposed federal project—such as building a road—affects species managed by both NMFS and FWS, both agencies review the project. Some officials noted that in some cases they spend a significant amount of time coordinating their reviews and, in these cases, it would be more efficient if a single agency were implementing the act. Other officials, however, said that having a single agency implement the act may not achieve significant efficiencies, since determining how to best minimize effects of a project on multiple species is time-consuming regardless of whether one or two agencies are involved.
- A potential drawback is how a merger might change decision making for fisheries management. For example, merging the agencies would shift responsibility for approving fishery management plans to the Secretary of the Interior from the Secretary of Commerce, and some officials and stakeholders believed that the Department of the Interior would emphasize conserving fish populations more and consider the economic effects of management decisions on fishing communities less than NMFS does. Others, however, believed a merger would have little overall effect on fishery management. They said that because the framework for managing federal fisheries, including the criteria for evaluating fishery management plans, is established by statute, transferring approval authority to the Secretary of the Interior would not change fishery management decisions.

Officials and stakeholders also identified potential benefits and drawbacks of several alternative organizational options that have previously been proposed—such as moving all of the National Oceanic and Atmospheric Administration (NOAA) into Interior, or creating an overall department of natural resources, or establishing NOAA as a stand-alone agency. For example, moving all of NOAA into Interior could better integrate natural resource management by bringing many aspects of federal land and ocean management under the same department, but it could diminish attention to ocean issues since NOAA would be competing with other Interior agencies for funding. Overall, officials and stakeholders generally said the drawbacks of reorganizing the agencies outweigh the benefits.

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Abbreviations

FWS Fish and Wildlife Service
NMFS National Marine Fisheries Service
NOAA National Oceanic and Atmospheric Administration

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United States Government Accountability Office
Washington, DC 20548

February 14, 2013

The Honorable Ken Salazar
Secretary of the Interior

The Honorable Rebecca Blank
Acting Secretary and Deputy Secretary of Commerce

The missions of the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) have some broad similarities. NMFS—a component of the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce—manages living marine resources, including federal marine fisheries and certain protected species. To help accomplish this mission, NMFS implements federal laws, conserves and restores coastal and marine habitats, and conducts research to support resource management. Similarly, FWS, within the Department of the Interior, conserves, protects, and enhances fish, wildlife, plants, and their habitats by implementing federal laws, protecting and restoring habitats, and conducting research. These similarities have prompted long-standing questions about whether merging the agencies would improve the efficiency or effectiveness of their programs. Since 1970, dozens of proposals to reorganize the agencies have been suggested by Congress, the President, and presidential advisory councils.

Against this backdrop, this report examines (1) the extent to which NMFS and FWS share key programmatic responsibilities, (2) potential benefits and drawbacks identified by agency officials and stakeholders of merging NMFS into FWS, and (3) potential benefits and drawbacks identified by agency officials and stakeholders of alternative organizational options. We prepared this report under the Comptroller General's authority to conduct evaluations on his own initiative. We initiated this work in the 112th Congress at the request of the Ranking Member of the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security; Committee on Homeland Security and Governmental Affairs, who did not return to the 113th Congress.

To determine the extent to which NMFS and FWS share key programmatic activities, we reviewed pertinent laws and agency documents, including strategic plans and budget documents. To obtain additional information about similarities and differences in the agencies' programs, we interviewed agency leadership and officials responsible for

key agency programs. To identify potential benefits and drawbacks of merging NMFS into FWS and alternative organizational options, we conducted 97 semistructured interviews with current and former agency officials and a wide array of the agencies' stakeholders. Current agency officials we interviewed include those with Commerce, Interior, NOAA, NMFS, and FWS. To gain a broader perspective on these issues, we interviewed Secretaries of Commerce and the Interior and heads of NOAA, NMFS, and FWS from each of the two previous administrations. We also interviewed a nonprobability sample of the agencies' stakeholders, selected to represent a wide range of interests and different types of engagement with the agencies. Stakeholders we interviewed included officials from four of the eight regional fishery management councils and from state fish and wildlife agencies, as well as from nongovernmental organizations representing the fishing industry and conservation interests. Appendix I lists the former agency leaders and stakeholders we interviewed. The interviewees provided varied perspectives on the potential benefits and drawbacks of reorganizing the agencies. We performed a content analysis of their responses to our interview questions and identified several broad categories of potential benefits and drawbacks. Because we used a nonprobability sample, the information we obtained from these interviews cannot be generalized to all current and former agency officials and stakeholders. As such, we do not report the number of respondents who identified specific potential benefits and drawbacks; rather we report all issues as identified by "some" officials and stakeholders. To determine the alternative organizational options to discuss in our interviews with officials and stakeholders, we reviewed previous reorganization proposals involving NMFS and FWS and identified the options most commonly proposed.

To obtain regional perspectives on these issues, we conducted site visits to two areas of the country—New England and the Pacific Northwest—meeting with agency officials and stakeholders in Boston, Gloucester, and Hadley, Massachusetts; Portland, Oregon; and Olympia and Seattle, Washington. We selected these locations to provide geographical variation and to obtain additional information about some of the key challenges facing the agencies. For example, we selected New England in part because of recent concerns in that region over NMFS's role in managing marine fisheries and because Atlantic salmon is one of the few species for which NMFS and FWS share Endangered Species Act responsibilities. We selected the Pacific Northwest in part because the presence in many of the region's watersheds of Pacific salmon listed under the Endangered Species Act means that many projects, such as

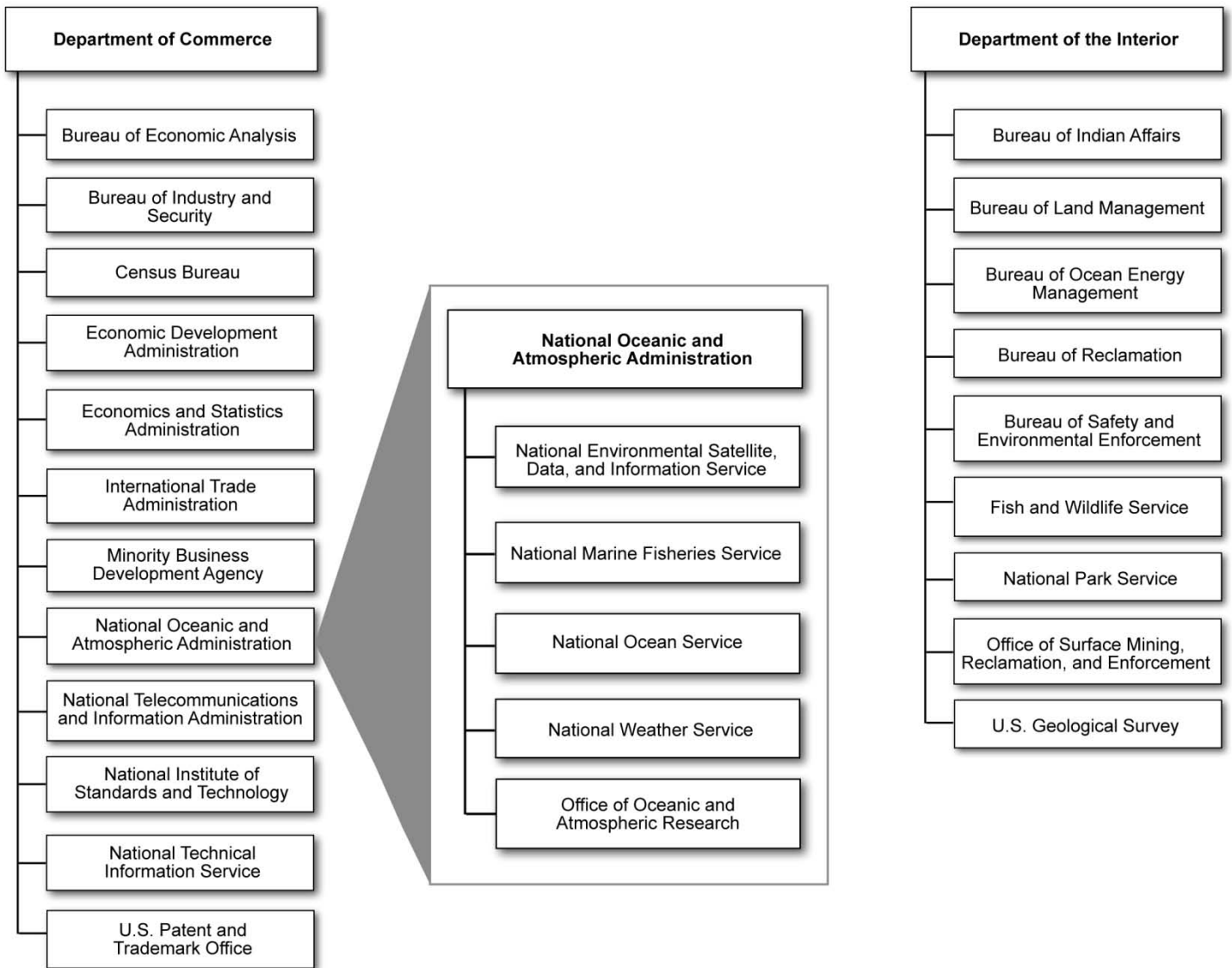
building a road or a dam, may affect species managed by both NMFS and FWS and therefore need to be reviewed by both agencies.

We conducted this performance audit from February 2012 to February 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

In fiscal year 2012, NMFS's budget was approximately \$880 million, which was about 17 percent of NOAA's overall budget. NMFS is the third-largest component of NOAA by budget, after the National Environmental Satellite, Data, and Information Service and the National Weather Service. In fiscal year 2012, FWS's budget was about \$1.5 billion, which was about 13 percent of Interior's overall budget. FWS is the third-largest component of Interior, after the National Park Service and the Bureau of Indian Affairs. Figure 1 lists the component agencies within Commerce and Interior.

Figure 1: Component Agencies within Commerce and Interior



Source: GAO.

NMFS is headquartered in Silver Spring, Maryland, and has over 20 laboratories, regional offices, and other facilities nationwide. NMFS employs a staff of approximately 2,800, including biologists, social scientists, economists, and law enforcement officers. FWS is headquartered in Washington, D.C., and Arlington, Virginia, and has more than 700 management units across the country, including more than 550

national wildlife refuges and 80 field stations.¹ FWS employs approximately 9,500 staff across the country, with expertise in such disciplines as biology, the social sciences, economics, and law enforcement.

Federal fish and wildlife programs have been reorganized several times. The Fish and Wildlife Service traces its roots back to two entities: the U.S. Fish Commission and the Office of Economic Ornithology and Mammalogy. The U.S. Fish Commission was established in 1871 as an independent agency to address a decline in edible fish. In 1903, it became the Bureau of Fisheries and was transferred to the Department of Commerce and Labor; it was later retained as part of the Department of Commerce. The Office of Economic Ornithology and Mammalogy was established as part of the Department of Agriculture in 1886 and renamed the Bureau of Biological Survey in 1905. Its purposes were, among other things, to investigate the food habits, distribution, and migrations of North American birds and mammals in relation to agriculture, horticulture, and forestry. The Bureau of Fisheries and the Bureau of Biological Survey were transferred to the Department of the Interior in 1939² and combined into FWS in 1940;³ both of these moves were achieved by executive order. In 1956, Congress established FWS in statute and divided the agency into two bureaus: the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries. NMFS was established in 1970, when the Bureau of Commercial Fisheries was transferred to the Department of Commerce and made a part of NOAA, a newly established agency.⁴ NOAA was created largely in response to the recommendations of the Stratton Commission, which called for establishment of a new agency to administer the nation's civilian marine and atmospheric programs.

¹FWS's field stations, called ecological services field offices, generally work on activities involving endangered species, migratory birds, and habitat conservation.

²Reorganization Plan No. 2 of 1939, 3 C.F.R. 254 1939, *reprinted in* 5 U.S.C. app. at 73 (2006) *and in* 53 Stat. 1423 (1939).

³Reorganization Plan No. 3 of 1940, 3 C.F.R. 1298 (1940), *reprinted in* 5 U.S.C. 1441 (2006) *and in* 54 Stat. 1231 (1940).

⁴Reorganization Plan No. 4 of 1970, 3 C.F.R. (1970), *reprinted in* 5 U.S.C. app. at 1557 (2006) *and in* 84 Stat. 2090 (1970).

Since 1970, Congress, the President, and presidential advisory councils have put forth dozens of reorganization proposals involving NMFS, FWS, or both. The proposals were generally intended to improve the effectiveness or efficiency of natural resource management; none of them were implemented. These proposals include:

- *Merging NMFS into FWS.* At least two bills have been introduced to move all or part of NMFS into FWS. For example, in 1993, a bill was introduced that would have moved the functions performed by NMFS and other NOAA offices to FWS.⁵ Another bill was introduced 2 years later that would have, among other actions, transferred NMFS's science functions to FWS, enforcement functions to the Secretary of Transportation, and seafood inspection functions to the Secretary of Agriculture.⁶
- *Moving NOAA into Interior.* In 2004, a bill was introduced that would have moved NOAA from Commerce to Interior.⁷ More recently, as a part of a larger initiative to reorganize federal business- and trade-related agencies, the Obama administration in 2012 proposed moving NOAA from Commerce to Interior.
- *Establishing a department of natural resources.* Numerous proposals have been put forth to establish a department housing federal natural resource agencies within a single department. For example, in 1979, the Carter administration proposed creating a new Department of Natural Resources, which would have combined a number of agencies, including NOAA, the Forest Service, and a number of programs from the Department of the Interior.⁸
- *Establishing NOAA as a stand-alone agency.* Other proposals have sought to separate NOAA from Commerce and establish it as a stand-alone agency. For example, in 1983, a bill was introduced to establish

⁵Ocean and Coastal Management Improvement Act of 1993, H.R. 2761, 103rd Cong. (1993).

⁶Department of Commerce Dismantling Act, H.R. 1756, 104th Cong. (1995).

⁷Weather and Oceans Resources Realignment Act, H.R. 4368, 108th Cong. (2004).

⁸Office of Management and Budget, *President's Reorganization Project: Report on Reorganization Study of Natural Resource Functions* (Washington, D.C.: June 1979).

NOAA as an independent agency.⁹ In addition, in 2003, the Pew Oceans Commission proposed establishing an independent ocean agency that would have consolidated many ocean and coastal programs—including those currently located in NOAA, the Environmental Protection Agency, the Department of Agriculture, and the Army Corps of Engineers.¹⁰

- *Other proposals to reorganize certain NMFS and FWS responsibilities.* Other proposals have aimed to reorganize, transfer, or consolidate the agencies' responsibilities in such areas as endangered species management. For example, a 1998 bill proposed eliminating the Secretary of Commerce's role in implementing and enforcing the Endangered Species Act by transferring Commerce's responsibilities under the act to Interior.¹¹ In addition, another proposal, put forth by the American Fisheries Society in 1986, suggested creating a federal fishery agency, which would have consolidated NMFS's and FWS's fishery management functions.¹²

In addition, proposals have also been made to strengthen NOAA's existing organizational structure. For example, in 2004, the U.S. Commission on Ocean Policy recommended creating an organic act for NOAA to codify its mission in law.¹³ Following the commission's recommendations, a bill was introduced proposing to establish an organic act for NOAA, but it did not become law.¹⁴

Theories of organizational change in the federal government have generally had two broad, competing themes, as described in a 2009 GAO

⁹National Oceanic and Atmospheric Administration Organic Act, H.R. 3381, 98th Cong. (1983).

¹⁰Pew Oceans Commission, *America's Living Oceans: Charting a Course for Sea Change* (Arlington, VA: May 2003).

¹¹Endangered Species Consolidation Act, H.R. 4335, 105th Cong. (1998).

¹²American Fisheries Society, "Summary Report and Recommendations on Federal Fisheries Responsibilities," *Fisheries*, vol. 11, no. 4, July-August 1986.

¹³U.S. Commission on Ocean Policy, *An Ocean Blueprint for the 21st Century* (Washington, D.C.: 2004).

¹⁴National Oceanic and Atmospheric Administration Organic Act, H.R. 4607, 108th Cong. (2004).

report.¹⁵ On the one hand, some public administration experts, holding that better coordination occurs among agencies within a single department, have recommended reorganizing government to consolidate agencies with similar functions under one large department. For example, to improve the coordination of domestic security matters in response to the September 11, 2001, terrorist attacks, the Department of Homeland Security was created in 2002, consolidating more than 20 agencies or portions of agencies into one new department. On the other hand, recognizing that some crosscutting issues may affect the interests of multiple agencies, other experts have instead recommended working within existing organizational structures to clarify an agency's mission and align program goals and objectives with that mission. We have previously reported that reorganizations and consolidations can be complex and potentially expensive and that decision makers must balance the benefits and costs of any potential consolidation.¹⁶

NMFS and FWS Share Some Programmatic Responsibilities and Differ in Others

NMFS and FWS share certain key programmatic responsibilities, including protecting endangered and threatened species and marine mammals, along with conserving and restoring fish and wildlife habitat; the agencies are generally responsible for species in different habitat types. The agencies also share certain programmatic responsibilities related to law enforcement, scientific research, aquaculture, and international activities. NMFS and FWS also have programmatic responsibilities that are unique to each agency. One of NMFS's key responsibilities is the federal management of marine fisheries, whereas one of FWS's key responsibilities is the management of the National Wildlife Refuge System. Other differences in the agencies' responsibilities include FWS's role in conserving migratory birds and NMFS's management of a voluntary seafood inspection program.

¹⁵GAO, *Federal Land Management: Observations on a Possible Move of the Forest Service into the Department of the Interior*, [GAO-09-223](#) (Washington, D.C.: Feb. 11, 2009).

¹⁶GAO, *Government Efficiency and Effectiveness: Opportunities for Improvement and Considerations for Restructuring*, [GAO-12-454T](#) (Washington, D.C.: Mar. 21, 2012), and GAO, *Streamlining Government: Questions to Consider When Evaluating Proposals to Consolidate Physical Infrastructure and Management Functions*, [GAO-12-542](#) (Washington, D.C.: May 23, 2012).

Protection of Endangered and Threatened Species and Marine Mammals

NMFS and FWS both work to protect, conserve, and recover or enhance species under the Endangered Species Act and Marine Mammal Protection Act, but the agencies are generally responsible for species in different habitat types. The agencies, in a 1974 memorandum of understanding, determined that in general NMFS would take responsibility under the Endangered Species Act for marine species, and FWS would take responsibility for species found in fresh water and on land.¹⁷ Responsibility for implementing the Marine Mammal Protection Act is split as well: NMFS has responsibility for most marine mammals (including whales, dolphins, and seals), and FWS is responsible for a few species—such as manatee, polar bear, and walrus—that are generally found close to land.¹⁸ Implementing these laws is an important part of each agency's responsibilities, accounting for roughly one-third of NMFS's fiscal year 2011 budget and roughly one-fifth of FWS's fiscal year 2011 budget.

The agencies carry out their responsibilities for implementing these acts largely independently from each other, but in some circumstances, the agencies have joint responsibility for a species and work together. Specifically, the agencies have agreed to jointly implement the Endangered Species Act for eight species that spend part of their lives in marine waters and part of their lives in fresh water or on land: Atlantic salmon, Gulf sturgeon, and six species of sea turtle.¹⁹ For each of these eight species, the agencies have developed agreements and processes to define each agency's role in implementing the act. In some circumstances, the agencies are both involved in making decisions, and in others the agencies make decisions independently. For example, a statement of cooperation for managing Atlantic salmon outlines that the agencies will both participate in making any decisions related to updating the status of the species. In contrast, the statement of cooperation also

¹⁷Authority for managing species under the Endangered Species Act has been delegated by the Secretary of the Interior to the Director of FWS and by the Secretary of Commerce to NMFS's Assistant Administrator for Fisheries.

¹⁸As of December 2012, FWS manages 1,964 plant and animal species under the Endangered Species Act and 8 species under the Marine Mammal Protection Act. NMFS is responsible for 88 species under the Endangered Species Act and approximately 117 species under the Marine Mammal Protection Act.

¹⁹In the 1974 memorandum of understanding, NMFS and FWS agreed that they would share jurisdiction for those species that did not clearly fit under the jurisdiction of one agency or the other. They agreed to make these determinations on a case-by-case basis.

lists areas where each agency has its own responsibilities: for example, NMFS is responsible for designating critical habitat, and FWS is responsible for maintaining fish hatcheries.²⁰

In addition, NMFS and FWS have taken steps to coordinate certain aspects of their implementation of the Endangered Species Act and Marine Mammal Protection Act. For example:

- The agencies are working together to identify differences in the agencies' regulations, policies, and guidance related to the Endangered Species Act and are proposing changes to make the agencies' approaches more similar. For example, in August 2012, the agencies jointly published a proposed rule, stating that the agencies are to release the results of their economic impact analyses—required before designating critical habitat for listed species—concurrently with releasing the draft critical habitat designation for public comment.²¹ Under its current approach, FWS conducts the economic impact analysis after it publishes a proposed critical habitat designation for public comment and releases the results of the economic analysis several months later. NMFS follows a process similar to the one in the proposed rule. The revision is intended to align FWS's approach with NMFS's and to bring greater transparency to the overall process of designating critical habitat.
- Similarly, the agencies are developing a joint policy interpreting “significant portion of its range”—a phrase used in the Endangered Species Act's definitions of endangered and threatened species.²² NMFS has never formally interpreted the phrase, and an earlier FWS

²⁰Under the Endangered Species Act, NMFS and FWS must generally designate critical habitat for any species listed as endangered or threatened. Critical habitat includes (1) specific areas occupied by species protected under the act on which are found physical or biological features essential to the conservation of the species and that may require special management considerations or protection and (2) specific areas that may not be occupied by the species at the time it is listed under the act but that are essential for conserving the species.

²¹Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Impact Analyses of Critical Habitat, 77 Fed. Reg. 51,503 (Aug. 24, 2012).

²²The act states that a species is endangered if it is in danger of extinction throughout all or a significant portion of its range; it also states that a threatened species is one that is likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

interpretation was rejected by the courts and subsequently withdrawn. The two agencies recently issued a draft policy interpreting the phrase that, according to the agencies, is consistent with NMFS's existing informal interpretation.²³

- NMFS and FWS joined with an association of state fish and wildlife agencies in 2010 in forming a federal-state Endangered Species Act joint task force, which is examining ways to facilitate effective cooperation among NMFS, FWS, and the states. Among other actions, this task force has formed a working group that is exploring options for improving the consistency of cooperative agreements entered into with states by NMFS and FWS.

Habitat Conservation and Restoration for Fish and Wildlife

NMFS and FWS also both undertake a variety of actions to restore and conserve habitat for the species they are responsible for. The agencies' efforts often focus on different habitat types, NMFS in marine environments and FWS in terrestrial and freshwater environments. Nonetheless, according to NMFS and FWS officials, in some cases, such as on coastlines and in estuaries, both agencies may have responsibilities for the same habitat and may work together to improve habitat for species of interest to both agencies. Because much fish and wildlife habitat is partly or entirely on land that is privately owned, the agencies provide funding and technical assistance to state and local governments and to private, nonprofit, and other entities to conserve and restore habitat. For example, through its Community-Based Restoration Program, NMFS provides approximately \$8 million annually to local partners to restore coastal and estuarine ecosystems; according to agency documents, the program has funded habitat restoration projects in 26 states and enhanced more than 69,000 acres of habitat. In a series of projects under this program, for example, NMFS worked with and provided funds to the Washington Department of Fish and Wildlife and a local government group to protect and restore over 1,000 acres of habitat in Puget Sound for juvenile Pacific salmon. Similarly, FWS's Partners for Fish and Wildlife Program has funded restoration of wetland and upland habitat on nearly 4 million acres of private land; FWS has also helped fund state fish and wildlife agencies to protect and restore habitat for

²³Draft Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species," 76 Fed. Reg. 76,987 (Dec. 9, 2011).

recreation, such as fishing and hunting. According to FWS, over the past 75 years, it has provided about \$14.3 billion to the states for these purposes.

In environments where the agencies' interests intersect—as they do on coastlines and in estuaries—the agencies have sometimes worked together to help other entities conserve and protect habitat, according to agency officials. NMFS and FWS officials told us that habitat restoration projects are often sponsored by state or local agencies and by nongovernmental organizations and that if a project is intended to benefit habitat of interest to both NMFS and FWS, the sponsoring entity will approach both agencies for funding and technical assistance. If both agencies are involved, NMFS and FWS officials at the local level may work together and with the sponsoring agency to determine each agency's role in a project. This arrangement, officials told us, allows a single project to improve habitat for species of interest to both agencies.

NMFS and FWS are also both involved in assessing damages to natural resources for which they are responsible.²⁴ For example, habitat can be damaged by oil spills and releases of other toxic materials, such as mercury and other contaminants. Under the Comprehensive Environmental Response, Compensation, and Liability Act; the Clean Water Act; and the Oil Pollution Act, NMFS and FWS conduct a variety of activities, including assessing the damage resulting from such releases.²⁵ For example, after the *Deepwater Horizon* drilling rig explosion in April 2010 and the subsequent oil spill in the Gulf of Mexico, both NMFS and FWS—as well as other federal and state agencies—have been assessing damages to natural resources for which they have responsibility. The agencies' initial assessments led to an agreement, in which one of the responsible parties agreed to provide \$1 billion to fund projects to benefit the natural resources damaged by the spill. The agencies are still assessing damages from the spill, which could lead to additional compensation by responsible parties.

²⁴In addition to NMFS, NOAA's National Ocean Service and Office of General Counsel are also involved in assessing and seeking compensation for damages to natural resources. These resources include land, waters, and species within the agencies' respective jurisdictions.

²⁵Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675 (2006); Clean Water Act, 33 U.S.C. §§ 1251-1387; and Oil Pollution Act, 33 U.S.C. §§ 2701-2761 (2006).

In addition, NMFS and FWS are each involved in addressing the effects of certain types of development on fish and wildlife habitat. For example, hydroelectric dams can affect fish habitat by altering a river's seasonal flow patterns, ability to transport sediment, and temperature. Under the Federal Power Act, the agencies issue license conditions to protect federal lands and prescriptions to assist fish passage on these projects.²⁶ These provisions include requirements for maintaining minimum stream flows or spilling water over dams during certain times of the year to avoid harm to young fish by the dams' turbines. In addition, many federal development projects—such as building a road or a dam—can affect habitat for fish and wildlife species protected under the Endangered Species Act. In such cases, federal agencies carrying out such projects must consult with NMFS, FWS, or both; NMFS and/or FWS may in turn identify measures that the federal agencies can take to mitigate these effects. Similarly, federal projects can also affect habitat important to sustaining fisheries. Under the Magnuson-Stevens Act, federal agencies must consult with NMFS on actions that may adversely affect “essential fish habitat”—habitat necessary to fish for spawning, breeding, feeding or growing to maturity—and NMFS must recommend measures that can be taken by federal agencies to conserve the habitat.²⁷ For example, if the Army Corps of Engineers proposed dredging a river channel to improve navigation, NMFS would review the project to determine if it would have a negative impact on designated essential fish habitat and, if so, would recommend steps—such as a buffer area around certain areas or restricting dredging activities.

Law Enforcement

NMFS and FWS both have law enforcement programs to help protect the resources under each agency's jurisdiction. For example, NMFS enforces fishery regulations because one of that agency's key programmatic responsibilities is federal management of marine fisheries, whereas FWS enforces migratory bird hunting regulations because conservation of migratory birds and their habitats is one of its key responsibilities. FWS also enforces federal laws on the millions of acres of federal lands the agency is responsible for managing. In some cases, the two agencies enforce the same laws, such as the Endangered Species Act. In such cases, the agencies enforce these laws as they apply to the species each

²⁶16 U.S.C. §§ 791-830 (2006).

²⁷16 U.S.C. §§ 1802(10) and 1855(b) (2006); 50 C.F.R. § 600.920 (2012).

is responsible for, which has led to NMFS's enforcing the act predominantly in marine environments and FWS in terrestrial and freshwater environments. FWS also inspects commercial cargo shipments and passengers entering the United States, stationing officers at selected ports and along the border with Canada and Mexico to ensure compliance with laws and treaties regarding wildlife trade; FWS and NMFS officials told us that FWS notifies NMFS when these inspections identify issues related to species of concern to NMFS. NMFS officials told us that the agency does not have a dedicated border presence but that its officers routinely work with U.S. Customs and Border Protection to inspect cargo and passengers entering the United States to enforce compliance with domestic laws and international treaties regarding seafood and wildlife trade for species within the scope of agency jurisdiction.

Scientific Research

NMFS and FWS both conduct scientific research to develop information needed to help the agencies manage many of their programs. For example, among other areas of research, NMFS collects data on the cumulative weight of species caught in marine fisheries in different regions of the country and develops scientific models to estimate the health of fish populations, information NMFS uses to make decisions about how to manage the fisheries. Similarly, among FWS's research activities are efforts to collect and analyze data on the health of migratory bird populations, information it uses to manage hunting.

NMFS's science program is much larger than FWS's. NMFS officials estimated the agency spent approximately \$298 million on scientific activities in fiscal year 2011, almost one-third of its total budget; in contrast, FWS officials estimated the agency spent approximately \$62 million on scientific activities in fiscal year 2011, about 4 percent of the agency's budget.²⁸ The agencies also have structured their scientific research programs differently. NMFS has established an Office of Science and Technology to oversee its science program and six regional science centers, which conduct research to support NMFS's management of fisheries and other marine resources. FWS has integrated its scientific

²⁸NMFS and FWS officials estimated the amount their respective agency spent on scientific research because research is not designated as a separate budgetary line item. FWS's estimate includes approximately \$15 million FWS used to acquire scientific information from the U.S. Geological Survey, a separate agency within Interior that also conducts science that supports FWS management.

research into various programmatic activities, such as the endangered species and migratory bird programs, rather than having a separate science research program.

Aquaculture

NMFS and FWS both have various responsibilities related to aquaculture operations, such as fish and shellfish farms, although other agencies also play an important role. For example, aquaculture in the United States generally occurs in nearshore marine waters or onshore (such as in ponds or tanks), under the jurisdiction of individual states. Nevertheless, aquaculture operations may also need to obtain federal permits: operations that place structures in navigable waters may need to obtain permits from the Army Corps of Engineers, and operations that discharge pollutants into waters of the United States may need to obtain permits from the Environmental Protection Agency.²⁹ NMFS and FWS both consult with the state and federal agencies involved in permitting aquaculture facilities to reduce the effect these facilities have on the fish populations the agencies are responsible for managing. NMFS has a more direct role in relation to offshore marine aquaculture—managing such activities in federal waters, in consultation with stakeholders, under the Magnuson-Stevens Act. NOAA also reports that it is working with stakeholders to develop regulations for aquaculture in federal waters.³⁰ Both agencies also conduct or fund research to develop and improve techniques and equipment that can help advance the aquaculture industry. FWS has a substantial hatchery program as well, operating 72 national fish hatcheries to help, among other purposes, ensure the recovery of threatened or endangered species; restore native fish stocks; and mitigate the effects of federal water development projects, such as hydroelectric dams and irrigation projects. NMFS helps fund some of these hatcheries.³¹

²⁹Under the Clean Water Act, the Environmental Protection Agency may authorize states to issue permits under the act; thus, aquaculture operations may need to obtain these permits from state agencies.

³⁰Federal waters generally extend from 3 to 200 nautical miles offshore, an area known as the Exclusive Economic Zone.

³¹In recent years, NMFS has provided approximately \$16 million annually under the Mitchell Act (16 U.S.C. §§ 755-757 (2006)) to fund hatcheries and other projects, such as irrigation diversion screens, to partially compensate for fish and habitat losses caused by construction of federal dams on the Columbia River. In fiscal year 2012, more than \$3 million of these funds supported FWS hatchery programs.

International Activities

NMFS and FWS both undertake a variety of international activities related to the species they manage. Both agencies work with the Department of State and other federal agencies to administer international treaties related to fish and wildlife. For example, FWS participates in international discussions determining which species warrant protection under the Convention on International Trade in Endangered Species,³² an international agreement intended to ensure that international trade in certain plants and animals does not threaten their survival. Similarly, NMFS participates in international discussions—for example, through the International Convention for the Conservation of Atlantic Tunas—related to the conservation and management of highly migratory fish stocks. Both agencies also assist other countries, for example by providing technical expertise or funding for projects to protect or enhance wildlife and habitat.

Marine Fisheries

One of the key differences between the agencies is that NMFS is the principal federal agency managing commercial and recreational marine fisheries in federal waters, whereas FWS's role in these fisheries is primarily advisory. Managing these fisheries is a major component of NMFS's programmatic responsibilities, constituting approximately one-fifth of its annual budget. The Magnuson-Stevens Act establishes the framework for managing fisheries in federal waters. Under the act, NMFS and eight regional fishery management councils play critical roles in fishery management. NMFS is a voting member on each fishery management council. NMFS also furnishes data and scientific analyses critical to the fishery management councils' decision making. For example, NMFS's regional science centers assess the health of various fish stocks, information the councils use in setting catch limits. NMFS also has seats on a number of committees established by the councils to examine specific topics, such as scientific information or management of particular fishery sectors. Each fishery management council is responsible for developing a fishery management plan for each fishery in its region that requires conservation and management.³³ The Secretary of Commerce reviews the plans to determine if they comply with Magnuson-

³²According to NMFS, the agency works with FWS to develop the U.S. position on species protected under the convention for which NMFS has management responsibilities.

³³The Magnuson-Stevens Act defines fishery as "one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics and any fishing for such stocks."

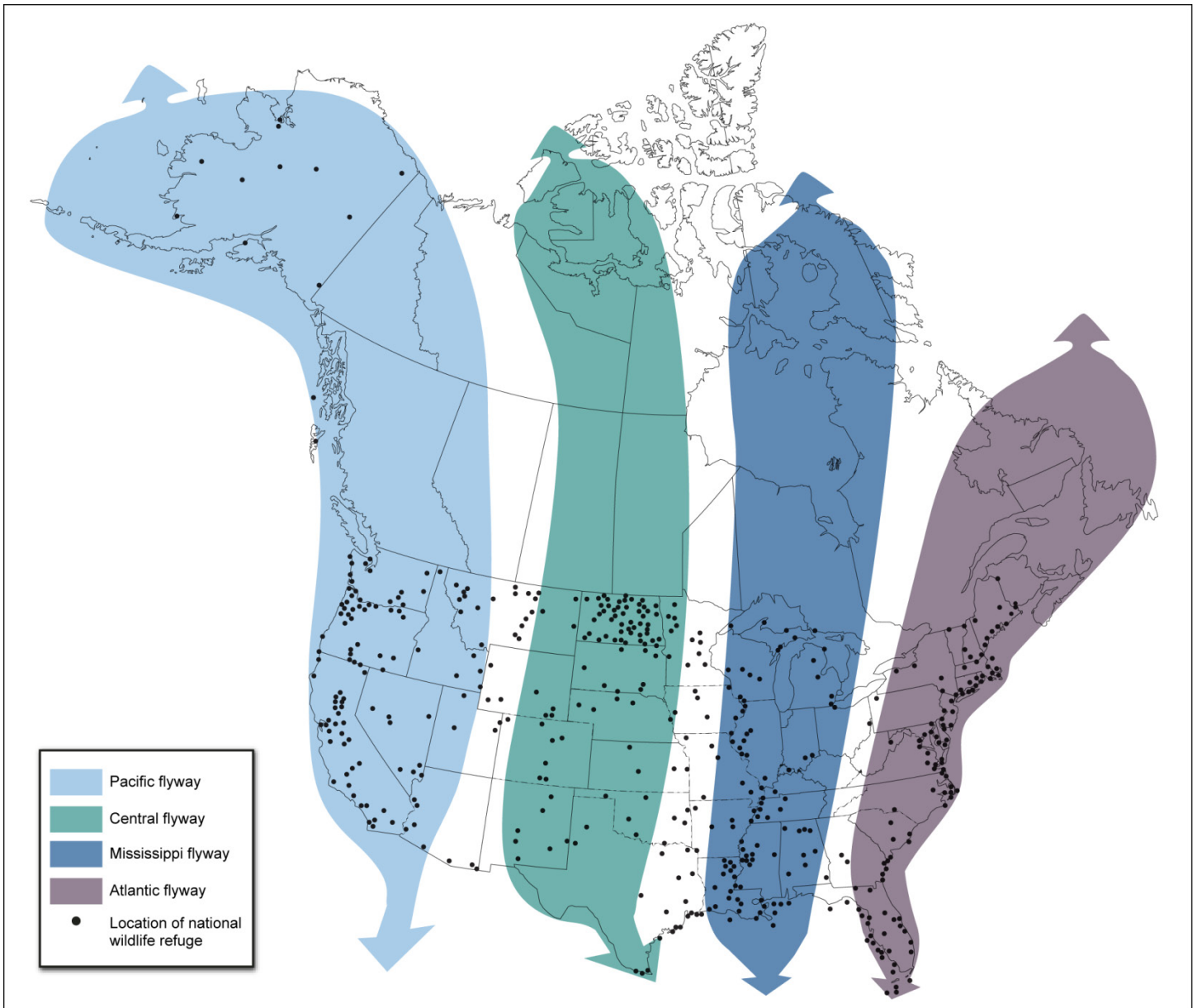
Stevens Act requirements and other applicable law, and, if so, approves them. In contrast, FWS plays primarily an advisory role in federal fishery management. A nonvoting member on the regional fishery management councils, FWS advises the councils on issues such as reducing the impact of fisheries on migratory birds and certain marine mammals. For some of the councils, FWS also sits on advisory committees, such as the habitat committee, which makes recommendations to the council on how to resolve habitat issues.

NMFS and FWS are also involved in supporting certain state coastal fishery programs. Specifically, the Atlantic States Marine Fisheries Commission consists mostly of representatives of the 15 Atlantic coast states, but NMFS and FWS are also voting members. The commission develops and approves fishery management plans—similar to those developed by the regional councils for federal fisheries—for stocks that move, or are broadly distributed, within the waters of two or more states or waters under both federal and state jurisdiction.

National Wildlife Refuge System

Another key difference between NMFS and FWS is that FWS manages the National Wildlife Refuge System, whereas NMFS generally does not have land management responsibilities. FWS has jurisdiction over approximately 150 million acres of fish and wildlife habitat through its management of more than 550 national wildlife refuges in the National Wildlife Refuge System, whose management is one of the agency's core responsibilities and constitutes approximately one-third of its annual budget. Although NMFS also has responsibilities related to habitat, it generally does not directly manage lands or waters specifically for that purpose. The primary purpose of the National Wildlife Refuge System is to provide for the conservation; management; and, where appropriate, restoration of fish, wildlife, and plants and their habitats. The refuge system includes lands and waters representing a full range of habitat types, including wetlands, grasslands, forests, and coastal and marine areas. These areas provide habitat for hundreds of species of birds, mammals, and fish, including more than 250 species listed as threatened or endangered under the Endangered Species Act. For example, more than 200 wildlife refuges have been established specifically to protect breeding or wintering habitat for migratory birds, with many refuges strategically located along migratory bird corridors (known as "flyways") to offer resting and feeding areas to long-distance migrants (see fig. 2). In addition, approximately 180 wildlife refuges protect sensitive oceanic, coastal, and estuarine areas that are critical nurseries for many fisheries.

Figure 2: United States Flyways, with Locations of National Wildlife Refuges



Sources: GAO and FWS; Map Resources (map).

Migratory Birds

In addition to stewardship over the national wildlife refuges, the explicit conservation of migratory birds and their habitats is another key FWS responsibility. The agency monitors and assesses the health of migratory bird populations and evaluates the effects of human and environmental factors on bird population dynamics and distribution. Many migratory birds are hunted, and under the Migratory Bird Treaty Act, FWS is responsible for establishing the length of hunting seasons and limits on the number of birds hunters may take.³⁴ FWS also implements other laws pertaining to migratory birds, including the Fish and Wildlife Conservation Act, the Bald and Golden Eagle Protection Act of 1940, and the Neotropical Migratory Bird Conservation Improvement Act of 2000.³⁵ In addition, FWS provides information to help businesses avert or minimize the impacts on migratory birds of communication towers, wind turbines, and fishing.

Although conserving migratory birds is a key FWS responsibility, NMFS also has a responsibility to reduce the effect of its management actions, in particular those related to commercial fisheries, on migratory bird populations. Specifically, because the actions of many federal agencies can affect migratory bird populations, Executive Order 13186 directs all federal agencies that take actions that have, or are likely to have, a measurable negative effect on migratory birds to develop and implement a memorandum of understanding with FWS to promote the conservation of migratory bird populations.³⁶ NMFS and FWS described their respective responsibilities for migratory birds in a June 2012 memorandum of understanding. For example, one of NMFS's responsibilities is to integrate principles for migratory bird conservation into its fisheries and other management plans and, to the extent practicable, to avoid or minimize the adverse effects of its actions on migratory birds. One of FWS's responsibilities is to inform NMFS and the regional fishery management councils of the potential effects that fishery practices may have on migratory birds and of steps to reduce those effects. The 2006 amendments to the Magnuson-Stevens Act also direct NMFS to establish a program to reduce the number of seabirds accidentally caught in fishing equipment.

³⁴16 U.S.C. §§ 703-719c (2006).

³⁵16 U.S.C. §§ 2901-2912 (2006), 16 U.S.C. §§ 668-668d (2006), and 16 U.S.C. §§ 6101-6109 (2006).

³⁶Exec. Order No. 13,186, 66 Fed. Reg. 3,853 (Jan. 17, 2001).

Fee-for-Service Seafood Inspection

Another difference between NMFS and FWS is that NMFS manages a voluntary seafood inspection program, under which fishing vessels and processors can pay the agency to inspect seafood products and processing facilities. Through this program, NMFS inspects the sanitation of participating vessels and facilities, evaluates the quality and condition of seafood products, and certifies that participating vessels and facilities comply with all applicable food regulations.³⁷ For example, processors can request that NMFS inspect processed seafood products—such as breaded fish sticks—to certify that they contain a specified amount of seafood. This inspection program also facilitates international trade. For example, NMFS can certify that seafood products exported from the United States meet the importing country’s requirements and can offer inspection services to foreign processors and importers to help them meet U.S. regulations and requirements, reducing the likelihood of trade shipments being delayed due to questions about their compliance with import requirements. According to a senior program official, approximately 300 facilities contracted with NMFS for seafood inspection services and paid approximately \$26 million for them in fiscal year 2012.

Officials and Stakeholders Identified Several Potential Benefits and Drawbacks in a Possible Merger of NMFS into FWS

The main potential benefits of merging NMFS into FWS that agency officials and stakeholders identified include improving the effectiveness and efficiency of implementing the Endangered Species Act and Marine Mammal Protection Act, better integrating natural resource management, improving habitat conservation and law enforcement programs, and realizing cost savings. Officials and stakeholders also cited potential drawbacks, including the potential for a merger to disrupt marine fisheries management, sever existing connections between NMFS and other NOAA offices, result in transition costs, and broadly disrupt agency programs in the short term. In many cases, however, officials and stakeholders differed in their views, both on whether they saw a potential merger outcome as a benefit or a drawback and on the likelihood and importance of that outcome. Previous GAO work has identified a number of key management practices—including ensuring that top leadership drives a transformation and establishing clear goals to guide the transformation—that could help mitigate the program disruptions and transition costs that inevitably accompany reorganization.

³⁷NMFS does not have oversight responsibility for ensuring the safety of domestic or imported seafood. This responsibility lies with the Food and Drug Administration.

Potential to Improve Implementation of the Endangered Species Act and Marine Mammal Protection Act

A key potential benefit of merging the agencies, some officials and stakeholders said, is that doing so could improve the effectiveness and efficiency of the agencies' implementation of the Endangered Species Act. These officials and stakeholders identified several ways that merging the agencies could yield such possible benefits, including the following:

- *Better protection for jointly managed threatened and endangered species.* According to agency officials, joint management of certain species by NMFS and FWS has in some cases not been as effective as it might be because neither agency has sole responsibility for the overall well-being of the species in question. For example, the agencies have split their responsibilities for managing sea turtles so that NMFS is responsible for the animals while they are in the marine environment, and FWS is responsible for them on land. As we reported in 2012,³⁸ one effect of this division is that the agencies make some decisions affecting turtles, such as authorizing the harassment, harming, or killing of turtles (known as take), without consistently sharing information about their decisions.³⁹ According to sea turtle experts interviewed for that report, each agency may therefore be authorizing sea turtle take without knowing how much its counterpart has authorized, and the combined allowance may be harming threatened or endangered sea turtles and delaying their recovery. According to a former FWS director, it is important for one agency to have responsibility for monitoring cumulative impacts on species to effectively conserve and protect them under the act.
- *Less need for interagency coordination.* Agency officials also noted that in some cases they currently spend a significant amount of time coordinating actions between the two agencies, and in such cases, it could be more efficient if a single agency were implementing the act. For example, for the eight species NMFS and FWS manage jointly under the Endangered Species Act, program officials told us, it takes longer to make some decisions regarding species management because both agencies need to agree. Moreover, if the two agencies

³⁸GAO, *Endangered Sea Turtles: Better Coordination, Data Collection, and Planning Could Improve Federal Protection and Recovery Efforts*, [GAO-12-242](#) (Washington, D.C.: Jan. 31, 2012).

³⁹The Endangered Species Act generally prohibits the “take” of endangered species, where take is defined as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19) (2006).

disagree on a course of action, no single decision maker can hear both sides and ultimately make a choice, which, officials said, can lead to months of high-level negotiations to resolve. Similarly, program officials told us it was important that they coordinate the agencies' reviews of projects affecting multiple species, such as building a road or dam, where one or more of the species are managed by NMFS and the other(s) by FWS.⁴⁰ These reviews may direct the project sponsor to take specified measures to mitigate the impact of the project on listed species. Some stakeholders told us that when the agencies do not work together when developing these mitigation requirements, NMFS and FWS may provide project sponsors with conflicting requirements for their projects, requiring the sponsors to go back to the agencies so they can resolve the conflict. NMFS and FWS officials told us they often work with each other to ensure that their mitigation measures do not conflict, but they do not always do so. As a senior NMFS official explained, the agencies may not coordinate with each other when they put a higher priority on meeting deadlines for completing their own reviews over such coordination.

- *Streamlined process for the public.* Some officials and stakeholders told us that having a single agency implementing the Endangered Species Act could also be more efficient and simpler for the public. Aquaculture and timber industry stakeholders we spoke with told us they are frustrated by the requirement to consult separately with each agency if a project affects species managed by both agencies. Some senior agency officials and stakeholders said a significant potential benefit of merging NMFS into FWS is that it could create “one-stop shopping,” where permittees could go to one agency for all their species-related approvals, simplifying and streamlining the permitting process.

Some officials and stakeholders also noted that merging the agencies would likely lead to greater consistency in how the Endangered Species Act and Marine Mammal Protection Act were implemented, which could help ensure that the agencies apply protections under the acts similarly. Officials and stakeholders identified several instances where NMFS and FWS had adopted different regulations, policies, and guidance, which

⁴⁰The Endangered Species Act requires federal agencies to consult with FWS, NMFS, or both agencies when their actions may affect listed species or critical habitat.

may have led to species' receiving different levels of protection based on which agency had jurisdiction over that species, rather than the species' needs. For example:

- FWS has adopted a default rule under the Endangered Species Act that automatically extends certain protections to species listed as threatened that are afforded to species listed as endangered, unless the agency decides otherwise. In contrast, NMFS decides whether to extend such protections on a case-by-case basis.⁴¹ As a result, threatened species managed by FWS automatically receive protections—such as requiring a permit to take the species for research and conservation purposes—not automatically received by threatened species managed by NMFS. For example, a senior NMFS official told us, NMFS often allows the taking of threatened species for these purposes without a permit. Some stakeholders said they believe FWS's approach leads to an "overregulation" of threatened species because these species may be receiving more protections than are biologically necessary. A senior FWS official told us the agency agrees with this assessment for some species and that instead of automatically providing threatened species with the same level of protection as endangered species, it plans to take the individual needs of each threatened species into account when determining the appropriate level of protection, an approach more in line with NMFS's.
- NMFS and FWS have taken different approaches to agreements they sign with states to cooperatively manage species. In accordance with the Endangered Species Act, the agencies can sign cooperative agreements with states that have programs to help conserve threatened and endangered species.⁴² FWS's agreements generally allow state employees to take endangered species without a permit for certain conservation activities they perform in their official duties, such as conducting research. NMFS's state agreements, however, do not allow state employees to take endangered species without obtaining approval. According to a senior NMFS official, NMFS's

⁴¹The Endangered Species Act allows the agencies to extend some required protections for endangered species to threatened species.

⁴²Under section 6 of the Endangered Species Act, FWS and NMFS are authorized to enter into cooperative agreements with states that establish and maintain an "adequate and active" program for the conservation of endangered and threatened species.

approach offers a higher level of protection to species because each instance of take is reviewed and subject to approval or rejection.

- NMFS and FWS authorize take of marine mammals differently in certain circumstances under the Marine Mammal Protection Act. According to FWS officials, the agency tends to authorize incidental take—take that is unintentional but expected—of marine mammals over a 5-year period for some activities, most notably for oil and gas drilling in the Arctic, whereas NMFS officials said they authorize take for similar activities in the Arctic annually.⁴³ FWS officials told us that they believe authorizing these oil and gas activities over a 5-year period provides a more comprehensive picture of the take that may occur of the mammals FWS manages in the area, including polar bears and walrus. These officials also noted that the 5-year approach is more efficient. NMFS officials told us they agreed with this assessment, but they said that authorizing take annually also has advantages: it allows NMFS to conduct a more detailed analysis of the activities expected to affect the marine mammals it manages—primarily whales, dolphins, and seals—in a specific location in a given year. They said that this level of detail is especially important in the Arctic, where offshore oil and gas exploration is not limited to a single area and varies significantly from year to year.

Some officials and stakeholders, however, told us that they did not believe that merging the agencies would substantially improve the agencies' implementation of the two acts. These officials and stakeholders noted that eliminating interagency coordination when evaluating the impact of a proposed project on multiple species may not achieve significant efficiencies. For example, agency officials and stakeholders explained that many projects in the Pacific Northwest affect multiple listed species—including salmon, bull trout, and spotted owls—and determining how to best minimize effects of a project on each of these species and their different habitats is time-consuming regardless of whether one or two agencies is involved. Moreover, some agency officials said they did not believe a merger would make the joint management of species more effective. They said that having two agencies implement the

⁴³Under the act, agency officials may, at the request of citizens seeking to engage in an activity that may result in the incidental take of a marine mammal, issue one of two types of authorization for take that meets certain criteria: (1) a 5-year authorization for any type of incidental take if the take meets certain criteria or (2) a 1-year authorization limited to incidental harassment.

Endangered Species Act provides certain benefits that could be lost if the agencies merged, such as bringing in different perspectives and avoiding “group think” when considering major decisions.

Potential to Better Integrate Natural Resource Management

Officials and stakeholders told us that another potential benefit of merging NMFS into FWS could be better integrated management of natural resources. According to these officials and stakeholders, placing responsibility in a single agency for considering all species living in the interconnected environments from the mountains to the sea may be preferable to splitting responsibility for species between two agencies according to which habitats the species occupy. Some officials and stakeholders explained that a benefit of an integrated fish and wildlife management agency would be that it could better address large-scale environmental challenges, such as climate change, that are likely to affect many ecosystems across the country. Officials and stakeholders provided some examples of how management of natural resources could be better integrated with a merger, including the following:

- *Facilitating an ecosystem approach to natural resource management.* Some agency officials and stakeholders said that a merger could help managers take more of an ecosystem approach and consider the impact of activities on the health of many species and their habitats across a landscape, instead of considering only those species under their agency’s jurisdiction. Some officials cited FWS’s efforts to develop landscape conservation cooperatives—public-private partnerships that promote conservation planning at a landscape scale—as one initiative that could be expanded to more effectively include marine and shoreline habitats. One senior FWS official explained that FWS staff struggle with including these habitats in the cooperatives because responsibility for many of the species found there lies with NMFS. Although NMFS collaborates with FWS in some of these cooperatives, this official said he believes it would be more efficient to manage a comprehensive cooperative under one agency.
- *Promoting a more holistic approach to managing ocean resources.* Interior and FWS officials explained that bringing NMFS to Interior could help the government manage ocean resources more holistically. For example, Interior, through its Bureau of Ocean Energy Management, manages the exploration and development of offshore mineral resources but, according to a senior Interior official, does not manage many of the species affected by offshore oil, gas, and wind energy development. This official told us that having the agencies

responsible for managing both living and mineral marine resources all located within Interior could help the department better mitigate the effects of offshore development. Similarly, some FWS officials noted, FWS has jurisdiction over migratory seabirds but does not manage marine fisheries. Yet practices some of these fisheries employ—including longline fishing—can harm these birds. FWS works with NMFS and the regional fishery management councils to reduce these impacts, but, the officials said, having one agency responsible for protecting migratory birds and managing fisheries could better ensure that the birds' needs are considered when making management decisions for fisheries.

Some officials and stakeholders told us, however, that they do not believe that integrating the agencies would be beneficial. Some stakeholders said that having NMFS responsible for living marine resources and Interior responsible for offshore energy development gives NMFS an independent voice in assessing the impacts of energy development on living resources. Some stakeholders said NMFS's location in Commerce means that if a proposed project would harm living marine resources, NMFS can seek to mitigate the project's effects, or even oppose the project, more easily than if the agency were part of Interior.

Potential to Improve Habitat Conservation Programs

Officials and stakeholders told us that merging NMFS into FWS could help the agencies improve how they prioritize and coordinate their habitat conservation and restoration efforts, which could help ensure that the agencies focus their limited resources on the projects that provide the most benefits. NMFS and FWS habitat program officials told us that although the agencies coordinate their work in several forums, the agencies generally work independently in identifying, selecting, and undertaking habitat projects.⁴⁴ Program officials said that by not working together in habitat types of common interest, such as estuaries and coastlines, the agencies have missed opportunities to identify potential habitat conservation and restoration projects that would provide more overall benefits to fish and wildlife species.

⁴⁴Forums where NMFS and FWS work together to conserve and restore habitat include the National Fish Habitat Partnership and the Estuary Habitat Restoration Council.

Potential to Improve Law Enforcement Programs

Some officials and stakeholders also said that merging NMFS into FWS could improve the effectiveness of the agencies' law enforcement programs. Specifically, officials and stakeholders said that merging the agencies' law enforcement programs, which would bring a larger number of law enforcement officers together under a single agency, could make it easier to mobilize officers to conduct long-term investigations. They noted that some complex investigations may occupy one or more officers for many weeks or months and that it can be difficult to assign officers to such investigations if the agency has a small number of officers in a particular geographic area. Some officials and stakeholders also noted that having a larger number of officers under a single management structure could improve officer safety by making it easier to mobilize additional officers to provide backup when making arrests or serving warrants.

Some other officials and stakeholders, however, questioned the extent to which a merger would benefit the agencies' law enforcement programs. These officials and stakeholders said that both agencies' law enforcement programs are understaffed, given their responsibilities, and that any additional enforcement resources a merger would enable the agencies to direct at certain tasks would be accompanied by directing fewer resources at other tasks. Some officials and stakeholders also noted that although the agencies' law enforcement programs have many similarities, they also have important differences, which limit the potential benefits of merging the programs. A major enforcement responsibility for NMFS, for example, is enforcing fisheries management regulations adopted under the Magnuson-Stevens Act. Officials and stakeholders said that these regulations can be very complex and that it makes sense to have a number of officers dedicated primarily to enforcing them, rather than training all officers on the complexities. Similarly, FWS—in addition to enforcing a variety of federal laws governing the lands and resources in the National Wildlife Refuge System—also works to ensure visitor safety on national wildlife refuges. Given this variety, as well as the geographical isolation of many refuges, officials and stakeholders said that it makes sense to dedicate a number of officers primarily to protecting refuges.

Potential to Realize Cost Savings

Cost savings were also cited as a potential benefit of a merger by some officials and stakeholders. Some of these officials and stakeholders said that likely sources for savings include consolidating the agencies' administrative and support functions—such as budgeting, finance, and human capital—and reducing mid- and high-level management positions, such as program managers, that would potentially be made redundant.

Nevertheless, given the lack of detail about exactly how the agencies would be merged, none of the officials we spoke with offered a concrete estimate of potential cost savings.

Many officials and stakeholders we interviewed, however, told us they believed that few, if any, opportunities exist for significant cost savings. A major reason cited was that although NMFS and FWS have some similar programmatic responsibilities, the agencies' execution of these responsibilities overlaps little, because the agencies mostly work in different habitat types. Simply merging the agencies, therefore, would not consolidate their activities enough to actually reduce costs. Moreover, some officials and stakeholders told us they believe that the agencies are already understaffed and that no obvious opportunities are available to reduce staffing levels without also reducing their on-the-ground activities. Some stakeholders also cautioned that, in their experiences, both government and private-sector proposals to consolidate organizations overestimate the potential long-term cost savings, which often do not materialize. For example, one former state wildlife agency director noted that the proposal for the merger of his state's fish and wildlife agencies projected cost savings that did not ultimately occur.

Potential to Disrupt Fisheries Management

A key potential drawback of merging the agencies, some officials and stakeholders said, is the disruption it could cause to fisheries management, particularly for commercial fisheries. Officials and stakeholders cited a number of ways in which merging NMFS into FWS could potentially disrupt fisheries management, including the following:

- *Disrupting NMFS's work with regional fishery management councils.* NMFS conducts numerous stock assessments and other research that provide key information about the size of fish stocks, among other topics, which the regional councils consider in determining the level of catch to be authorized in a fishery management plan. Some officials and stakeholders said that merging the agencies could interrupt NMFS's ability to provide the needed information. One regional fishery management council member said that even a 1-year disruption in approving fishery management plans would cause problems for the industry.
- *Reducing access to scientific resources needed to manage fisheries.* NMFS's six regional science centers do much of the research and data collection the agency and fishery management councils use in managing fisheries. Officials and stakeholders noted that Interior in

the 1990s consolidated many of its scientific capabilities into a separate agency, the U.S. Geological Survey. These officials expressed concern that if NMFS and FWS merged, Interior could decide to move NMFS's science centers into the Geological Survey too, which they believed could affect the continued availability of basic fisheries management data. Specifically, fisheries managers need scientific data that directly inform management decisions, such as stock assessments to establish catch levels. Officials and stakeholders were concerned that if NMFS's science centers were moved to the Geological Survey, the scientists would be in a separate organization and further removed from fisheries managers, which could make it more difficult for managers to obtain the data they need.

- *Changing decision-making responsibilities.* Some officials and stakeholders, including some stakeholders associated with the commercial fishing industry, said that merging NMFS into FWS would shift responsibility for approving fishery management plans to the Secretary of the Interior rather than the Secretary of Commerce, which they said could change how the federal government balances conservation and economic factors in managing fisheries. Under the Magnuson-Stevens Act, fishery management plans are to “take into account the importance of fishery resources to fishing communities” to provide for the sustained participation of such communities and, to the extent practicable, minimize adverse economic impacts on those communities.⁴⁵ The act, however, does not define what is meant by the phrase “take into account.” Officials and stakeholders said they believed that Interior could emphasize conserving fish populations more and consider the economic effects of management decisions on fishing communities less than NMFS does.
- *Causing further industry disruptions.* Officials from nongovernmental conservation organizations emphasized that the fishing industry has recently undergone several important changes and that merging the agencies now could cause further disruptions. For example, the Magnuson-Stevens Act was amended in 2006 to, among other things, require that fishery management plans establish a mechanism for setting annual catch limits, require regional fishery management councils to implement plans to end overfishing immediately, and authorize a type of “catch share” program that restricts access to a

⁴⁵16 U.S.C. § 1851(a)(8) (2006).

fishery.⁴⁶ These steps are intended to both maintain healthy fish populations and strengthen the industry. Conservation stakeholders told us these steps are important to the long-term health of both marine ecosystems and the fishing industry but recognized that the changes—by reducing catch levels in some fisheries and raising concerns about the equity of catch allocations in others—have disrupted the industry in the short term. These stakeholders said that they expect the industry, as well as fish populations, to start benefiting soon from the changes and that a disruption caused by merging the agencies now could delay realizing those benefits.

In contrast, some officials and stakeholders said they believed merging NMFS into FWS could benefit fishery management in certain ways, and others said they believed a merger would have little overall effect on fishery management. Regarding potential benefits to fishery management, some stakeholders said that, in balancing conservation and economic interests, NMFS has tended to favor economic interests, leading to higher catch levels, which have depleted stocks and, ultimately, left fewer fish available for harvest. These stakeholders suggested that putting greater emphasis on conserving fish populations, which they believed could occur if NMFS moved to Interior, would be a positive step. In addition, some stakeholders said that a merger could lead to a better balance between commercial and recreational fishing interests. These stakeholders said that NMFS, perhaps because of its position in Commerce, favors commercial over recreational fishing interests and that FWS has a reputation for working well with recreational interests. Officials and stakeholders who said they believed a merger would have little effect on fishery management pointed out that the staff currently working on fisheries management issues would also work on them if the agencies merged. They also said that because the framework for managing federal fisheries, including the criteria for evaluating fishery management plans, is established by the Magnuson-Stevens Act, transferring approval

⁴⁶According to NMFS, “catch share” is a general term for several fishery management strategies that allocate a specific portion of the total allowable catch to individuals, cooperatives, communities, or other entities. By allocating allowable fish catch ahead of time, catch shares are intended to provide social and economic benefits to the industry, for example, by improving safety, since captains would feel less compelled to fish during dangerous weather; increasing the value of the catch, by reducing the likelihood that a large supply of fish will hit the market at one time; and reducing costs, by reducing the incentive to overinvest in new equipment, since captains would not be competing in a “race for fish,” where they feel they need the best equipment to gain advantage over other captains.

authority to the Secretary of the Interior would not change fishery management decisions.

Potential to Sever Connections between NMFS and Other NOAA Offices

Another key potential drawback cited by some officials and stakeholders is that a merger of NMFS and FWS could sever the connections between NMFS and other NOAA offices. NMFS relies on a variety of services performed by other offices within NOAA to conduct its work. Alternative methods for obtaining those services could be developed, but moving NMFS out of NOAA might affect the efficiency or effectiveness of obtaining them, according to officials and stakeholders. Important connections between NMFS and other parts of NOAA highlighted by stakeholders include the following:

- *Legal services.* NOAA provides legal services to NMFS and the other NOAA offices through its Office of General Counsel. Officials and stakeholders pointed to the important role played by that office in reviewing fishery management plans to ensure they comply with requirements of the Magnuson-Stevens Act and were concerned that moving NMFS out of NOAA could disrupt the review process. If NMFS merged with FWS, its legal services would be provided by Interior's Office of the Solicitor, which does not have experience with the requirements of the Magnuson-Stevens Act. Some officials noted, however, that some of NOAA's lawyers with fishery expertise could be moved to Interior if NMFS merged with FWS, in which case separating NMFS from NOAA's Office of General Counsel could have little effect.
- *Law enforcement.* NMFS's Office of Law Enforcement also supports other NOAA programs, in particular, by enforcing laws and regulations in national marine sanctuaries, which are managed by NOAA's National Ocean Service. NOAA would need to find another way to provide this service if NMFS merged with FWS.
- *Research fleet.* NOAA, through its Office of Marine and Aviation Operations, manages a fleet of ships and aircraft that NMFS and other NOAA offices use for scientific research. According to fleet officials, NOAA could, depending on the agreements reached as part of a merger, continue to provide NMFS access to these assets. The officials noted, however, that demand for access to NOAA's ships and aircraft exceeds their availability and that if NMFS were no longer part of NOAA, it could receive a lower priority for access. Currently, NMFS is a major user of the NOAA fleet, using approximately 50 percent of

ship days. Fleet officials said that if NMFS's access to NOAA's fleet were reduced, NMFS might try to develop its own fleet capacity, which they believed could be less efficient than having a single fleet. Moreover, according to officials, having NMFS in NOAA makes it easier to identify missions where more than one NOAA office—for example, NMFS and the Office of Oceanic and Atmospheric Research—can use a ship at the same time.

- *Programmatic connections.* Programmatic connections exist between NMFS and other offices within NOAA, in particular the National Ocean Service and the Office of Oceanic and Atmospheric Research. According to some officials and stakeholders, taking NMFS out of NOAA could make it harder for the programs to coordinate activities and research or to share information. The National Ocean Service, for example, is responsible for managing national marine sanctuaries. Fishing is allowed in most sanctuaries, although the National Ocean Service has restricted fishing in some sanctuaries. In such cases, the National Ocean Service works with NMFS and the appropriate regional fishery management council to set fishing restrictions, and some stakeholders said they believed that having both agencies located within NOAA made it easier to resolve issues and reach agreement. The Office of Oceanic and Atmospheric Research sponsors research on a variety of topics relevant to fishery management, such as studying the relationship between fisheries and ecosystems and the potential effects of climate change on fish populations or distribution. The office's National Sea Grant College Program, along with NMFS, also funds a number of fellowships for research on topics, such as stock assessments and resource economics, of direct relevance to NMFS. NMFS officials told us they work closely with the Office of Oceanic and Atmospheric Research to identify opportunities for joint research between Sea Grant fellows and NMFS scientists. Officials told us they were concerned that separating NMFS from the Office of Oceanic and Atmospheric Research would hinder their ability to coordinate research.

Potential to Incur Transition Costs

Another potential drawback mentioned by some officials and stakeholders is that merging the agencies could entail substantial transition costs. Some of these officials and stakeholders, however, also said that the transition costs of a merger would be temporary and do not in and of themselves constitute a reason to avoid reorganizing the agencies. Transition costs would arise in large part because a merger would entail NMFS's changing a number of business and information technology systems, including those related to budgeting, finance, and human

capital. These systems provide information critical to effective management by, for example, accurately tracking expenditures to ensure that funds are appropriately spent. If the agencies merged, NMFS would need to move from systems supported by NOAA or Commerce to systems supported by Interior. Since no specific proposal has been put forward to merge NMFS into FWS, neither Commerce, Interior, nor the Office of Management and Budget has developed detailed estimates of the cost to consolidate the agencies' budgeting, financial, information technology, and other business systems.

Potential to Disrupt Agency Programs in the Short Term

Some officials and stakeholders also said that another potential drawback is that a major reorganization unavoidably disrupts agency programs in the short term. Some officials and stakeholders estimated that such disruptions could last for as long as 5 or 10 years.⁴⁷ As with those who said a merger would result in transition costs, however, some who cited program disruptions emphasized that disruptions are temporary and not necessarily a reason to avoid reorganizing the agencies. These officials and stakeholders said it is more important to take a long-term perspective and determine whether the overall benefits of reorganization outweigh the drawbacks.

Disruptions to agency programs cited by officials and stakeholders include the following:

- In the short term, employees may have less time to direct toward their programs while they may have to move offices, integrate into a new organizational structure, and learn new policies and procedures. In some cases, employees might gain new programmatic responsibilities, which would take time to learn. The stress and uncertainty often accompanying major reorganizations would likely also temporarily take employees' attention away from their programs.
- For many of the agencies' programs, officials would need to review regulations, policies, procedures, and other guidance to identify and

⁴⁷Previous GAO work has noted that the experiences of successful major change management initiatives in large private- and public-sector organizations suggest it can often take at least 5 to 7 years until such initiatives are fully implemented, and the related cultures are transformed in a sustainable manner. See GAO, *Highlights of a GAO Forum: Mergers and Transformations: Lessons Learned for a Department of Homeland Security and Other Federal Agencies*, [GAO-03-293SP](#) (Washington, D.C.: Nov. 14, 2002).

resolve any differences between the agencies. For example, as previously discussed, NMFS and FWS currently have different regulations implementing parts of the Endangered Species Act and Marine Mammal Protection Act. If the agencies merge, they may need to adopt a single approach. Similarly, officials said the two agencies' law enforcement programs currently have different protocols—for example, for conducting investigations or collecting and maintaining evidence—which would need to be reconciled. Resolving differences between the agencies' policies and procedures would take time away from running the agencies' programs, both for the staff revising the policies and for the staff who would need to learn the changes.

- The differences in the two agencies' cultures and certain elements of their missions could make it difficult to combine the two staffs into a single agency. Some officials and stakeholders said that employees are committed to their respective agencies' missions and could be slow to embrace any changes, particularly if they felt that part of "their" mission was a lower priority in the combined agency. Other officials and stakeholders, however, said that some employees would believe that merging the agencies would benefit fish and wildlife and would welcome the change. Moreover, others said that employee resistance to change should not be a factor in determining whether to reorganize the agencies and that employees who did not like the change could always leave.

Key Management Practices That Could Help Mitigate Program Disruptions and Transition Costs

GAO has issued numerous reports examining different aspects of reorganizing and improving the efficiency of government (a list of selected GAO products related to these topics is included at the end of this report). This previous work has identified a number of key management practices that could help mitigate program disruptions and transition costs inevitably accompanying reorganization (see table 1). Such key practices include the importance of leadership and of establishing a clear mission and strategic goals to guide the transformation. Some officials and stakeholders we interviewed recognized the importance of incorporating these practices if NMFS were merged into FWS. For example, some emphasized that strong agency leadership would be needed to clearly explain the rationale behind the merger and ease the cultural disruption accompanying reorganization. Strong leadership, they said, could help ensure that employees do not see a merger as creating "winners and losers," fostering internal support for the move and minimizing disruption to agency programs. Some officials and stakeholders said it is also

important to clearly define the problem a reorganization is intended to address and the goals it is expected to achieve.

Table 1: Key Practices Found in Successful Mergers and Organizational Transformations

Ensure top leadership drives the transformation. Leadership must set the direction, pace, and tone and provide a clear, consistent rationale that brings everyone together behind a single mission.

Establish a clear mission and integrated strategic goals to guide the transformation. Together, these define the culture and serve as a vehicle for employees to unite and rally around.

Focus on a key set of principles and priorities at the outset of the transformation. A clear set of principles and priorities serves as a framework to help the organization create a new culture and drive employee behaviors.

Set implementation goals and a timeline to build momentum and show progress from day one. Goals and a timeline are essential because the transformation could take years to complete.

Dedicate an implementation team to manage the transformation process. A strong and stable team is important to ensure that the transformation receives the needed attention to be sustained and successful.

Use the performance management system to define responsibility and assure accountability for change. A “line of sight” shows how team, unit, and individual performance can contribute to overall organizational results.

Establish a communication strategy to create shared expectations and report related progress. The strategy must reach out to employees, customers, and stakeholders and engage them in a two-way exchange.

Involve employees to obtain their ideas and gain their ownership for the transformation. Employee involvement strengthens the process and allows them to share their experiences and shape policies.

Build a world-class organization. Building on a vision of improved performance, the organization adopts the most efficient, effective, and economical personnel, system, and process changes and continually seeks to implement best practices.

Source: GAO.

Officials and Stakeholders Also Identified Several Key Potential Benefits and Drawbacks of Alternative Organizational Options

Officials and stakeholders we interviewed also identified potential benefits and drawbacks of several alternative organizational structures that have previously been proposed, including moving NOAA into Interior, creating a new department of natural resources, and establishing NOAA as a stand-alone agency. Officials and stakeholders also identified potential benefits and drawbacks of keeping the current organizational structure.

Moving NOAA into Interior Could Better Integrate Management of Land and Ocean Resources but Might Diminish Attention to Ocean Issues

Officials and stakeholders said that although merging NMFS into FWS would be a good first step toward better integrating natural resource management and addressing large-scale environmental challenges, moving all of NOAA into Interior could better achieve this integration by bringing even more aspects of federal land and ocean management under the same department. Specifically, officials and stakeholders identified the following potential benefits of improved integration:

- *Addressing land-freshwater-ocean issues more effectively.* Some agency officials and stakeholders said moving NOAA to Interior could allow the federal government to more effectively address issues such as “dead zones” in the Gulf of Mexico;⁴⁸ impacts of offshore energy development; climate change; and other challenges that span land, fresh water, and oceans because NOAA’s other ocean-management-related offices, including the National Ocean Service and the Office of Oceanic and Atmospheric Research, would be included in such a move. For example, FWS officials told us they believe the government could restore fish and wildlife habitat more effectively and efficiently after offshore oil spills if Interior also included the National Ocean Service. This NOAA office plays a significant role, along with FWS, in habitat restoration efforts after such events.

⁴⁸Areas in the ocean where the water has low levels of oxygen dissolved in it are referred to as “dead zones” because most marine life either dies or leaves the area. According to NOAA, the dead zone in the Gulf of Mexico in 2012 was about the size of the state of Delaware.

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- *Better management coordination.* Some agency officials told us that another potential benefit of having the National Ocean Service in Interior is that the agencies could better coordinate the management of marine refuges, monuments, and sanctuaries with management of national wildlife refuges, managed by FWS, and national parks, managed by the National Park Service. The National Ocean Service manages 13 national marine sanctuaries and, in conjunction with FWS, NMFS, and the state of Hawaii, 1 marine national monument. National marine sanctuaries and monuments have some characteristics similar to those of national wildlife refuges and national parks. For example, certain types of disturbance or development—such as disturbing or altering the seabed and developing oil, gas, and mineral resources—are prohibited or regulated in some national marine sanctuaries.
 - *Combining earth-ocean research and data collection.* Some agency officials and stakeholders said it could be beneficial to combine the earth and ocean scientific research currently found in Interior and NOAA under one department. One former agency administrator said it could be beneficial to bring together NOAA and Interior scientists, especially those in NOAA's Office of Oceanic and Atmospheric Research and National Weather Service and Interior's U.S. Geological Survey, to tackle ecological challenges concerning terrestrial, freshwater, and marine natural resource management. Other officials pointed out that the agencies both generate and analyze similar types of data, including (1) location-based data used, for example, to create topographic maps and assess coastal health and (2) seismic data used, for example, in planning responses to earthquakes.⁴⁹ These officials said it could be beneficial to further integrate these efforts.

In addition to improved integration of natural resource management, officials and stakeholders noted other potential benefits of moving NOAA into Interior. Some said they believed that moving all of NOAA to Interior would maintain the key connections between NMFS and the rest of NOAA's offices. Officials and stakeholders also pointed to the similarities that NOAA, as a resource management and science agency, has with Interior, which shares similar missions. A senior Interior official noted that

⁴⁹Location-based, or geospatial, data refers to information linked to specific geographic locations.

Secretaries of the Interior are often fully engaged with science and natural resource management issues, which is generally not the case for Secretaries of Commerce, given that the bulk of Commerce's work consists of business- and trade-related activities. Recognizing this dynamic, some stakeholders said moving NOAA out of Commerce could benefit Commerce, since it would allow the department to focus on its trade and competitiveness mission.

Officials and stakeholders told us that moving NOAA into Interior posed a number of potential drawbacks as well, some of which are similar to the drawbacks of merging NMFS into FWS. Some stakeholders, for example, suggested that moving NOAA to Interior could diminish the attention directed to NOAA's mission of protecting living marine resources and managing marine fisheries. They said that if NOAA were in Interior, it would be competing with Interior's other agencies for budgetary resources, which could lead to less funding for the protection of living marine resources and fisheries, particularly since such protection can conflict with some of Interior's offshore oil, gas, and wind energy development missions. Some stakeholders explained that because NOAA is dissimilar to the rest of Commerce, it does not compete directly with other agencies for funding, as it might if it were part of Interior. In addition, some officials and stakeholders questioned whether portions of NOAA, especially NOAA's satellite program and the National Weather Service, would fit within Interior's mission.

Creating a Department of Natural Resources Could Further Integrate Land and Ocean Resource Management but Could Be a Substantial Implementation Challenge

Some officials and stakeholders told us that if the goal is to fully integrate land and ocean resource management, creating an overall department of natural resources could be the best way to do it. These officials and stakeholders proposed that such a department could include agencies such as the Forest Service, Environmental Protection Agency, and the Army Corps of Engineers' civil works programs,⁵⁰ in addition to agencies within Interior and NOAA, although opinions differed as to the department's exact makeup. Officials and stakeholders said that the benefits of creating a department of natural resources include consolidating science functions from across the government and shifting

⁵⁰An agency within the Department of Defense, the Army Corps of Engineers provides a variety of engineering services through military and civil works programs. The civil works program is responsible for investigating, developing, and maintaining water resource projects.

toward managing natural resources on a large scale. Some officials and stakeholders said creating a department of natural resources could be the best way to achieve significant budgetary and management efficiencies. For example, one former Interior secretary said a large-scale reorganization is needed to truly reduce the cost to the federal government of natural resource management. A senior Interior official noted that it takes a long time to negotiate interagency memorandums of agreement and to process decisions through agency bureaucracies; one department overseeing natural resource decisions would eliminate the need for such coordination. One former Commerce secretary told us the efficiencies achieved by such a reorganization could also improve the public's perception of government overall.

Nevertheless, some officials and stakeholders said a significant potential drawback of creating a department of natural resources is that it could be a substantial implementation challenge, given the number and size of distinct organizational entities that would have to be transformed. Some stakeholders mentioned the creation of the Department of Homeland Security as an example of the difficulties inherent in large transformations, including the length of time necessary to complete them. In our 2011 report on this department, we found that, 8 years after its creation, it had implemented key homeland security operations and achieved important goals, but the department's transformation remained high risk because of continuing management challenges.⁵¹ Some stakeholders also noted that the sheer size of a department of natural resources, with its multiple missions, could make it difficult to manage.

Establishing NOAA as a Stand-alone Agency Could Raise the Profile of Ocean Resources, According to Some, but Could Marginalize the Agency According to Others

Officials and stakeholders we interviewed generally disagreed on the potential effects of establishing NOAA as a stand-alone agency independent from Commerce and other departments. Some stakeholders suggested that such a move could lead to more attention for ocean issues, which, over time, could lead to more funding for addressing ocean management challenges. One former NOAA administrator said that a stand-alone NOAA could provide a strong, independent voice for ocean-related issues as the country grapples with emerging challenges, such as managing deep-sea mining and increasing offshore energy development.

⁵¹GAO, *Department of Homeland Security: Progress Made and Work Remaining in Implementing Homeland Security Missions 10 Years after 9/11*, [GAO-11-881](#) (Washington, D.C.: Sept. 7, 2011).

A member of NOAA's advisory committee for living marine resources noted that establishing NOAA as an independent agency could send a message that oceans are a national priority. Others said establishing NOAA as a stand-alone agency could help direct attention to ocean-based policy, including the National Ocean Policy, and such an agency could be in the best position to execute this policy.⁵² Some stakeholders said it would be very important for the new agency to be included in the President's cabinet, since doing so could provide greater access to high-level budget and policy decision making than if NOAA were made an independent, non-cabinet-level agency. Other stakeholders also noted that this option may be less disruptive than others and that it could confer the same benefits to Commerce as moving NOAA to Interior by allowing Commerce to focus exclusively on its trade and competitiveness mission.

Some other officials and stakeholders, however, told us they believed that making NOAA an independent agency would not yield these benefits, and some said it could be harmful to the agency's mission. For example, some stakeholders expressed concern that NOAA's small size relative to other agencies could limit its ability to obtain sufficient support, as well as sufficient funding, both within the administration and in Congress. For example, one NMFS official described NOAA's budget as "decimal dust" when compared with the other agencies it would be competing with for funds, making it susceptible to budget cuts and weakening its ability to advocate for ocean resources and policy. Some officials and stakeholders said these negative effects would be particularly likely to occur if the new agency did not have a cabinet-level secretary, but others said it could be difficult for NOAA to compete with other agencies and interests even as a cabinet-level agency. In addition, some stakeholders said that Commerce provides certain important services to NOAA, which they would not want to see lost. For example, one fishing industry organization representative said she is concerned that moving NOAA out of Commerce could hurt parts of the industry, pointing out that most of what her sector catches is exported, and the industry has benefited from Commerce's trade policies. Further, some officials and stakeholders said making NOAA an

⁵²In 2010, the President established a national policy to "ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interests." The president also established a National Ocean Council to implement this policy.

independent agency would add to the stovepiping of government that the other reorganization options are trying to counter by integrating agencies. Some of the former agency directors and department secretaries we interviewed said that making NOAA an independent agency would not contribute to streamlining the government. Two former department secretaries said increasing the number of executive agencies makes it more difficult for the President to manage actions of the executive branch as a whole and to hold all the agencies accountable. Moreover, some officials and stakeholders noted that making NOAA an independent agency would not yield some of the key potential benefits that could come with the other reorganization options, such as having a single agency manage similar programmatic responsibilities.

Maintaining the Current Organizational Structure Would Avert Disruptions but Not Better Integrate Resource Management; Interagency Collaboration Could Help the Agencies Work Together More Effectively

Agency officials and stakeholders also identified potential benefits and drawbacks of maintaining the current organizational structure. They cited benefits such as averting the disruption to programs that could accompany a reorganization and the uncertainty of whether a reorganization would achieve its goals. Some stakeholders noted, however, that keeping the current structure would also mean missing an opportunity to better integrate natural resource management. Overall, officials and stakeholders generally said the drawbacks of reorganizing the agencies outweigh the benefits. As a few put it, “The juice is not worth the squeeze.” In contrast to this general view, however, of the 10 former heads of Commerce, Interior, NOAA, NMFS, and FWS we spoke with, 9 of them told us they preferred making some kind of organizational change, although there was no consensus on what the best structure would be.

Some officials and stakeholders suggested that if the current organizational structure is retained, the agencies can still take steps to collaborate more effectively. At the program level, officials and stakeholders said efficiencies in the agencies’ Endangered Species Act and Marine Mammal Protection Act programs can be realized without a merger. For example, some officials and stakeholders said that the agencies could expand their existing efforts to issue joint regulations and policies to ensure that the agencies implement the act in a similar manner. Other officials and stakeholders said that colocating field offices and staff for the agencies’ endangered species programs could foster interagency collaboration and make it easier for the public to work with both agencies. The agencies have already colocated at least three of their field offices, one in California, one in Maine, and one in the state of Washington, where NMFS and FWS staff occupy the same building.

According to agency officials familiar with these colocated offices, the close proximity fosters more conversations and face-to-face contact, which in turn builds relationships and trust. The close relationships have led agency officials to find other efficiencies as well; for example, FWS has placed a staff member in NMFS’s Northwest regional office, and that person works on Endangered Species Act reviews on behalf of both agencies. In addition, FWS and NMFS regional officials noted that, in their view, the agencies collaborate better in states with colocated offices than in states where personnel are not as closely located.

We reported in 2012 that a number of interagency collaboration mechanisms, including office collocation, are being used by a variety of federal agencies.⁵³ For example, the Bureau of Land Management and the Forest Service have established more than 30 offices under Service First agreements, where the agencies are colocated, combined, or commingled and where they share resources—including staff, office space, and other materials—to varying extents. FWS also participates in six such colocated offices under Service First agreements with the Bureau of Land Management, the Forest Service, or both. As we reported, certain key features can help collocation and other collaborative efforts be effective, such as clarity of roles and responsibilities (see table 2).

Table 2: Key Features of Interagency Collaborations and Issues to Consider When Collaborating

Key feature	Issues to consider
Outcomes and accountability	Have short-term and long-term outcomes been clearly defined? Is there a way to track and monitor their progress?
Bridging organizational cultures	What are the missions and organizational cultures of the participating agencies? Have agencies agreed on common terminology and definitions?
Leadership	How will leadership be sustained over the long term? If leadership is shared, have roles and responsibilities been clearly identified and agreed upon?
Clarity of roles and responsibilities	Have participating agencies clarified roles and responsibilities?
Participants	Have all relevant participants been included? Do they have the ability to commit resources for their agency?

⁵³GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

Key feature	Issues to consider
Resources	How will the collaborative mechanism be funded and staffed? Have online collaboration tools been developed?
Written guidance and agreements	If appropriate, have participating agencies documented their agreement regarding how they will be collaborating? Have they developed ways to continually update and monitor these agreements?

Source: GAO.

Agency Comments

We provided a draft of this report for review and comment to the Departments of Commerce and the Interior. Commerce provided technical comments that were incorporated, as appropriate. Interior did not provide comments.

We are sending copies of this report to the Administrator and Assistant Administrator for Fisheries of NOAA, the Director of FWS, the appropriate congressional committees, and other interested parties. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you have questions about this report, please contact me at (202) 512-3841 or fennella@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix II.



Anne-Marie Fennell
 Director
 Natural Resources and Environment

Appendix I: Former Agency Officials and Stakeholders GAO Interviewed

We interviewed Secretaries of Commerce and the Interior and heads of the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), and the Fish and Wildlife Service (FWS) from each of the two previous administrations:

Bruce E. Babbitt
Secretary
Department of the Interior, 1993-2001

D. James Baker
Administrator
NOAA, 1993-2001

William M. Daley
Secretary
Department of Commerce, 1997-2000

Carlos M. Gutierrez
Secretary
Department of Commerce, 2005-2009

H. Dale Hall
Director
FWS, 2005-2009

William T. Hogarth
Assistant Administrator for Fisheries
NMFS, 2000-2007

Conrad C. Lautenbacher, Jr.
Administrator
NOAA, 2001-2008

Gale A. Norton
Secretary
Department of the Interior, 2001-2006

Jamie Rappaport Clark
Director
FWS, 1997-2001

Rolland A. Schmitten
Assistant Administrator for Fisheries
NMFS, 1993-1999

We also interviewed officials from the following agencies and organizations:

American Forest Resource Council
Association of Fish and Wildlife Agencies
Atlantic Coastal Fish Habitat Partnership
Atlantic States Marine Fisheries Commission
At-Sea Processors Association
Center for American Progress
Center for Biological Diversity
Coastal States Organization
Conservation International
Defenders of Wildlife
East Coast Shellfish Growers Association
Endangered Species Act Joint Task Force
Environmental Defense Fund
Federal Law Enforcement Officers Association
Groundfish Forum
Gulf of Mexico Fishery Management Council
Gulf States Marine Fisheries Commission
Joint Ocean Commission Initiative
Marine Fisheries Advisory Committee
Marine Mammal Commission
Massachusetts Department of Fish and Game

Massachusetts Fishermen's Partnership
Massachusetts Office of Coastal Zone Management
National Endangered Species Act Reform Coalition
Natural Resources Defense Council
Nature Conservancy
New England Fishery Management Council
Northeast Consortium
North Pacific Fishery Management Council
Northwest Indian Fisheries Commission
Oceana
Ocean Conservancy
Pacific Fishery Management Council
Pacific Marine and Estuarine Fish Habitat Partnership
Pacific States Marine Fisheries Commission
Puget Sound Partnership
Restore America's Estuaries
Southern Shrimp Alliance
Taylor Shellfish Farms
U.S. Army Corps of Engineers
U.S. Geological Survey, Western Fisheries Research Center
U.S. Institute for Environmental Conflict Resolution
Washington Department of Fish and Wildlife

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the individual named above, Stephen D. Secrist, Assistant Director; Eric Bachhuber; Antoinette Capaccio; Ellen W. Chu; Jonathan Dent; Anu Mittal; Leslie Pollock; and Anne Rhodes-Kline made key contributions to this report. Also contributing to this report were Elizabeth Curda and Armetha Liles.

Related GAO Products

Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms. [GAO-12-1022](#). Washington, D.C.: September 27, 2012.

Government Efficiency and Effectiveness: Opportunities for Improvement and Considerations for Restructuring. [GAO-12-454T](#). Washington, D.C.: March 21, 2012.

Streamlining Government: Key Practices from Select Efficiency Initiatives Should Be Shared Governmentwide. [GAO-11-908](#). Washington, D.C.: September 30, 2011.

Department of Homeland Security: Progress Made and Work Remaining in Implementing Homeland Security Missions 10 Years after 9/11. [GAO-11-940T](#). Washington D.C.: September 8, 2011.

Federal Land Management: Observations on a Possible Move of the Forest Service into the Department of the Interior. [GAO-09-223](#). Washington, D.C.: February 11, 2009.

Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies. [GAO-06-15](#). Washington, D.C.: October 21, 2005.

Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations. [GAO-03-669](#). Washington, D.C.: July 2, 2003.

Executive Reorganization Authority: Balancing Executive and Congressional Roles in Shaping the Federal Government's Structure. [GAO-03-624T](#). Washington, D.C.: April 3, 2003.

Highlights of a GAO Forum: Mergers and Transformations: Lessons Learned for a Department of Homeland Security and Other Federal Agencies. [GAO-03-293SP](#). Washington, D.C.: November 14, 2002.

Homeland Security: Critical Design and Implementation Issues. [GAO-02-957T](#). Washington, D.C.: July 17, 2002.

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