

NOAA

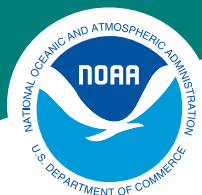
NOAA FISHERIES

FINAL DRAFT

NOAA Office of Law Enforcement National and Division Enforcement Priorities for FY 2012

March 19, 2012





NOAA FISHERIES SERVICE

Dear Stakeholders:

I am happy to present our national and division enforcement priorities for FY 2012. This document represents input from many interested people across the country: commercial and recreational fishermen, fishery management councils, state enforcement partners, and non-governmental organizations to name a few. Thank you all for your comments.



Creating these priorities collaboratively was a first for us. We started with NOAA's National Enforcement Summit in August 2010, when more than 60 stakeholders from around the country came together to discuss how we could improve our enforcement program. After the summit, our six Special Agents in Charge and our partners in the NOAA Office of General Counsel's Enforcement Section reached out to fishery management councils, interstate commissions, and others to solicit even more input.

We used all these recommendations to draft our enforcement priorities, which we published in November 2011 for 60 days of public comment. We also held seven calls during that time to outline the draft priorities, answer your questions, and get your thoughts on them. When the comment period ended in early January 2012, our national directors and Special Agents in Charge gathered to review the comments and incorporate them into this document.

As with any new approach to management, we are always improving the process. We will seek input into our priorities each year, so let us know if you have suggestions for improvements. We'll be coming back to you for comments on our FY 2013 priorities later this year.

Looking to the future,

Bruce Buckson

Director, NOAA Office of Law Enforcement

About NOAA

NOAA's Mission, Vision, Long-Term Goal, and Objectives

The mission of the National Oceanic and Atmospheric Administration (NOAA) is to understand and predict changes in climate, weather, oceans, and coasts; to share that knowledge and information with others; and to conserve and manage coastal and marine ecosystems and resources. Meeting this mission requires not only state-of-the-art science and management programs, but also a fair, effective, and comprehensive compliance and enforcement program. NOAA is establishing priorities to guide its enforcement programs in support of NOAA's mission, vision, long-term goals, and National Marine Fisheries Service (NMFS) objectives.

NOAA's enforcement programs operate primarily under the following provisions of NOAA's Next Generation Strategic Plan:

- NOAA's Mission: Science, Service, and Stewardship
To conserve and manage coastal and marine ecosystems and resources
- NOAA's Vision: Resilient Ecosystems, Communities, and Economies
Healthy ecosystems, communities, and economies that are resilient in the face of change
- NOAA's Long-Term Goal: Healthy Oceans
Marine fisheries, habitats, and biodiversity are sustained within healthy and productive ecosystems
- NOAA and Fisheries Objectives
Recovered and healthy marine and coastal species
Sustainable fisheries and safe seafood for healthy populations and vibrant communities

Table of Contents

About this Document

National Priorities

Support Sustainable Fisheries and Safe Seafood

Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

Supporting Priorities (National)

Compliance assistance

Observers

Regional Priorities

Supporting Sustainable Fisheries and Safe Seafood

Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats

Division Priorities

Alaska

Northeast

Northwest

Pacific Islands

Southeast

Southwest

Background on the FY 2012 Priority-Setting Process

Summary of Stakeholder Recommendations Received

Draft Priorities Published in 2011 for Public Comment

Commenting Guidelines

About this Document

Draft NOAA Enforcement Priorities

NOAA is establishing enforcement priorities to meet our mission, guide our planning, and focus the use of our enforcement assets relative to marine resources. Although we will focus our enforcement efforts on the identified priority areas, to ensure deterrence we will continue to enforce all the laws for which we are responsible. Enforcement priorities will focus the use of resources while providing the flexibility and capability to respond to other enforcement requirements as conditions and circumstances dictate.

We are identifying our proposed enforcement priorities through a consultative process both within NOAA and with external stakeholders. Once established, absent unexpected circumstances, the Office of Law Enforcement (OLE) will dedicate resources to address performance targets under the identified priorities. The priority-setting process, including opportunities for public input, will be undertaken annually.

National Priorities

Support Sustainable Fisheries and Safe Seafood

The Nation's growing demand for safe seafood and recreational opportunities exceeds domestic supply from wild stocks. This demand places a premium on effective management of natural fish stocks. NOAA's legal responsibilities in this regard encompass management of more than 500 fish stocks or stock complexes under the Magnuson-Stevens Fishery Conservation and Management Act. Implementing management strategies that rebuild and manage fish stocks, maintain access to fisheries, and improve opportunities for aquaculture can build and sustain economically robust coastal communities and contribute to long-term food security for the Nation. Management efforts, such as catch share programs, include monitoring to evaluate their impact on stock status, while improved socioeconomic data collection will allow managers to evaluate and improve the social sustainability of recreational and commercial fishery programs.

Increasing compliance and ensuring enforcement of needed regulations is an important part of meeting NOAA's goal of sustainable fisheries. Equally, NOAA must strengthen the enforcement of fishery regulations concerning international imports and exports. International trade in fishery products directly affects the economics of domestic fisheries. Unregulated and unreported harvests and mislabeled product can introduce unsafe product into U.S. markets. Illegal, unregulated, and unreported (IUU) fishing disadvantages the U.S. high seas fishing fleet and decimates migratory stocks important to U.S. markets and the commercial industry.

To meet the needs of the fishing industry and consumers, NOAA's enforcement programs will prioritize:

- Implementing effective compliance and enforcement plans to support catch share management.
- Monitoring fishery product imports for compliance with domestic regulations and international treaty obligations.

Although compliance and enforcement plans to support catch share management are national priorities, NOAA also will continue to enforce traditional non-catch-share management as well. We recognize that emerging issues – such as future oil spills and implementation of new regulations – may require us to depart from these priorities to ensure marine resources are protected.

Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

The wide range of human and natural impacts on marine, estuarine, and diadromous (fish that migrate between fresh and saltwater) species has led to listing of many of these species as threatened or endangered under the Endangered Species Act, with petitions to list additional species received every year. NOAA has statutory responsibility for these listed species, as well as for most marine mammals under the Marine Mammal Protection Act. As human populations increase and the impacts of global climate change are realized, ensuring the recovery and long-term health of all these species is an important goal for the Nation. To ensure the sustainability and resilience of these species and the ecosystems that support them, NOAA, Federal, State, tribal and local agencies, non-governmental organizations, and industry require science-based policy guidance, economic incentive programs, and sound regulations and enforcement. NOAA is working in partnership with other federal agencies; state, local, and tribal entities; non-governmental organizations; and stakeholder groups to ensure that recovery and conservation plans are implemented and useful. The international dimensions of this objective require participation in international species management for anadromous fish, endangered species, and marine mammals.

In addition, the conservation and protection of key marine and estuarine areas is important to sustaining marine resources. While an increasing range of uses will allow coastal communities to create diverse economies, care must be taken to ensure continued access to coastal areas, sustained ecosystems, maintained cultural heritage, and limited cumulative impacts. The National Marine Sanctuaries Act plays a pivotal role in protecting these areas. The 13 sanctuaries and four marine national monuments encompass more than 150,000 square miles of U.S. ocean and Great Lakes waters. Protected within these areas are important habitats like breeding and feeding grounds of whales, sea lions, sharks, and sea turtles; coral reefs; kelp forests; and historic shipwrecks.

To ensure the protection of protected species and places, NOAA's enforcement programs will prioritize the following:

- Enforcement services supporting Marine Protected Areas, including National Marine Sanctuaries and National Marine Monuments.
- Protection of marine mammal and endangered species through monitoring and enforcement actions regarding
 - o Bycatch reduction regulations.
 - o Gear restrictions.
 - o Closed areas.
 - o Marine mammal interactions with humans.
 - o Healthy habitats.

Supporting Priorities

In support of the national priorities outlined above, and to benefit NOAA's resource-based mission goals, our enforcement programs will also support two national priorities that cut across all regions and programs:

- Compliance assistance – As the commercial and recreational fishing industries have developed, and as fishery managers have worked to afford them the maximum opportunities, regulations have become more complicated. As a result, more effort is required to help the fishing industry understand and follow regulations that support the long-term sustainability of marine resources and the economic activity those resources support.
- Observers – Observer programs provide critical scientific data on fish stock status, bycatch, and fish harvest interactions with protected species. Observer programs require enforcement support to maintain safe work environments that support accurate and objective data collection and reporting.

Regional Priorities

Regional priorities vary according to region-specific resources, activities, and threats. For example, endangered salmon are a priority in the Northwest, whereas the Southwest is more concerned with the protection of other species such as sea turtles and monk seals. Because fish stocks, fishing gear, and management programs are not identical across the country, enforcement programs must tailor their priorities appropriately.

It is important to point out that NOAA will continue to seek to improve compliance with and enforce all marine statutes and regulations. Simply not listing a specific stock of fish or area as a priority below does not mean enforcement actions will not be taken – all regulations must be enforced.

In addition, circumstances such as future oil spills and implementation of new regulations may require us to depart from these priorities to ensure marine resources are protected. The priorities below will help us focus our enforcement assets on the areas that will most benefit the marine resources for which we are responsible.

Listed below are regional priorities in support of each national priority. Examples given under each priority are not meant to be exhaustive but illustrative.

Regional Priorities Supporting Sustainable Fisheries and Safe Seafood

- Focus resources on overfished stocks and stocks experiencing overfishing. Examples of this priority include:
 - Northeast Region: The illegal harvest or sale of highly migratory species, such as bluefin tuna.
 - Southeast Region: Monitoring the red snapper and grouper catch share programs.
 - Northwest and Southwest Regions: Quota share deficits under the catch share program and noncompliance with trip and cumulative limits.
- Expand contact with the regulated communities including compliance support, monitoring and inspections of regulated activity to identify problems, deter violations, and detect violations requiring enforcement action. Examples include:
 - Alaska Region: Selling recreationally caught fish, such as halibut.
 - Pacific Islands Region: Violations of international treaties or agreements regarding tuna fisheries.
 - Northwest and Southwest Regions: Monitoring for restricted gear types in groundfish conservation areas.
- Focus enforcement services to support commercial and recreational catch reporting in support of annual catch limit monitoring. Examples include:
 - Northeast Region: Noncompliance with trip and cumulative limits under catch share programs for Northeast multispecies or other fisheries.
 - Northwest Region: Mislabeling of seafood imports such as king crab.
 - Southwest Region: Implementation and monitoring of the tuna tracking and verification program.

Regional Priorities Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats

- Expand compliance assistance, monitoring, and enforcement actions to improve compliance with regulations to protect endangered species. Examples include:
 - Southeast Region: Turtle excluder device (TED) regulations in the South Atlantic and Gulf of Mexico.
 - Northeast and Southeast Regions: Expand programs to gain compliance with speed restrictions in Northern right whale seasonal management areas.
 - Northwest and Southwest Regions: Habitat protection and inadequate water flow and/or barriers to fish passage in streams that impact migration or spawning.

- Expand enforcement services provided to support National Marine Sanctuaries. Examples include:
 - Northeast Region: Fixed gear violations (e.g., lobster traps, gillnets) within sanctuaries.
 - Northwest, Southwest and Pacific Island Regions: Unlawful discharges or groundings of vessels within sanctuaries.
 - Southeast Region: Protection of coral reefs and listed corals wherever they may exist.

- Expand compliance assistance to the whale watching/marine mammal viewing industry to reduce illegal vessel/person/marine mammal interactions. Examples include:
 - Alaska Region: Violations involving injury or potential injury to marine mammals, such as a vessel-whale collision.
 - Northwest and Southwest Regions: Unlawful interactions with orca whales and harassment or killing of sea lions.
 - Pacific Islands Region: Harassment or killing of monk seals and illegal interaction with humpback whales.

2012 Enforcement Priorities by Division

The Divisional, or Regional, priorities support each national priority by providing specificity for geographic areas considering specific resources, activities and threats. The more specific priorities provide the direction for compliance and enforcement activities. To reiterate, OLE will continue to seek to improve compliance with and enforce all marine statutes and regulations. Simply not listing a specific stock of fish or area as a priority does not mean enforcement actions will not be taken – all regulations must be enforced.

Definitions: What we mean by High, Medium and Low Priority

High Priority - Identifies areas of significant importance to NOAA, NMFS, OLE, stakeholders, and the public and require the utmost attention to ensure the sustainability of the identified resources or program.

High Priority examples: Compliance needs improvement and is critical in a new program such as Catch Shares in a particular area or a newly listed ESA species, etc.

Medium Priority - Identifies areas requiring continued attention by OLE to maintain the level of compliance desired to obtain maximum protection of the resource or program.

Medium Priority example: Compliance is acceptable; however, OLE will continue to focus resources and monitoring at a relatively high level.

Low Priority – Designation under this category may illustrate that the program or area is receiving a high degree of compliance by industry and the public. Or perhaps the violations are minor or technical in nature and have little to no impact on the resource. Low priority should not be interpreted as “no priority” and this designation does not translate into selective enforcement or no enforcement.

Low Priority examples: Compliance is good, but continued maintenance monitoring will continue (such as a Catch Shares program that is well established with a high level of compliance being achieved). Other examples may include permit violations, registering marine mammal parts, or violations outside NOAA's primary jurisdiction (such as bull trout instead of salmonids or walrus instead of whales).

Alaska Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Observer assault, harassment, or interference violations.
- Felony and major civil cases involving significant damage to the resource or the integrity of management schemes.
- Commercialization of sport-caught or subsistence halibut.
- Maritime Boundary Line incursions by foreign fishing or transport vessels.

MEDIUM PRIORITY

- Misdemeanor and civil cases involving observer coverage violations.
- Closed Area/VMS Violations, ongoing.
 - Commercial vessel incursions into closure areas or other Marine Protected Areas.
- Recordkeeping and reporting violations that impact data consistency or integrity.
- Violations involving lesser damage to the resource or the integrity of management schemes.

LOW PRIORITY

- Catch Reporting and Trip Limits.
 - Noncompliance with trip and cumulative limits, and record keeping requirements for landings of federally managed marine species, and specifically catch share programs.
- Gear Violations.
 - Deployment of unlawful gear utilized in commercial fisheries under NOAA's jurisdiction.
- Lesser permit violations.

Endangered Species Act and Marine Mammal Protection Act

HIGH PRIORITY

- Violations wherein responsible subject and species are identifiable.
- Lethal Takes, Level "A" Harassment with the potential to injure marine mammal stock.
 - Species of interest are Cook Inlet Beluga, other whale species, Northern fur seal, or Steller sea lion.
- Any violation involving injury or potential injury to people, such as a vessel-whale collision.

MEDIUM PRIORITY

- Non- Lethal takes, Level "B" Harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Species is threatened rather than endangered.

LOW PRIORITY

- Violations wherein responsible subject is not identifiable.
- Injured or dead animal cannot be located.
- Objective evidence is not obtainable.
- Takes of individual marine mammal species that appear consistent with legal harvest by Alaska Natives.

International/Lacey Act

HIGH PRIORITY

- Felony and major civil violations. For example, interstate or foreign trafficking of commercial quantities of illegally harvested fish or marine resources.
- Harvest or transshipment of marine resources by foreign fishing vessels.
- Domestic or international violations involving seafood safety; substantive mislabeling of product in domestic or international commerce.
- IUU listed vessels.

MEDIUM PRIORITY

- Misdemeanor and civil violations. For example, interstate or foreign trafficking of small quantities of illegally harvested fish or marine resources.
- Mislabeling violations.
- IUU identified product.

LOW PRIORITY

- Minor mislabeling violations.
- Violations wherein responsible subject/vessel not identifiable.

Northeast Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Catch Reporting and Trip Limits.
 - Noncompliance with trip and cumulative limits, and recordkeeping requirements for landings of federally managed marine species, and specifically catch share programs.
- Sector/Catch Share Enforcement.
 - Dockside monitoring.
 - Trip/reporting analysis.
- Limited Access, Overfished, Prohibited and Protected Species.
 - Scallops.
 - NMS.
 - Bluefin Tuna.
- Closed Area Fishing Violations, ongoing.
 - Commercial vessel incursions into closure areas or other Marine Protected Areas.
- Felony and major civil cases involving significant damage to the resource or the integrity of management schemes.
- Observer Assault/Harassment.

MEDIUM PRIORITY

- Gear Violations.
 - Deployment of unlawful gear utilized in commercial fisheries under NOAA's jurisdiction.
- Striped Bass in EEZ.

LOW PRIORITY

- Other fisheries Permit Violations.
 - Non-compliance with state/federal fisheries permitting requirements pertaining to fisheries under NOAA's jurisdiction (open access permits).
 - Operator Permits.
 - Non-limited access species permits.

Endangered Species Act & Marine Mammal Protection Act

HIGH PRIORITY

- Atlantic Large Whale Take Reduction Plan
 - Review and analysis of Automatic Identification System (AIS) data for enforcement of right whale ship strike reduction speed rule.
- Large Whale Disentanglement Program
 - Investigate any non-compliant gear removed from entangled large whales.
- Lethal Takes, Level "A" Harassment with the potential to injure marine mammal stock.
- Atlantic Sturgeon (NEW) – To be developed.
- Complaint response and random gear inspections concerning compliance with TEDs.

MEDIUM PRIORITY

- Harbor Porpoise Take Reduction Regulations
 - Focus enforcement efforts on management areas associated with Consequence Closure Areas.
 - NMFS has established specified target bycatch rates within certain New England management areas that, if exceeded after two consecutive management seasons, would trigger seasonal closure areas.
 - Particular areas of focus could include Mid-Coast Management Area (area of historically high bycatch) as well as the new Southern New England Management Area due to new pinger requirements going into effect.
- Non-Lethal takes, Level “B” Harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Wayward marine mammals - significant strandings.
 - Lost or stranded marine mammals.
- Complaint response regarding compliance with Poundnet Gear Restrictions.

LOW PRIORITY

- Marine Mammal Stranding Network Response.
 - OLE presence on site during events as needed.
- Permit Violations.
 - Proceeding with a project in a manner inconsistent with the terms and conditions of the permit.
- Harassment, Incidental.
 - Harassment caused by careless but unintentional acts. Example, flushing of group of marine mammals due to boating or beach activities.
- Permit Violations.
 - Noncompliance with conditions of any permit associated with taking or possessing of marine mammals or parts thereof.
- Wayward Marine Mammals - strandings.
 - Remote stranding or wayward marine mammal.

International/Lacey Act

HIGH PRIORITY

- Violations involving the Convention on International Trade in Endangered Species (CITES)
 - CITES-listed animal or animal parts illegally in interstate/international commerce under the jurisdiction of NOAA.
- Species of health concern
 - Public health and safety is at risk with commodities in interstate/international commerce under the jurisdiction of NOAA.
- Marine Mammal and/or ESA Parts
 - Marine mammals (parts) and sea turtles (parts), examples include whale meat, sea turtle meat, ivory, shells, illegally imported or exported.
- Seafood Fraud/Product Substitution/False Labeling.

MEDIUM PRIORITY

- Fraudulent Importation/Exportation.
 - Fraudulent documentation is evident or likely, for a commodity in interstate/international commerce under the jurisdiction of NOAA.
- Non-CITES violations.
 - Non-CITES listed products illegally imported or exported under the jurisdiction of NOAA. Example, various fish species.
- Imp/Exp Live Marine Species.
 - Live animals illegally in interstate/international commerce under the jurisdiction of NOAA.

LOW PRIORITY

- Fraudulent Importation/Exportation – Markings.
 - Less complex labeling violations anticipated on commodities in interstate/international commerce under the jurisdiction of NOAA.

Marine Sanctuaries Act

HIGH PRIORITY

- Fixed Gear positioned within the sanctuary boundaries.
 - Lobster traps, sink gillnets, bottom long-lines, etc.
- Whale Harassment/Approach and Vessel Speed restriction enforcement.
- Closed Area Violations.
 - Unlawful operation of a vessel in a closed area within any sanctuary boundary.

MEDIUM PRIORITY

- Shipwreck protection.

Northwest Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Cases involving:
 - Recidivism.
 - Foreign fishing incursions.
 - Adverse impacts on overfished stocks.
- Observer assault, harassment, or interference violations.
 - Observer coverage.
- Catch Reporting and Trip Limits.
 - Noncompliance with trip and cumulative limits, and recordkeeping requirements for landings of federally managed marine species, and specifically catch share programs.
- Closed Area/VMS Violations, ongoing.
 - Commercial vessel incursions into closed areas or other Marine Protected Areas.
 - IFQ declarations.
- Patrols at sea and shoreside.
- Education and outreach.

MEDIUM PRIORITY

- Cases involving:
 - Other VMS violations.
 - Commercial salmon.

LOW PRIORITY

- Highly migratory species cases involving catch reporting, log books, hail in/out.
- Permit violations.

Endangered Species Act and Marine Mammal Protection Act

HIGH PRIORITY

- Cases involving:
 - Violations having a significant impact on listed populations which might include:
- Fish kills, chemical discharges, habitat destruction, intentional direct take.
- Habitat Loss and Degradation.
 - A wide range of issues involving dead animals.
 - Major types of habitat degradation might include:
 - Inadequate water volume in streams which impact migration, spawning, and rearing; barriers to passage for both adults and juvenile fish.
 - Poor water quality in streams.
 - Loss of stream structure that provides for spawning and rearing.
 - Relating to the Puget Sound Habitat Initiative nearshore priorities involving bank armoring, flood plain management, and water quality.
- Lethal, intentional, and/or egregious take of any marine mammal or listed species.

MEDIUM PRIORITY

- Take likely to occur, without dead animals.
 - Violations might include:
- Unscreened diversions, barriers to migration, uninitiated or planned project with likely take implications, no observed taking.
- Patrols:
 - Especially in critical habitat areas and where marked selected fisheries occur.
 - Puget Sound and coastal waters.
- Education and outreach.
- Level A harassment with the potential to injure marine mammal stock.

LOW PRIORITY

- Cases where take has little or no impact on recovery of listed population.
- Permit Violations:
 - No permit obtained and no significant impact to the resource or habitat.
- Enforcement of federal laws or regulations for which NOAA does not have primary authority.
- Level B harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Beachcomber, loan program, permits.

International/Lacey Act

HIGH PRIORITY

- Seafood safety.
 - Domestic or international.
- Mislabeling violations
 - Having a significant impact on national and international commerce.
- Felony violations.
- IUU identified vessels.

MEDIUM PRIORITY

- Mislabeling violations.
 - Having a significant impact on regional commerce.
- IUU identified product.
- Patrols/Inspections.
 - International ports of entry; market, cold storage and processing facilities.
- Education and outreach.

LOW PRIORITY

- Mislabeling.
 - No significant impact to commerce.
- Underlying law violations having no significant impact on regional commerce.
- Enforcement of federal laws or regulations for which NOAA does not have primary authority.

Marine Sanctuaries Act

HIGH PRIORITY

- Cases involving large amount of damage to resources, e.g. oil tanker running aground and causing major oil spill (unlawful discharge).

MEDIUM PRIORITY

- Investigations involving minor damage to resource.
- Protection of historical resources.
- Patrols.
- Education and outreach.

LOW PRIORITY

- Harassment of wildlife.
- Low-flying aircraft.
- Protection of EFH Olympic 2 Area.

Pacific Islands Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Observer assault, harassment, or interference violations.
- Violations of International Treaties and or agreements.
- Tampering, obstruction of VMS equipment/data.
- Closed Area/VMS Violations, ongoing.
 - Commercial vessel incursions into closure areas or other Marine Protected Areas.
- Felony and major civil cases involving significant damage to the resource or the integrity of management schemes.

MEDIUM PRIORITY

- Other fisheries Permit Violations.
 - Non-compliance with state/federal fisheries permitting requirements pertaining to fisheries under NOAA's jurisdiction.

LOW PRIORITY

- Data Discrepancy – Reported logbook discrepancy, late and or failure to turn in logs, reported regulatory violations by the observer office (i.e., gear markings).

Endangered Species Act and Marine Mammal Protection Act

HIGH PRIORITY

- Ongoing Take.
 - An observed or reported ongoing / in progress “take” as well as any vessel strike.
- Habitat Loss and Degradation.
 - To be determined when take reduction team plans for the Hawaiian Monk Seal habitat take effect.
- Lethal Takes, Level “A” Harassment with the potential to injure marine mammal stock.

MEDIUM PRIORITY

- Take.
 - Generally, after the fact reported or observed “take.”
- Imported ESA parts or products (also Lacey Act).
- Non- Lethal takes, Level “B” Harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Imported MM parts or products (also Lacey Act).

LOW PRIORITY

- Permit Violations.
 - Reported violations of any permit issued.
- Harassment, Incidental.
 - Harassment caused by careless but unintentional acts.
- Permit Violations.
 - Noncompliance with conditions of any permit associated with taking or possessing of marine mammals or parts thereof.

International/Lacey Act

HIGH PRIORITY

- Fraudulent Importation/Exportation.
 - Fraudulent documentation is evident or likely, for a commodity in interstate/international commerce under the jurisdiction of NOAA.
- Species of health concern.
 - Public health and safety is at risk with commodities in interstate/international commerce under the jurisdiction of NOAA.
- Imp/Exp Live Marine Species.
 - Live animals illegally in interstate/international commerce under the jurisdiction of NOAA

MEDIUM PRIORITY

- Marine Mammal and/or ESA Parts.
 - Marine mammal and ESA products and or parts illegally exported.

LOW PRIORITY

- Fraudulent Importation/Exportation – Markings.
 - Less complex labeling violations anticipated on commodities in interstate/international commerce under the jurisdiction of NOAA.

Marine Sanctuaries Act

HIGH PRIORITY

- Discharges.
 - Discharging or depositing any material injurious to sanctuary and monument resources.
- Vessel Groundings.
 - Vessels or tows that become grounded within the boundaries of any marine sanctuary or monument.

MEDIUM PRIORITY

- Prohibited Taking or Possession.
 - Unlawful removal or possession of historical artifacts as well as protected marine resources from within the sanctuary and/or monument boundaries.

LOW PRIORITY

- Permit Violations.
 - Noncompliance with conditions of any permit associated with the sanctuary and monument.

Observer Program

HIGH PRIORITY

- Reported observer harassment.
 - Any reported observer harassment and or obstruction / interference with observer functions.

MEDIUM PRIORITY

- Reported FMP violations.
 - Any reported fishery management plan violations (i.e. blue dye bait, seabird mitigation).

LOW PRIORITY

- Data Discrepancy.
 - Reported logbook discrepancy, late and/or failure to turn in logs, reported regulatory violations by the observer office (i.e., gear markings).

Southeast Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Red Snapper/Grouper/Tilefish Catch Shares-IFQ monitor and enforcement.
- Fishery Closures, Closed Areas perform effective outreach, monitor, and enforce.
- Highly Migratory Species.
- Observer Harassment.

MEDIUM PRIORITY

- Dealer non-reporting on overfished species.
- Enforce gear and permit sanctions/restrictions.
- Closed Area/VMS Violations, ongoing.
 - Commercial vessel incursions into closure areas or other Marine Protected Areas.

LOW PRIORITY

- Investigate minor permit violations.
- Monitor, patrol commercial/charter fishery.

Endangered Species Act and Marine Mammal Protection Act

HIGH PRIORITY

- Turtle Excluder Device, education and enforcement.
- Right Whale approach and vessel speed restriction enforcement in South Atlantic waters
- Caribbean Corals and Coral Reef protection in the Region's National Marine Sanctuaries.
- Any Take, Importation/exportation/possession of commercial quantities of ESA items.
- Lethal Takes, Level "A" Harassment with the potential to injure marine mammal stock.
- Importation/exportation/possession of commercial quantities of marine mammal items.

MEDIUM PRIORITY

- Response to human interaction-caused stranding-mortality.
- Non- Lethal takes, Level "B" Harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Non compliance with conditions of incidental take permits.
- Response to human interaction-caused stranding-mortality.

LOW PRIORITY

- Importation/exportation/possession of non-commercial quantities of /ESA items.
- Importation/exportation/possession of non-commercial quantities of marine mammal items.
- Response to non-human interaction strandings not involving fishing gear, ship strike, or human causation.

International/Lacey Act

HIGH PRIORITY

- Illegal importation/exportation of commercial quantities of ESA/MMPA/Corals (CITES).
- Mislabeling/fraudulently labeling commercial seafood imports/exports.
- Detection and intervention of contaminated safety/health risk seafood products.

MEDIUM PRIORITY

- Illegal importation/exportation of non-commercial quantities of ESA/MMPA/Corals (CITES).

LOW PRIORITY

- Detection-correction of minor import/export document-marking discrepancies.

Marine Sanctuaries Act:

HIGH PRIORITY

- Any discharge of materials injurious to sanctuary resources.
- Prohibitive taking of commercial quantities of sanctuary artifacts or protected marine resources.
- Cause by negligent act or violation of law/regulation, damage to sanctuary natural resources(i.e., vessel grounding, anchoring in unlawful areas).

MEDIUM PRIORITY

- Unlawful fishing and/or use of restricted fishing gear.

LOW PRIORITY

- Unlawful operation of vessel/aircraft/conveyance.

Southwest Division: Draft Enforcement Priorities

Magnuson-Stevens Act

HIGH PRIORITY

- Observer assault, harassment, or interference violations.
- Tuna Tracking and Verification Program.
- Pacific Highly Migratory Species Fishery (HMS).
- Catch Reporting and Trip Limits.
 - Noncompliance with trip and cumulative limits, and record keeping requirements for landings of federally managed marine species.
- Closed Area/VMS Violations, ongoing.
 - Commercial vessel incursions into closure areas or other Marine Protected Areas.

MEDIUM PRIORITY

- Felony and major civil cases involving significant damage to the resource or the integrity of management schemes.
- Other fisheries Permit Violations.
 - Noncompliance with state/federal fisheries permit requirements pertaining to fisheries under NOAA's jurisdiction.
- Gear Violations.
 - Deployment of unlawful gear utilized in commercial fisheries under NOAA's jurisdiction, including but not limited to, undersized trawl mesh, barbed salmon hooks, etc.

LOW PRIORITY

- Commercial Salmon, Seasonal.
- High Seas Fishing Permit.

Endangered Species Act and Marine Mammal Protection Act

HIGH PRIORITY

- Ongoing Take with dead animals.
 - An observed or reported ongoing "take" with dead animals present and removable.
- Habitat Loss and Degradation
 - A wide range of issues from minor riparian vegetation removal to massive sediment loading or major chemical spill without obvious dead animals.
 - Major types of habitat degradation are:
 - Inadequate water volume in streams which impact migration, spawning, and rearing; Barriers to passage for both adults and juvenile fish; Poor water quality in streams and; Loss of stream structure that provides for spawning and rearing.
- Lethal Takes, Level "A" Harassment with the potential to injure marine mammal stock.

MEDIUM PRIORITY

- Take with dead animals.
 - Generally after the fact reported or observed "take" with dead animals present and recoverable.
 - No witnesses of "take" present.
- Take likely to occur without dead animals.
 - Unscreened diversions, barriers to migration, uninitiated or planned project with likely take implications, no observed taking.
- Non- Lethal takes, Level "B" Harassment with the potential to disturb a marine mammal stock in the wild by causing a disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- Wayward marine mammals - significant strandings.
 - Lost or stranded marine mammals.

LOW PRIORITY

- Permit Violations.
 - Proceeding with a project in a manner inconsistent with the terms and conditions of the permit.

International/Lacey Act

HIGH PRIORITY

- Import/Export Live Marine Species.
 - Live animals illegally in interstate/international commerce under the jurisdiction of NOAA.
- Violations involving the Convention on International Trade in Endangered Species (CITES).
 - CITES-listed animal or animal parts illegally in interstate/international commerce under the jurisdiction of NOAA.
- Species of health concern.
 - Public health and safety is at risk with commodities in interstate/international commerce under the jurisdiction of NOAA.
- IUU Fishing.
- Tribal Fisheries cases involving Lacey Act Violations.
 - Tribal fishing activities involving salmonids that pose a real threat to the continued existence of local populations. OLE's main focus should be pursuing prosecution in those cases which involve large scale, organized illegal fishing conspiracies with non tribal commercial fish dealers.
 - OLE will place special emphasis on incidents that may involve ESA listed salmonids.

MEDIUM PRIORITY

- Fraudulent Importation/Exportation.
 - Fraudulent documentation is evident or likely, for a commodity in interstate/international commerce under the jurisdiction of NOAA.
- Non CITES violations.
 - Non-CITES listed products illegally imported or exported under the jurisdiction. of NOAA. Example, various fish species.
- Marine Mammal and/or ESA Parts.
 - Marine mammals (parts) and sea turtles (parts), example whale meat, sea turtle meat, ivory, shells, illegally imported or exported.

LOW PRIORITY

- Species of economic concern, shrimp.
- Illegal import or export of commodities of concern to NOAA for economic gain (e.g., forged/fraudulent DOC inspection documents).
- Fraudulent Importation/Exportation – Markings.
 - Less complex labeling violations anticipated on commodities in interstate/international commerce under the jurisdiction of NOAA.

Marine Sanctuaries Act

HIGH PRIORITY

- Discharges
 - Discharging or depositing any material injurious to sanctuary resources (e.g., pollution issues).
- Vessel Groundings
 - Vessels or tows that become grounded within the boundaries of any marine sanctuary.

MEDIUM PRIORITY

- Prohibited Taking or Possession.
 - Unlawful removal or possession of historical artifacts, or protected marine resources, from within the sanctuary boundaries.
- Restricted Areas, Marine Protected Areas.
 - Unlawful operation of a vessel in a closed area within any sanctuary boundary.

LOW PRIORITY

- Vehicular Operation
 - Unlawful operation of motorized personal watercraft, aircraft, etc.

Background on the FY 2012 Priority-Setting Process

In fall 2010, the NOAA Office of Law Enforcement and the NOAA Office of the General Counsel for Enforcement and Litigation solicited recommendations from within NOAA and from the fishery management councils; interstate fishery commissions; interested stakeholders representing public, private, and non-governmental organizations; and other entities on setting annual priorities at the national and regional levels.

This solicitation was initiated following the NOAA National Enforcement Summit earlier that year that brought together more than 60 stakeholders from the commercial and recreational fishing industries, non-governmental organizations, and state and federal enforcement officials to focus on how NOAA might better manage marine resources through fair, consistent, and transparent enforcement of natural resource laws.

NOAA was particularly interested in recommendations from all interested parties on how the agency can develop national and regional priorities that reflect:

- The potential effect and/or threat of non-compliance to the resource (high, medium, low).
- The status of the resource (e.g., endangered, threatened, depleted, overfished, overfishing occurring, etc.).
- Efforts to improve compliance.
- Opportunities for deterrence.
- Support for catch share programs.
- How enforcement allocates resources for requirements outside specific priorities.
- Best use of available resources.

Summary of Stakeholder Recommendations Received

The recommendations received from stakeholders fell into the two broad categories:

- *Sustainable fisheries (Magnuson-Stevens Act and associated statutes.)*
- *Protected resources and places (Endangered Species Act, Marine Mammal Protection Act, and National Marine Sanctuaries Act).*

Recommendations related to sustainable fisheries included:

- *Protecting overfished stocks and stocks where overfishing is occurring.*
- *Improving economic vitality for fisheries community.*
- *Leveling the playing field through compliance assistance and effective enforcement.*
- *Expanding and enhancing partnerships with the international community.*
- *Monitoring to facilitate compliance.*
- *Designing and implementing improved enforcement services to address catch share programs.*
- *Enforcing fishery closures in support of Annual Catch Limits.*
- *Enforcing gear restrictions.*
- *Supporting observer programs.*
- *Enforcing catch and fishing effort reporting requirements.*
- *Enforcing import restrictions/requirements.*

Recommendations related to protected species and places included:

- *Improving compliance with use of turtle excluder device (TED) regulations throughout the Southeast United States.*
- *Improving compliance with speed restrictions along the East Coast of the United States to protect endangered North Atlantic right whales.*
- *Improving compliance with regulations designed to protect marine mammals and endangered species, habitat, and protected places, particularly the National Marine Sanctuaries through both expanded compliance assistance programs and expanded effective enforcement monitoring and action.*
- *Expanding and enhancing partnerships with the international community to protect marine mammals and endangered marine species.*

Draft Published for Public Comment

On November 8, 2011, NOAA's Draft Enforcement Priorities were posted on the websites of NOAA's Office of Law Enforcement (OLE) and NOAA's Office of General Counsel's Enforcement Section, for a public comment period of 60 days. Comments could be submitted via e-mail, fax, or mail. The Director of OLE and six Special Agents in Charge also held seven stakeholder calls to outline the priorities.

The comment period ended at midnight Eastern Standard Time on January 9, 2012. All comments received will be published, per the commenting guidelines that were posted on the website:

Commenting Guidelines

- All comments should pertain to the document Draft NOAA Enforcement Priorities.
- The deadline for comments is January 9, 2012.
- All comments will be reviewed and considered by NOAA staff as they work to finalize the document.
- Comments will be made available online and as an appendix to the final 2012 document.
- Commenters may submit their name, affiliation, and state or submit as "anonymous."
- Commenters' names along with the states the commenters are from will be made public along with their comments once they are published in the final document. Addresses and e-mail information will not be included.