

August 1, 2011

NOAA Office of the General Counsel for Enforcement and Litigation
Enforcement Actions
January 1, 2011, through June 30, 2011¹

NOVA and/or NOPS and/or Written Warning Issued and Served²

During this time period, NOAA charged 38 civil administrative cases, as follows:³

Alaska

1. AK0803860; transport boat - Owner was charged in two counts under the Marine Mammal Protection Act (MMPA) for taking a marine mammal by a whale strike. A \$10,000 NOVA was issued.
2. AK0903915; F/V OCEAN PEACE - Owner and operator were charged under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) for failing to have a United States Coast Guard (USCG) approved pilot ladder. A \$1,500 NOVA was issued. [See, settled cases, item 1, below, for resolution of this matter.]
3. AK0903927; F/V SEA VENTURE - Owner and operator were charged in two counts under the Magnuson-Stevens Act for fishing for groundfish in federal waters without a Federal Fishing Permit and for fishing in the Steller Sea Lion rookery at Attu Island, an area closed to all fishing or transit by commercial fishing vessels. A \$137,779.80 NOVA was issued.
4. AK1000046; F/V ZENITH - Owner and operator were charged under the Magnuson-Stevens Act for failing to account for each day of the fishing year in groundfish logbook. A written warning was issued.
5. AK1000048; F/V WIZARD - Owner and operator were charged under the Magnuson-Stevens Act for failing to have a USCG approved pilot ladder. A \$1,500 NOVA was issued. [See, settled cases, item 2, below, for resolution of this matter.]

¹ Our next report will be posted on or about February 1, 2012, reporting on civil administrative cases charged and settled for the period July 1, 2011, through December 31, 2011. Earlier reports were posted on September 1, 2010, and February 1, 2011, reporting for the period March 18, 2010, through December 31, 2010.

² NOVA stands for Notice of Violation and Assessment and NOPS stands for Notice of Permit Sanction. NOVAs, NOPSs and written warnings contain the agency's allegations of violations by the respondent(s). In response to receiving a NOVA, NOPS or written warning, a respondent may challenge those allegations through means set forth in NOAA's civil procedure regulations found at 15 C.F.R. Part 904.

³ These cases are listed by file number, separated by regions.

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6. AK1000431; F/V OCEAN ALASKA - Owner and operator were charged under the Magnuson-Stevens Act for fishing in the closed Red King Crab Savings Area. A \$21,300 NOVA was issued.
7. AK1001027; F/V HERITAGE - Owner and operator were charged under the Magnuson-Stevens Act for failing to submit groundfish logbook. A \$2,000 NOVA was issued.
8. AK1001197; F/V PACIFIC RAM - Owner and operator were charged under the Magnuson-Stevens Act for failing to have a USCG approved pilot ladder. A \$1,500 NOVA was issued. [See, settled cases, item 3, below, for resolution of this matter.]
9. AK1001290; FV ST. NICHOLAS - Owner and operator were charged under the Magnuson-Stevens Act for failing to operate a Vessel Monitoring System (VMS) unit. A \$2,035 NOVA was issued.
10. AK1001896; F/V MISS SARAH - Owner and operator were charged under the Magnuson-Stevens Act for failing to have a USCG approved pilot ladder. A \$1,500 NOVA was issued. [See, settled cases, item 4, below, for resolution of this matter.]
11. AK1003877; F/V OCEAN CAPE - Owner and operator were charged under the Magnuson-Stevens Act for failing to have a USCG approved pilot ladder. A \$1,500 NOVA was issued. [See, settled cases, item 5, below, for resolution of this matter.]
12. AK1100677; F/V HORIZON - Owner and operator were charged under the Magnuson-Stevens Act for fishing in federal waters without having deployed the required seabird avoidance gear. A \$2,000 NOVA was issued.

Northwest

13. NW0603081; F/V WESTERN SEAS - Owner and operator were charged under the Magnuson-Stevens Act for operating in the Trawl Rockfish Conservation Area while engaged in commercial fishing with bottom trawl gear. A written warning was issued.
14. NW0800580; F/V CASSANDRA ANNE - Owner and operator were charged in three counts under the Magnuson-Stevens Act for entering the Trawl Rockfish Conservation Area while engaged in commercial fishing with trawl gear, for entering the Biogenic I Essential Fish Habitat area, while fishing with bottom trawl gear, and for failing to maintain reports of groundfish landings on board the vessel. A \$10,120 NOVA was issued.
15. NW0803933; F/V LADY HELEN - Owner and operator were charged under the Magnuson-Stevens Act for failing to maintain safe conditions on the vessel for the protection of the observer, by failing to maintain a proper look-out. A \$4,000 NOVA was issued.

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16. NW0902640; F/V BESS CHET - Owner and operator were charged in two counts under the Magnuson-Stevens Act for failing to have a required VMS unit on board and for failing to submit logbooks. A \$17,000 NOVA was issued.

Pacific Islands

17. PI1003559; F/V ISABELLA - Owner, operator and fishing master were charged in five counts under the MMPA for taking a marine mammal species upon the high seas, by knowingly setting purse seine fishing gear on a whale. A \$49,000 NOVA was issued.
18. PI1003976; F/V CAPT MILLIONS I - Owner/operator was charged in two counts under the Magnuson-Stevens Act for fishing with longline gear in the Main Hawaiian Islands Longline Prohibited Area. A \$31,146 NOVA was issued.
19. PI1004008; F/V HOLLY - Owner and operator were charged in two counts under the Magnuson-Stevens Act for fishing with longline gear in the Main Hawaiian Islands Longline Prohibited Area. A \$30,886 NOVA was issued.
20. PI1004158; F/V ROBIN II - Owner and operator were charged under the Western and Central Pacific Fisheries Convention (WCPFC) Implementation Act for fishing with longline gear inside and outside the WCPFC Area during a closure period. A \$22,869 NOVA was issued.
21. PI1100409; F/V DANIELA - Owner, operator and fishing master were charged in three counts under the MMPA for taking a marine mammal species upon the high seas, by knowingly setting purse seine fishing gear on a whale. A \$24,375 NOVA was issued.
22. PI1100828; F/V NO. 1 JI HYUN - Owner and operator were charged under the Magnuson-Stevens Act for engaging in shark finning and possessing shark fins without the corresponding carcasses while on board a United States fishing vessel. A written warning was issued.
23. PI1100830; F/V ISABELLA - Owner and operator were charged under the WCPFC Implementation Act for conducting purse seine sets within a "high seas pocket" closed area. A \$110,000 NOVA was issued.
24. PI1102012 - Individual was charged under the Endangered Species Act (ESA) and MMPA for taking endangered sperm whale teeth in waters or on land under the jurisdiction of the United States. A written warning was issued.

Southeast

25. SE0902221; M/V MISS ANNA - Owner and operator were charged under the Magnuson-Stevens Act for possessing fish during seasonal closure for red snapper

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recreational fishery and for failing to maintain finfish intact. A \$1,000 NOVA was issued.

26. SE1000039; F/V MAXIMUM RETRIEVER - Owner and operator were charged under the Magnuson-Stevens Act for possessing on board a vessel or landed South Atlantic golden tilefish in excess of the commercial trip limits. A \$3,000 NOVA was issued.
27. SE1003831; F/V NGUYEN TJI II - Owner and operator were charged under the Magnuson-Stevens Act for fishing in a portion of the Gulf Exclusive Economic Zone (EEZ) closed due to the BP oil spill. A \$20,000 NOVA was issued.
28. SE1003837; F/V PRINCESS TINA - Owner and operator were charged under the Magnuson-Stevens Act for fishing in a portion of the Gulf EEZ closed due to the BP oil spill. Charged in four counts under the ESA Act for failing to have a properly installed Turtle Excluder Device in nets rigged for fishing. A \$63,000 NOVA was issued.
29. SE1003838; F/V SANTA MARIA IV - Owner and operator were charged under the Magnuson-Stevens Act for fishing in a portion of the Gulf EEZ closed due to the BP oil spill. A \$20,000 NOVA was issued.
30. SE1004002; F/V ACTION II - Owner/operator was charged under the Magnuson-Stevens Act for landing Individual Fishing Quota (IFQ) grouper species without sufficient IFQ species allocation. A \$5,000 NOVA was issued.
31. SE1004109; F/V FISHIN OFF - Owner and operator were charged under the Magnuson-Stevens Act for failing to comply with protected species conservation measures for sea turtles. A \$2,000 NOVA was issued.
32. SE1004292; F/V THE SHADOW - Owner and operator were charged under the Magnuson-Stevens Act for failing to comply with protected species conservation measures for sea turtles and/or failing to comply with species-specific limitations for venting tools. A \$3,000 NOVA was issued.
33. SE1100157; F/V SHARON NICOLE - Owner and operator were charged under the Magnuson-Stevens Act for possessing Atlantic striped bass in the EEZ. A \$12,500 NOVA was issued.
34. SE1100304; F/V CAPT DAVE - Owner and operator were charged under the Magnuson-Stevens Act for fishing in the Edges closed area. A \$7,500 NOVA was issued.
35. SE1100310; F/V GALILEAN - Owner and operator were charged under the Magnuson-Stevens Act for fishing in the Edges closed area. A \$7,500 NOVA was issued.
36. SE1100430; F/V MISS RITA - Owner and operator were charged under the Magnuson-Stevens Act for fishing in the Edges closed area. A \$12,500 NOVA was issued.

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37. SE1100711; F/V TIGHTEN UP - Owner and operator were charged under the Magnuson-Stevens Act for fishing in the Edges closed area. A \$7,500 NOVA was issued.

Southwest

38. SW0902792 - Individual was charged under the Lacey Act for illegally purchasing Chinook salmon from the Yurok Tribe. A \$3,000 NOVA was issued.

Settlement Agreements Executed

During this time period, NOAA settled 21 civil administrative cases, as follows:

Alaska

1. AK0903915; F/V OCEAN PEACE - Magnuson-Stevens Act \$1,500 NOVA settled, with all of it suspended for five years. [See, charged cases, item 2, above for initial charging information.]
2. AK1000048; F/V WIZARD - Magnuson-Stevens Act \$1,500 NOVA settled, with all of it suspended for five years. [See, charged cases, item 5, above for initial charging information.]
3. AK1001197; F/V PACIFIC RAM - Magnuson-Stevens Act \$1,500 NOVA settled, with all of it suspended for five years. [See, charged cases, item 8, above for initial charging information.]
4. AK1001896; F/V MISS SARAH - Magnuson-Stevens Act \$1,500 NOVA settled, with all of it suspended for five years. [See, charged cases, item 10, above for initial charging information.]
5. AK1003877; F/V OCEAN CAPE - Magnuson-Stevens Act \$1,500 NOVA settled, with all of it suspended for five years. [See, charged cases, item 11, above for initial charging information.]

Northeast

6. NE0805007; F/V PRINCESS LAURA - Magnuson-Stevens Act \$20,500 NOVA settled for \$20,500, with all of it suspended for two years. [See charged cases, item 22, from February 1, 2011, posting for initial charging information.]

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7. NE0901195; F/V JANE ELIZABETH - Magnuson-Stevens Act \$12,500 NOVA settled for \$10,000. [See charged cases, item 25, from February 1, 2011, posting for initial charging information.]
8. NE0902696 and NE0601155; F/V AIDAN'S PRIDE - Magnuson Stevens Act \$9,070 NOVA settled for \$5,000, with all of it suspended for two years. Owner and operator were charged for exceeding the pound limit for Atlantic sea scallops.

Pacific Islands

9. PI1000544; F/V MAJESTIC BLUE - MMPA \$22,000 NOVA settled for \$18,000. [See charged cases, item 18, from September 1, 2010, posting for initial charging information.]
10. PI1001427; F/V DOUBLE D - Magnuson Stevens Act \$4,500 NOVA settled for \$1,500. [See charged cases, item 21, from September 1, 2010, posting for initial charging information.]

Southeast

11. SE0900591; F/V CAROLINA CAT - Magnuson-Stevens Act \$5,000 Administrative Law Judge penalty settled for \$5,000, with \$2,500 of it suspended for twenty-five months. Operator was charged for making a false statement.
12. SE1000399; F/V FATHER MIKE - Magnuson-Stevens Act \$20,000 NOVA settled for \$16,000. [See charged cases, item 50, from February 1, 2011, posting for initial charging information.]
13. SE1000702; MV OOCL OAKLAND - ESA \$38,500 NOVA settled for \$38,500, with \$7,700 of it suspended for one year. [See charged cases, item 54, from February 1, 2011, posting for initial charging information.]
14. SE1000719; MS CAPE MELVILLE - ESA \$38,500 NOVA settled for \$38,500, with \$7,700 of it suspended for one year. [See charged cases, item 56, from February 1, 2011, posting for initial charging information.]
15. SE1001719; F/V LADY TRINI - National Marine Sanctuaries Act \$5,000 NOVA settled for \$5,000. [See charged cases, item 59, from February 1, 2011, posting for initial charging information.]
16. SE1001974; F/V CAPTAIN T - Magnuson-Stevens Act \$15,000 NOVA settled for \$15,000, with \$7,500 of it suspended for thirteen months. [See charged cases, item 14, from September 1, 2010, posting for initial charging information.]

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17. SE1002591; ASIAN CHORUS - ESA \$55,000 NOVA settled for \$55,000, with \$11,000 of it suspended for one year. [See charged cases, item 72, from February 1, 2011, posting for initial charging information.]

Southwest

18. SW050165 and SW0805080; F/V VICTORIA - Magnuson-Stevens Act \$11,894 NOVA settled for \$11,894, with all of it suspended for two years. Owner/operator was charged for fishing inside the Cowcod Conservation Area and inside the Santa Barbara Island Marine Reserve Essential Fish Habitat, both closed areas.
19. SW0804045; F/V LORA LEE - Magnuson-Stevens Act \$6,552 NOVA settled for \$6,552, with \$2,052 suspended for one year. Owner/operator was charged for operating a vessel not registered to a limited entry permit in a non-trawl Rockfish Conservation Area with non-trawl gear on board. Magnuson-Stevens Act \$2,000 NOVA was reduced to a written warning. Owner/operator was charged for failing to file a required declaration report for an open-access vessel using non-trawl gear.
20. SW0900191 and SW0903007; Pacific Choice Seafood, Co. - Magnuson-Stevens Act \$10,000 NOVA settled for \$10,000, with \$1,000 of it suspended for two years. [See charged cases, item 75, from February 1, 2011, posting for initial charging information.]
21. SW0901931; F/V NEW SUNBEAM - Magnuson Stevens Act \$6,529 NOVA settled for \$6,529, with all of it suspended for two years. Owner and operator were charged for landing fish during closure for the Pacific sardine directed fishery.