

Draft NOAA Enforcement Priorities

November 8, 2011

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 programs. NOAA is establishing priorities to guide its enforcement programs in support of NOAA's Mission, Vision, Long Term Goals, and National Marine Fisheries Service objectives.

NOAA's enforcement programs operate primarily under the following provisions of the 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

Background on the FY 2012 Priority-Setting Process

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

This solicitation for recommendations developed following the summer of 2010 NOAA National Enforcement Summit 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 can 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 generally 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 NOAA Enforcement Priorities

NOAA is establishing enforcement priorities to meet NOAA's mission, guide its planning, and focus the use of its enforcement assets relative to marine resources. This planning will focus on federally regulated fisheries and protected species and places identified within NOAA's priorities. 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. While NOAA will focus its enforcement efforts on the identified priority areas, to assure deterrence, it will continue to enforce all the laws for which it is responsible.

NOAA is identifying its proposed enforcement priorities through a consultative process within NOAA and with external stakeholders. Once established, absent unexpected circumstances, enforcement will dedicate resources to address performance targets affecting the identified priorities. The priority-setting process, including opportunities for public input, will be undertaken annually.

National Priorities

National Priority 1: Support Sustainable Fisheries and Safe Seafood

Domestic demand for safe seafood and recreation opportunities continue to grow. These demands will far exceed domestic supply from wild stocks. This 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 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 through unregulated and unreported harvests, mislabeled product and can introduce unsafe product into U.S. markets. Illegal, unregulated and unreported 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.

While compliance and enforcement plans to support catch share management is a National priority, NOAA will continue to enforce traditional non-catch share management as well.

National Priority 2: 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 marine and freshwater) 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 such 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, State, local and tribal agencies, non-governmental organizations, and stakeholder groups to ensure that recovery and conservation plans are robust, useful and implemented. The international dimensions of this objective require participation in international species management for anadromous fish (fish that live in the ocean mostly and breed in fresh water), endangered species, and marine mammals.

Additionally, 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 National Marine Sanctuaries.
- Protection of marine mammal and endangered species through monitoring and enforcement actions in support of by-catch reduction regulations, gear restrictions, and closed areas.

Supporting Priorities

In support of the national priorities outlined above, and to benefit NOAA's resource-based mission goals, NOAA's enforcement programs will also support these two additional 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, objective data collection and reporting.

Regional Priorities

Regional priorities vary with the specific resources, activities, and threats across the country. What may be a high priority in one region may not be a priority in another. For example, endangered salmon do not exist in all regions, so while they may be a priority in the Northwest and Southwest the protection of other species such as sea turtles, monk seals, or North Atlantic right whales may be priorities elsewhere. Equally, fish stocks, fishing gear, and management programs are not identical across the country. Thus, NOAA's 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. Additionally, circumstances – an oil spill, implementation of new regulations – may require that NOAA depart from these priorities to ensure marine resources are protected. In sum, the priorities below will help NOAA focus its enforcement assets on the areas that will most benefit the marine resources for which it is responsible.

Listed below are regional priorities in support of each national priority. Examples given under each priority are not meant to be exhaustive, rather only 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 Multi-species or other fisheries
 - Northwest Region: Mislabeled 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 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 (lobster traps, gillnets) violations within sanctuaries
 - Northwest, Southwest and Pacific Island Regions: Unlawful discharges or groundings of vessels within sanctuaries
 - Southeast Region: Protection of coral reefs within sanctuaries

- 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