



**NOAA**  
**FISHERIES**

# HMS Enforcement Overview

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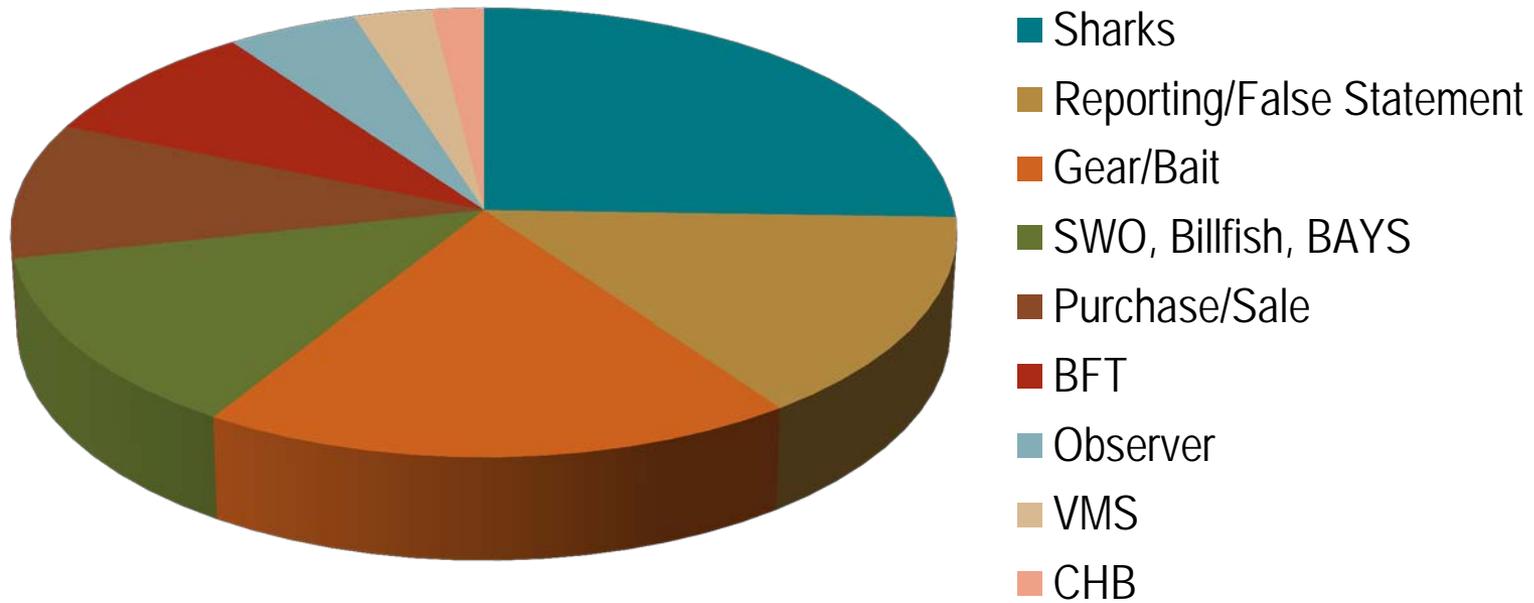
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NOAA Fisheries Office of Law Enforcement

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# Civil Administrative Enforcement Case Disposition

- The backlog plan was approved, so those cases can now move forward along with newer cases.
- Since September 2012, the Enforcement Section has issued:
  - Notices of Violation and Assessment (NOVAs) in 12 HMS cases; and
  - Written warnings in an additional 20 cases.
- 27 HMS cases are pending.

# Types of Violations (by count)



# Type of Violation

- Sharks - no permit, using sharks as bait, finning, prohibited species, exceeding catch limit, failure to have sharks weighed/recorded
- Bluefin Tuna – undersized, no permit, failure to maintain in proper form, exceeding catch limit, harvesting w/assistance of another vessel
- Reporting/False Statement – falsifying dealer reports, no logbooks, failure to submit dealer reports/documentation, false statement to authorized officer
- Observer – no valid USCG safety decal, fishing without observer when selected, submitting false no fishing report
- VMS – no e-MTU, failure to repair, failure to operate
- Gear/Live Bait – possession of J hooks, possession of illegal circle hooks, unauthorized gear, no turtle release equipment, improperly marked gear, live bait affixed to PLL gear, live bait well on board
- Purchase/Sale – sale to non-permitted dealer, sale of recreationally-caught fish, import without ITP, mislabeling
- SWO, Billfish, BAYS – undersized, no valid permit
- CHB – no permit

# Accessing Enforcement Information Online

- A lot of information is now available on the Enforcement Section Website
  - National Penalty Policy – including penalty matrices
  - Enforcement Charging Information
  - National Summary Settlement Schedule
  - Administrative Enforcement Decisions – ALJ Decisions, Administrator's Orders, Federal Court Decisions
  - Procedural regulations

General Counsel Enforcement Section Penalty Policy and Schedules - Windows Internet Explorer provided by NOAA Fisheries

http://www.gc.noaa.gov/enforce-office3.html

noaa enforcement gc

General Counsel Enforcement Section Penalty Po...

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## NOAA OFFICE OF GENERAL COUNSEL

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### Penalty Policy and Schedules

Penalty Policy | Summary Settlement Schedules | Fix-It Schedules

Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions, March 16, 2011

#### SUMMARY SETTLEMENT SCHEDULES

National Summary Settlement Schedule

Northeast  
Southeast  
Southwest  
Northwest  
Alaska  
Pacific Islands  
National Marine Sanctuaries Act

#### FIX-IT SCHEDULES

Northeast  
Southeast  
Southwest  
Northwest  
Alaska

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# Summary Settlement

- Delegation of charging authority to OLE
- Compromise for specific violations
- Allows for expedited case handling
- Amended in July:
  - recreational fishing violations
  - dealer violations including late reporting

# Cases Charged September 2012-September 2013

## Notices of Violation and Assessments Issued

SE1105152; F/V Kalije Belle - Owner and operator were charged under the Magnuson-Stevens Act for fishing longline gear in the United States Exclusive Economic Zone (EEZ) with cut-up pieces of shark as bait. A \$25,723.17 NOVA was issued.

NE1002525; F/V Sea Stryder – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for possessing an undersized Atlantic Bluefin tuna. A \$5,000 NOVA was issued.

NE1002587 – Company was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for purchasing an undersized Atlantic Bluefin tuna and for falsifying a dealer report submitted to NMFS. Company was also charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Parts 600 and 635 for making a false statement to an authorized officer. A \$24,000 NOVA was issued.

SE1003801; F/V Big Eye – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for unlawfully fishing with an expired Coast Guard safety decal during a time period when the vessel was selected by NMFS to carry an observer. Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for failing to submit vessel logbook form(s) postmarked within 7 days of offloading all Atlantic HMS. Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for filing a “No Fishing Reporting Form” and then fishing without an observer. Owner and operator were charged under the Magnuson-Stevens Act and regulations for fishing inside of the Cape Hatteras Special Research Area (CHSRA) with pelagic longline gear without requesting an observer. Finally, the owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for and landing Atlantic highly migratory species without an observer on board when the vessel was requested by NMFS to carry an observer on board during both the first quarter of 2010 and the fourth quarter of 2011. A \$57,500 NOVA was issued.

# Cases Charged September 2012-September 2013

## Notices of Violation and Assessments Issued (cont'd.)

SE1201527; F/V Capt David – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing pelagic longline gear without a NMFS-approved enhanced mobile transmitting unit (E-MTU) vessel monitoring system (VMS) on board the vessel and without operating the VMS unit whenever the vessel is away from port with pelagic longline gear on board. Owner and operator were also charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for Atlantic HMS with pelagic longline gear with live bait affixed to the gear, for possessing “J” hooks onboard while the vessel was carrying pelagic longline gear and in possession of the certain Atlantic highly migratory species permits, and for possessing circle hooks that are constructed of round wire stock which is larger than 3.65mm in diameter. Finally, the owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for failing to possess required sea turtle mitigation bycatch gear while having pelagic longline fishing gear onboard the vessel. \$7,020.75 in proceeds from the catch were seized and an \$84,000 NOVA was issued.

SE1202103; F/V Blue Fin – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for Atlantic highly migratory species with pelagic longline gear with live bait affixed to the gear, for possessing “J” hooks onboard while the vessel was carrying pelagic longline gear and in possession of certain Atlantic highly migratory species permits, and for failing to possess required sea turtle mitigation bycatch gear while having pelagic longline fishing gear onboard. A \$64,500 NOVA was issued.

SE1203237; F/V Blue Fin – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for having holds on board the vessel that could be used as live bait wells and for possessing “J” hooks onboard the vessel while it was carrying pelagic longline gear and in possession of certain Atlantic highly migratory species permits. A \$62,500 NOVA was issued.

SE1203564; F/V Blue Fin - Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for Atlantic highly migratory species with pelagic longline gear with live bait affixed to the gear, for possessing “J” hooks onboard while the vessel was carrying pelagic longline gear and in possession of certain Atlantic highly migratory species permits, and for failing to possess required sea turtle mitigation bycatch gear while having pelagic longline fishing gear onboard. \$26,877.75 in proceeds from the catch were seized and an \$64,500 NOVA was issued.

## Cases Charged September 2012-September 2013

### Notices of Violation and Assessments Issued (cont'd.)

SE1300778; F/V Blue Fin - Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for Atlantic highly migratory species with pelagic longline gear with live bait affixed to the gear and for possessing "J" hooks onboard while the vessel was carrying pelagic longline gear and in possession of certain Atlantic highly migratory species permits. \$20,809.00 in proceeds from the catch were seized and an \$62,500 NOVA was issued.

SE1302629 – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for transferring, for commercial purposes, an Atlantic Bluefin tuna other than to a dealer that has a valid dealer permit. \$2,260.00 in proceeds from the catch were seized and an \$12,500 NOVA was issued.

SE1302629 – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for receiving an Atlantic Bluefin tuna for commercial purposes from the owner of a vessel not permitted to sell the tuna. A \$15,000 NOVA was issued.

SW0703940 – Company was charged with importing 30 shipments (totaling 10,612 kgs) of Bluefin tuna without possessing a valid international trade permit or submitting bi-weekly reports. A \$20,000 NOVA was issued.

SW0703940 – Company was charged with importing 30 shipments (totaling 10,612 kgs) of Bluefin tuna without possessing a valid international trade permit or submitting bi-weekly reports. A \$20,000 NOVA was issued.

# Cases Charged September 2012-September 2013

## Written Warnings Issued

SE1003390; F/V Golden Dragon – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 by possessing four (4) shark fins without a correspondent carcass and regulations at 50 C.F.R. Part 622 by possessing seven (7) bags of filleted fin fish.

SE0903624; F/V Lady Kristie II – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for possessing shark fins without the corresponding carcasses and under regulations at 50 C.F.R. Part 622 for possessing undersized red snapper.

SE0804967; F/V Sir Martin E – Owner and operator were charged under the Magnuson-Stevens Act ) and regulations at 50 C.F.R. Part 622 and 50 C.F.R. Part 635 for using pieces of red grouper, snapper, and shark to bait pelagic longline gear being fished in Federal waters in the Gulf of Mexico.

NE0803554; F/V Déjà vu II – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for harvesting an Atlantic Bluefin tuna while receiving assistance from another vessel to harvest the tuna and for harvesting Atlantic Bluefin tuna with unauthorized gear. Furthermore, the individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 600 for making a false statement to a NMFS special agent concerning the harvest of an Atlantic Bluefin.

NE0803601; F/V Bushwacker – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for harvesting an Atlantic Bluefin tuna while receiving assistance from another vessel to harvest the tuna and for harvesting Atlantic Bluefin tuna with unauthorized gear. Furthermore, the individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 600 for making a false statement to an authorized officer concerning the harvest of an Atlantic Bluefin tuna.

SE1004274 – Individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 by possessing two undersized swordfish and by possessing on board your fishing vessel improperly marked buoy gear.

# Cases Charged September 2012-September 2013

## Written Warnings Issued (cont'd.)

NE0902833 – Individual was charged with selling or attempting to sell undersized Atlantic Bluefin tuna to individuals who were not permitted Federal fish dealers. Individual was also charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 600 for providing a false statement to an authorized officer concerning the sale.

NE0900218; F/V Chum Pot – Individual was charged with fishing for Atlantic Bluefin tuna without a permit, failing to report to NMFS the landing of such Atlantic Bluefin tuna, and selling and/or attempting to sell Atlantic Bluefin tuna to an individual who was not a permitted Federal fish dealer.

SE1003196; F/V Master Plan – Individual was charged with fishing for Atlantic highly migratory species without an Angling permit and for possessing three (3) undersized Atlantic highly migratory species (yellowfin tuna).

NE0903312; F/V Bodacious – Individual was charged with exceeding the Atlantic Bluefin tuna catch limit and for possessing filleted Atlantic Bluefin tuna at the time of landing. The individual was also charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 622 for fishing for and retaining dolphin without an Atlantic dolphin and wahoo permit and for operating a charter vessel or headboat as a hired captain and fishing for and retaining dolphin without an operators permit. Finally, the individual was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 600 for making a false statement to an authorized officer.

SE0903831; F/V Osprey – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for charter fishing in Federal waters for Atlantic highly migratory species without an Atlantic highly migratory species Charter/Headboat Category permit, for failing to make such permit available for inspection by law enforcement, and for failing to display such permit.

SE0900161 – Company was charged with purchasing swordfish with an expired Federal fisheries dealer permit and failing to report the purchase of such swordfish.

# Cases Charged September 2012-September 2013

## Written Warnings Issued (cont'd.)

SE0902325; F/V Bar Pirate – Individual was charged with harvesting Atlantic Bluefin tuna without a valid Federal permit and selling Atlantic Bluefin tuna without a valid Federal permit.

SE0802631 – Owner and operator were charged with landing a sailfish without an HMS Charter/Headboat category permit and for failing to report to NMFS the landing of this sailfish within 24 hours of that landing.

SE0902101 – Owner and operator were charged with harvesting yellowfin tuna in Federal waters without a FederalHMS permit.

SE090010; F/V Provider – Owner and operator were charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for fishing for Atlantic highly migratory species without carrying an observer on board when required to do so by NMFS.

SE0804532 – Company was charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 622 for possessing red snapper without first obtaining a red snapper IFQ approval code from NMFS and for possessing shark fins from a prohibited shark species. Company was also charged under the Magnuson-Stevens Act and regulations at 50 C.F.R. Part 635 for possessing shark fins from a prohibited shark species.

NE0802824; F/V Reel Life - Individual was charged under the Magnuson-Stevens Act for landing an Atlantic tuna in an Atlantic coastal port with its tail removed.

NE0804667 – Company was charged under the Lacey Act for failing to file required documents, for submitting false commercial invoices for cans labeled bonito and Thunnus Thynnus imported into the United States from Peru, and falsely labeling cans of tuna as bonito. A written warning was issued.

# Office of Law Enforcement

- New Jersey recreational fishing vessel issued a \$500.00 Summary Settlement – Fishing w/o a valid HMS permit.
- OLE & USCG – Boarding and inspection of a recreational fishing vessel, found to be in possession of yellowfin tuna and dolphin fish. No HMS Angling permits aboard.

# Enforcement Update - Continued

- OLE Northeast Division – responded to a Hotline complaint concerning a seafood dealer selling illegally caught tuna to area restaurants. Investigation is ongoing.
- MD OLE agent responded to a complaint concerning the landing of a hammerhead shark that had been posted online. Shark was abandoned at a dump site in Worcester County, MD.

# Enforcement Update - Continued

- OLE investigating a recreational HMS fisherman for allegedly selling his catch at a local area store.
- HMS charter vessel reportedly keeping over the limit BFT.
- MD Enforcement officers issued a violation to a general category vessel for landing yellowfin and albacore with both heads and tails removed.

# Enforcement Update - Continued

- NOAA enforcement officer monitored the South Jersey Marina's 33<sup>rd</sup> annual Shark Tournament.
- Northeast Division enforcement officers conducted dedicated offshore patrols focusing on bluefin tuna compliance.
- Outreach conducted with HMS vessel operator to assist with completion and delivery of tagging data for HMS released during 10-day trip.

# Questions?



