



**NOAA
FISHERIES**

HMS Enforcement Overview

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National VMS Program



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Accessing Enforcement Information Online

- Information 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

<http://www.gc.noaa.gov/enforce-office.html>

NOAA HOME WEATHER OCEANS FISHERIES CHARTING SATELLITES CLIMATE RESEARCH COASTS CAREERS

 **NOAA** OFFICE OF GENERAL COUNSEL
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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The **Enforcement Section** coordinates and implements the NOAA General Counsel's delegated authority as NOAA's civil prosecutor.

The office prosecutes civil penalty cases, permit sanctions, and administrative forfeitures; provides support to the U.S. Department of Justice in prosecution of law enforcement cases in Federal courts and formulates NOAA's position in such cases; establishes national law enforcement policy in conjunction with the [NOAA Office of Law Enforcement](#) and NOAA program offices; provides legal support to the [NOAA Office of Law Enforcement](#) and other NOAA offices, including the [Office of Sustainable Fisheries](#), the [Office of Protected Resources](#), and the [Office of National Marine Sanctuaries](#); and advises NOAA officials on specific enforcement cases and general enforcement trends and issues.

The office has fourteen attorneys, one paralegal specialist, and one support staff. James Landon is the Section Chief and he is supported by two Deputy Section Chiefs - Charles Green and Alexa Cole.

Contact Information

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Enforcement Administrative Decisions

NOAA HOME WEATHER OCEANS FISHERIES CHARTING SATELLITES CLIMATE RESEARCH COASTS CAREERS



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Enforcement Administrative Decisions
(MARCH 18, 2010 THROUGH JUNE 30, 2013)¹

Administrative Law Judge Initial Decisions	NOAA Administrator Orders	District Court Decisions	Circuit and Supreme Court Decisions
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Administrative Law Judge Initial Decisions
2010

PI0900579	Watson	July 21, 2010
SE0703253	F/V Southwind, D & A Fishworks LLC, Phrampus	May 18, 2010
SE0704151	F/V Seminole Wind, B. Archer, L. Archer	April 22, 2010
SE0900591	McMullan, Gales	December 7, 2010
SE0900879	F/V Sea King, Amy N., Inc., Hauck	July 19, 2010
SE0902351	Verdin, Norman	October 19, 2010

2011

Related Links

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Office of Law Enforcement

Northeast Enforcement Division

INVESTIGATIONS

- GCES advised that a Notice of Violation and Assessment (NOVA) in the amount of \$2,000 was issued to the owner / operator of a Montauk, NY based charter vessel. Vessel operator prevented contracted dockside HMS observers from collecting trip data. Conduct spanned several years and impacted the duties of at least three observers.
- Massachusetts Environmental Police Officers operating under OLE's Joint Enforcement Agreement Program conducted a boarding and inspection of a commercial fishing vessel in Boston, MA and located 33 yellowfin tuna which did not meet the minimum size requirement. Illegal catch was seized by OLE special agents.

PATROLS / MONITORING / INSPECTIONS

- A NOAA enforcement officer worked with New Hampshire Fish and Game and New Hampshire State Patrol screening commercial carriers in New Hampshire on the interstate between Massachusetts and Maine. A total of 15 vehicles with seafood products were inspected, 4 dealers were found to be operating without a valid New Hampshire Wholesale Dealer license. A New Hampshire wholesale license is required of companies within the state dealing seafood products or out of state companies dealing seafood products within New Hampshire. Species inspected consisted of American Lobsters, Atlantic Tuna, Swordfish, Scallops, Haddock, Pollock, Cod, Halibut, Clams and other farm raised species. New Hampshire Fish and Game will follow up with dealers in apparent violation of state regulations.
- A NOAA enforcement officer inspected on seafood dealer in Norfolk, VA that was purchasing and distributing various types of HMS species, including tiger sharks, bull sharks, and yellowfin tuna. No violations were detected.

Office of Law Enforcement

Northeast Enforcement Division (continued)

COMPLIANCE ASSISTANCE / OUTREACH

- NOAA enforcement officers conducted education and outreach at the North Atlantic Shark Tournament held in New Bedford, MA. Three (3) sharks were landed over the 2-day tournament, with the winning catch, a mako shark, weighing in at 282 lbs.
- Enforcement personnel were interviewed by a reporter for the Baltimore Sun concerning seafood fraud investigations. The agents and officers discussed how their individual roles and expertise further NOAA OLE's national priorities of helping the fishing industry support a sustainable industry and to help the industry comply with laws and regulations concerning imported fishery products.

COOPERATIVE ENFORCEMENT / PARTNERSHIPS

- OLE staff conducted Joint Enforcement Agreement Program training in Hingham, MA. The training consisted of Highly Migratory Species regulations, American lobster management, and Protected Resource gear requirement demonstrations, Northeast Multispecies changes for 2014 season, VMS/vTrack training and JEA referrals. Approximately 40 USCG and JEA participants were in attendance.

Office of Law Enforcement

Southeast Enforcement Division

INVESTIGATIONS

- GCES advised that a Notice of Violation and Assessment (NOVA) in the penalty amount of \$40,000 was issued to an importer that repeatedly failed to obtain permits to import swordfish. OLE special agents initially issued a Written Warning to the company, but the owner did not comply.
- An OLE special agent assisted a United States Coast Guard (USCG) boarding team that inspected a state registered and federally permitted shark vessel offshore of Venice, LA. Unattended bottom long line gear was retrieved and found to have illegal hooks attached. The vessel was cited for illegal hooks and violations of the sea turtle release and mitigation equipment regulations.
- OLE initiated an investigation concerning an individual who sold a recreationally caught swordfish to a HMS dealer. Both the fisherman and dealer were under the incorrect assumption that the rules had changed enabling recreationally caught swordfish sales. A new general commercial swordfish permit had recently been created for limited commercial sales, but the daily bag limit in the South Florida area is set at zero.

Office of Law Enforcement

Southeast Enforcement Division

INVESTIGATIONS

- OLE responded to a complaint concerning the owner/operator of a local charter / headboat in North Carolina. The vessel had been identified by the Headboat Survey Team at the NOAA Lab in Beaufort, NC, as failing to report any catch during 2013 after having conducted numerous fishing trips. Permits were also determined to have been expired.
- OLE responded to a complaint concerning an individual on an off-shore oil rig that allegedly cut the jaws out of a large shark. OLE is working with the Department of Minerals Management to identify the platform and with enforcement partners from Texas Parks and Wildlife as the violation occurred in state waters.
- While operating under OLE's Joint Enforcement Agreement Program, officers from the Florida Fish and Wildlife Conservation Commission conducted a boarding and inspection of a commercial fishing vessel that was located within the Longline and Buoy Gear Restricted Area. Upon approach, crew members were observed throwing gangions, bait and fish overboard after officers activated their patrol vessel's blue lights.. FWC escorted the vessel back to port, upon OLE's request to terminate the vessel's voyage. OLE seized approximately 2100 pounds of catch.

Office of Law Enforcement

Southeast Enforcement Division



PATROLS / MONITORING / INSPECTIONS

- An OLE special agent US Fish and Wildlife Service refuge officer conducted fishery inspections during the Florida Spiny Lobster Mini-sports season in the Great White Heron Wildlife Refuge and Florida Keys National Marine Sanctuary off of Key West. After hearing a radio distress call concerning a nearby vessel collision with injuries, OLE and USFWS responded to scene and provided assistance.



COMPLIANCE ASSISTANCE / OUTREACH

- A NOAA enforcement officer conducted outreach with shark dealers in Venice, LA. OLE provided guidance on gear requirements which included sea turtle release equipment.

Office of Law Enforcement

Headquarters

HMS E-Dealer Reporting Enforcement

The screenshot displays the NOAA Fisheries website. At the top left is the NOAA logo and the text "NOAA FISHERIES NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION". A navigation menu on the left lists: Fisheries Home, About Us, Programs, Regions, Science Centers, Partners, News & Multimedia, Fisheries Resources, Congress, Educators and Students, Get Involved, and Forms. A top navigation bar includes: Law Enforcement Home, About Our Office, Priorities, Compliance Assistance, Newsroom, and FAQ. The main content area features a large blue-tinted image of a school of fish. Below the image is the headline "Electronic Reporting Required for HMS Dealers" and a sub-headline "July 24, 2014: All federally permitted Atlantic HMS dealers are required to electronically report commercially harvested species on a weekly basis. Read More...". A "FOLLOW US:" section at the bottom left shows icons for Facebook, Twitter, LinkedIn, YouTube, and Pinterest, with the text "Stay connected with us".

Office of Law Enforcement

Headquarters

HMS E-Dealer Reporting Enforcement

The screenshot shows a NOAA Fisheries website page. At the top left is the NOAA Fisheries logo with the text 'NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'. A navigation menu on the left lists categories like 'Fisheries Home', 'About Us', 'Programs', 'Regions', 'Science Centers', 'Partners', 'News & Multimedia', 'Fisheries Resources', 'Congress', 'Educators and Students', 'Get Involved', and 'Forms'. The main content area features a blue header with 'Law Enforcement Home' and other links. Below this is the article title 'NOAA to Enforce Compliance Measures for Atlantic Highly Migratory Species Dealers'. The article text explains that federally permitted Atlantic HMS dealers must report electronically on a weekly basis. It includes a photograph of an Atlantic Yellowfin tuna and a caption stating they are covered under NOAA's HMS e-dealer program. The article also mentions that NOAA worked closely with the HMS fishing community and that enforcement personnel will take an active approach in monitoring violations.

NOAA FISHERIES
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA to Enforce Compliance Measures for Atlantic Highly Migratory Species Dealers

All federally permitted Atlantic HMS dealers are required to electronically report commercially harvested species on a weekly basis. Weekly electronic reporting ensures timely information regarding HMS stocks from Maine to Texas, including the U.S. Caribbean. These dealer reports are used to estimate landings of Atlantic HMS in order to conduct in-season monitoring of HMS commercial quotas and to determine if it is appropriate to close a fishery. This is particularly important for fish stocks with small quotas, such as many shark species. Dealers are required to submit reports for purchases of all fish from Sunday through Saturday (the reporting week) to NOAA Fisheries no later than midnight, local time, of the first Tuesday following the end of the reporting week. Dealers are also required to submit "negative" reports, indicating no receipt of any species within the same specified time frame.



Atlantic Yellowfin tuna are a highly migratory species and covered under NOAA's HMS e-dealer program. Dealers are required to report commercially harvested catch on a weekly basis.

NOAA worked closely with the HMS fishing community in advance of the final rule to provide information and education on the reporting requirements, including 19 in-person training workshops with dealers. A compliance guide was developed and distributed to industry representatives, and the electronic dealer reporting regulations were delayed until 2013 to provide time for dealers to prepare for electronic reporting (e.g., purchase computers, if needed) and to become aware of the new requirements.

Although most dealers are reporting as required, some are not. This hampers the effective management of the fishery and isn't fair to those who are complying. NOAA's Office of Law Enforcement is currently processing violations and issuing citations to dealers who are not in compliance with the requirements. Enforcement personnel will take an active approach in monitoring violations to ensure compliance with the regulations.

"Enforcement of the reporting measures is necessary to ensure timely and accurate reporting, which is critical for quota monitoring and helps ensure timely tracking of annual catch limits, which in turn helps prevent overfishing," said Matthew Brandt, Acting Director of NOAA's Office of Law Enforcement. "We will continue to monitor these dealer reports to ensure consistency and timeliness in reporting and contact dealers who are not in compliance."

Atlantic highly migratory species are not only vital to the natural balance of marine ecosystems, but they are also a valuable recreational and commercial resource and food source.

"Weekly electronic dealer reporting has helped NOAA with in-season monitoring of HMS stocks. However, in order to receive timely data, it is essential that dealers submit their reports on time," said Margo Schulte-Haugen, Chief of NOAA Fisheries' Highly Migratory Species Division. "Dealers that purchase HMS product and fail to report, or fail to report in a timely manner, can negatively impact the entire fishery by causing overharvests of the HMS resources and shortened fishing seasons in subsequent years."

For more information, please visit the [HMS eDealer webpage](#) or contact the HMS Management Division at 301-427-8590 or via email at HMS.DealerReports@noaa.gov.

Story by John Thibodeau, communications specialist for NOAA's Office of Law Enforcement. To contact him, please call 301-427-6234 or email John.thibodeau@noaa.gov.

VMS Program

VMS Proposed Rule Scheduled for Publication on September 9, 2014

Comments Due by October 24, 2014

- The type approval specifications set out the requirements for a mobile transceiver unit to be type-approved for use in the U.S. VMS Program.
- The specifications are directed at the vendor-companies who sell the units and associated communications services.
- Currently, the specs are published in the Federal Register as a Notice at 73 FR 5813, which documents the requirements related to:
 - The technical requirements of the unit,
 - Satellite communications, and
 - Data security, delivery, latency, etc.
 - Type-approval process,
 - Change control,
 - Customer service,
 - Billing,
 - Litigation support, etc.

VMS Proposed Rule - Continued

Purpose:

To codify the standards currently set out in the FR Notice.

Not much is changing in terms of the substance of the technical requirements, but the codification itself will establish firmer notice of the type-approval requirements, and a stronger basis for enforcing compliance with them.

A key change:

The proposed rule will address type-approval revocations.

- Notice,
- Objections and issue resolution timelines and responsibilities,
- Revocation procedures, and
- Appeals process.

Previously, NOAA noted their reservation of the right to revoke type approvals through the type-approval letter sent to vendors and through the FR Notice.

There was no notice of the type-approval procedure, or of the vendors' appeal rights.

Questions?

