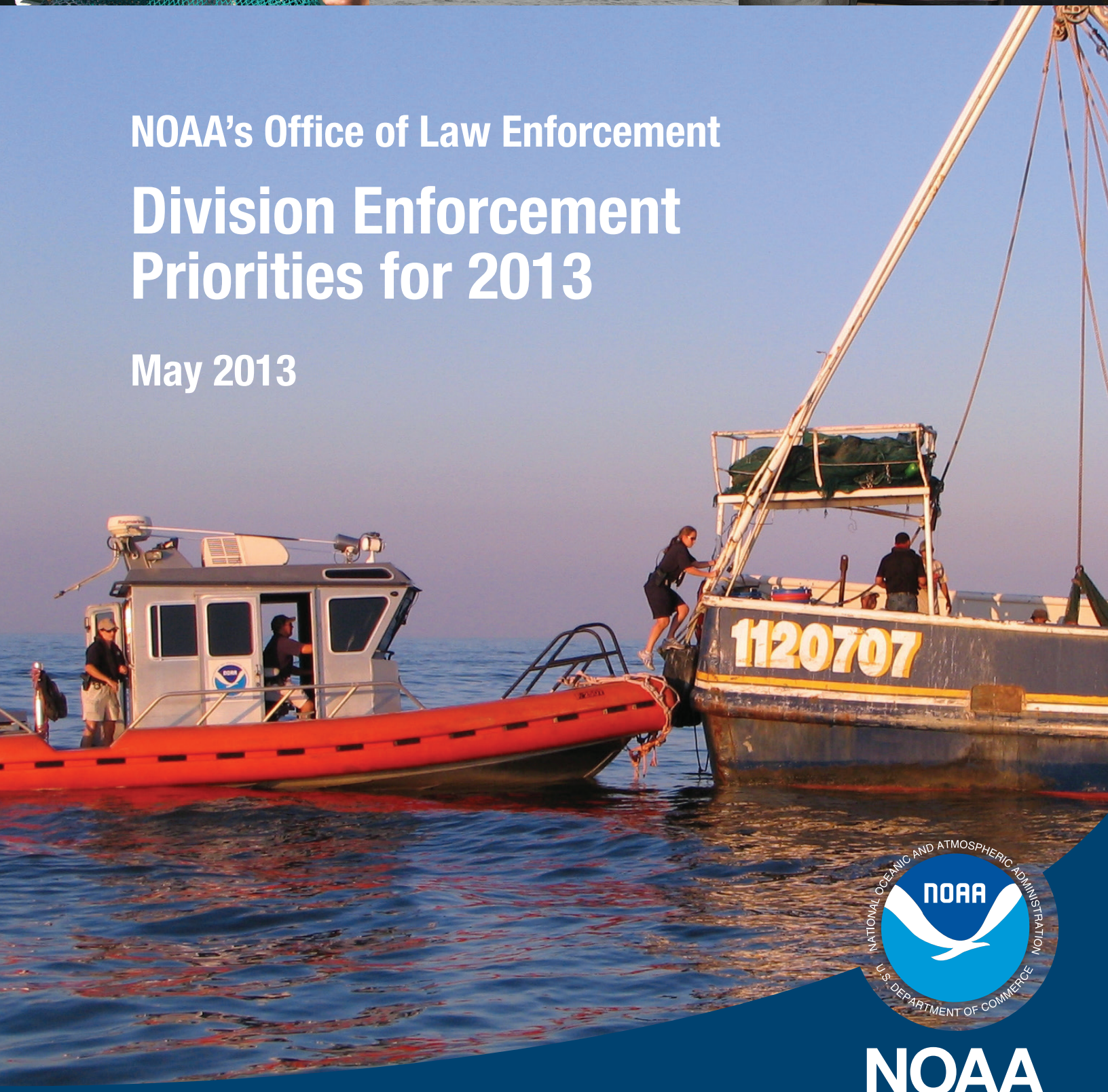
NOAA's Office of Law Enforcement

Division Enforcement Priorities for 2013

May 2013



NOAA FISHERIES

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NOAA's Office of Law Enforcement

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May 2013

U.S. DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Office of Law Enforcement

NOAA FISHERIES

Definitions

High Priority—Identifies those areas that are of significant importance to NOAA, NMFS, OLE, stakeholders and the public and require the utmost attention in order to assure the sustainability of the identified resources or program.

High Priority Example: 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 those areas that require continued attention by OLE in order to maintain the level of compliance desired to obtain maximum protection of the resource or program.

Medium Priority Example: Compliance is acceptable, but 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 Example: Compliance is good, but continued maintenance monitoring will continue.

Introduction

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's Office of Law Enforcement protects marine wildlife and habitat by enforcing domestic laws and international treaty requirements designed to ensure these global resources are available for future generations.

NOAA has committed to establishing its national enforcement priorities every two years and its division (regional) enforcement priorities each year to meet our mission and guide our planning. The 2012 national priorities can be found here: www.nmfs.noaa.gov/ole/docs/2012/ole_priorities_2012.pdf

Setting division priorities supports sustainable fisheries and protected resources by helping us focus our resources and strategically use our state and federal partnerships to provide the most benefit for marine resources and the American people.

Division priorities vary according to region-specific resources, activities, and threats. While these identified priority areas will be the focus, NOAA will continue to encourage compliance and enforce all marine statutes and regulations for which it is responsible.

Alaska Division

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
- Outreach and education

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
- Outreach and Education

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 (e.g., 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 (e.g., 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

Magnuson-Stevens Act

High Priority

- Dealer and Vessel Reporting Requirements
  - Noncompliance with trip and cumulative limits and recordkeeping requirements for landings of federally managed marine species, and specifically catch share programs.
- Sector/catch shares enforcement
  - Dockside monitoring
  - At-sea boardings in coordination with State and USCG partners
  - Trip/reporting analysis
- Limited access, fishery management plans, overfished, prohibited and protected species, for example:
  - Atlantic sea scallops
  - Northeast Multispecies
  - Atlantic bluefin tuna
- Fishing in closed or other prohibited areas
  - Commercial vessel incursions into closure areas or other Marine Protected Areas
- Criminal and civil/administrative investigations involving violations that could potentially cause significant damage to a fishery resource or the integrity of a management scheme
- Investigate complaints of observer assault, harassment and/or interference
- Maintain and foster relationships with industry and the general public through voluntary compliance assistance efforts, outreach and education events.

Medium Priority

- At-sea enforcement of unlawful gear violations in coordination with state and USCG partners
  - Deployment of unlawful gear utilized in commercial fisheries.
- Fishing for and possessing Atlantic striped bass in EEZ.

Low Priority

- Open access permit violations
  - Noncompliance with state/federal fisheries permitting requirements pertaining to fisheries under NOAA's jurisdiction (open access permits)
- Operator permit violations
- Charter/headboat permit violations

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 non-compliant gear removed from entangled large whales
- Lethal takes and Level A harassment with the potential to injure marine mammal stock
- Atlantic sturgeon (NEW)—Aid in plan development, outreach, and education
- Complaint response and gear inspections concerning compliance with configuration requirements designed to limit marine mammal and endangered species gear interactions for example:
  - Turtle Excluder Devices for trawl gear
  - Turtle Deflector Dredges for dredge gear
  - Pinger and weak link requirements for gillnets

Medium Priority

- Harbor porpoise take reduction regulations
  - Focus enforcement efforts on management areas associated with Consequence Closure Areas.

- Fisheries in which 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 that do not involve apparent gear and/or other human interaction causes of stranding Permit violations
- Permit violations
  - Proceeding with a project in a manner inconsistent with the terms and conditions of the permit
- Noncompliance with conditions of any permit associated with taking or possessing of marine mammals or parts thereof
- Harassment, incidental
  - Harassment caused by careless but unintentional acts (e.g., flushing of group of marine mammals due to boating or beach activities)
- 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
- Trafficking in marine mammal and/or endangered species parts
  - Marine mammals (parts) and sea turtles (parts) (e.g., whale meat, sea turtle meat, ivory, shells, illegally imported or exported)
- Fraudulent activity that has a nexus to public health and/or safety
- Seafood fraud/product substitution/false labeling
- Large scale trafficking in unlawfully taken or possessed fish or wildlife

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
- Import/export live marine species
  - Live animals illegally in interstate/international commerce under the jurisdiction of NOAA

Low Priority

- Marking violations
  - Minor labeling violations on commodities transported and/or sold in interstate/international commerce under the jurisdiction of NOAA

Marine Sanctuaries Act

High Priority

- Fixed gear unlawfully positioned within the sanctuary boundaries
  - Lobster traps, sink gillnets, bottom longlines, 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

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, failure to hail in/out of Canadian Waters
- Permit violations

Endangered Species Act & 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 that 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
  - Puget Sound Habitat Initiative near-shore 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 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
  - 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
  - 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, processing facilities
- Education and outreach

Low Priority

- Mislabeling where 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

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
  - Noncompliance 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
- Lethal takes, Level A harassment with the potential to injure marine mammal stock

Medium Priority

- 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 marine mammal parts or products (also Lacey Act)

Low Priority

- Permit violations
- Harassment, incidental
- Harassment caused by careless but unintentional acts

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
- Import/export live marine species
  - Live animals illegally in interstate/international commerce under the jurisdiction of NOAA

Medium Priority

- Marine mammal and/or endangered species parts
  - Marine mammal and endangered species 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 fishery management plan (FMP) violations
  - Any reported FMP 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

Magnuson-Stevens Act

High Priority:
- Snapper/Grouper/Tilefish Catch Share (IFQ) Program
- Red Snapper Recreational catch
- Fishery closures—closed areas and closed seasons, highly migratory species
- Observer harassment

Medium Priority:
- Dealer non-reporting on overfished species
- Enforce gear and permit sanctions/restrictions
- VMS violations
  - Commercial vessel incursions into closure areas and 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 (TED) Compliance
- Lethal takes, Level A harassment with the potential to injure marine mammal stock
- Caribbean corals and coral reef protection in the region's National Marine Sanctuaries
- Any take, importation/exportation/possession of commercial quantities of endangered species or marine mammal items

Medium Priority
- Right whale approach and vessel speed restriction enforcement in South Atlantic waters
- 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.
- Noncompliance with conditions of incidental take permits

Low Priority
- Importation/exportation/possession of non-commercial quantities of endangered species items or 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
- Damage caused by negligent act or violation of law/regulation, damage to sanctuary natural resources(i.e., vessel grounding, anchoring in unlawful areas, setting and illegal use of habitat)

Medium Priority

- Unlawful fishing and/or use of restricted fishing gear

Low Priority

- Unlawful operation of vessel/aircraft/conveyance

Southwest Division

Magnuson-Stevens Act

High Priority

- Observer assault, harassment, or interference violations
- Pacific highly migratory species (HMS) fishery
- 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 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 that 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
- Commercialization and sales of listed species parts and products

Low Priority

- Permit violations
  - Proceeding with a project in a manner inconsistent with the terms and conditions of the permit
- Loaner programs, permits

International/Lacey Act

High Priority

- Import/export Fish and Wildlife species
  - Fish and Wildlife illegally shipped, transported 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. Main focus should be pursuing prosecution in cases involving large-scale, organized illegal fishing conspiracies with non-tribal commercial fish dealers
  - Special emphasis on incidents that may involve ESA-listed salmonids

Medium Priority

- Tuna Tracking and Verification Program
- 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 (e.g., various fish species)
- Marine mammal and/or endangered species parts
  - Welcome back from the Memorial Day weekend. I hope everyone had a chance to relax a little before the busy summer season gets underway.

Low Priority

- Species of economic concern (example: 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
- Vehicular operations
  - Unlawful operation of motorized personal watercraft, aircraft, etc.

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

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OFFICIAL BUSINESS

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