



**NOAA  
FISHERIES**

# HMS Enforcement Overview

Frank M. Sprtel  
NOAA Office of the General Counsel  
Enforcement Section

John Reghi  
NOAA Fisheries Office of Law Enforcement

Kelly Spalding-Behner  
NOAA Fisheries Office of Law Enforcement  
National VMS Program

April 3, 2014

# Accessing Enforcement Information Online

- Enforcement Section taking comments on revised Penalty Policy
  - <http://www.gc.noaa.gov/enforce-office.html> (79 Fed. Reg. 10776 (Feb. 26, 2014))
  - Comments due by April 28, 2014
- 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

# Accessing Enforcement Information Online



## NOAA OFFICE OF GENERAL COUNSEL

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Home | About Us | The General Counsel | Offices | Links | Documents | Contacts | Site Map | **»SEARCH**

**Enforcement Section Home**

- Enforcement Section Offices
- Enforcement Administrative Decisions
- Frequently Asked Questions
- Penalty Policy and Schedules
- Procedural Regulations
- Enforcement Charging Information
- Partners
- Written Warning Appeals

### Request for comments on the draft revisions to NOAA's Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (NOAA Penalty Policy)

## Enforcement Section

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

**Enforcement Section**  
NOAA, Office of General Counsel  
1315 East West Highway  
SSMC3, Rm. 15405  
Silver Spring, MD 20910  
Telephone: 301-427-2202  
Fax: 301-427-2211



*Photo 1: Observer checks the dimensions of a net and its catch. (NOAA Photo Library)*

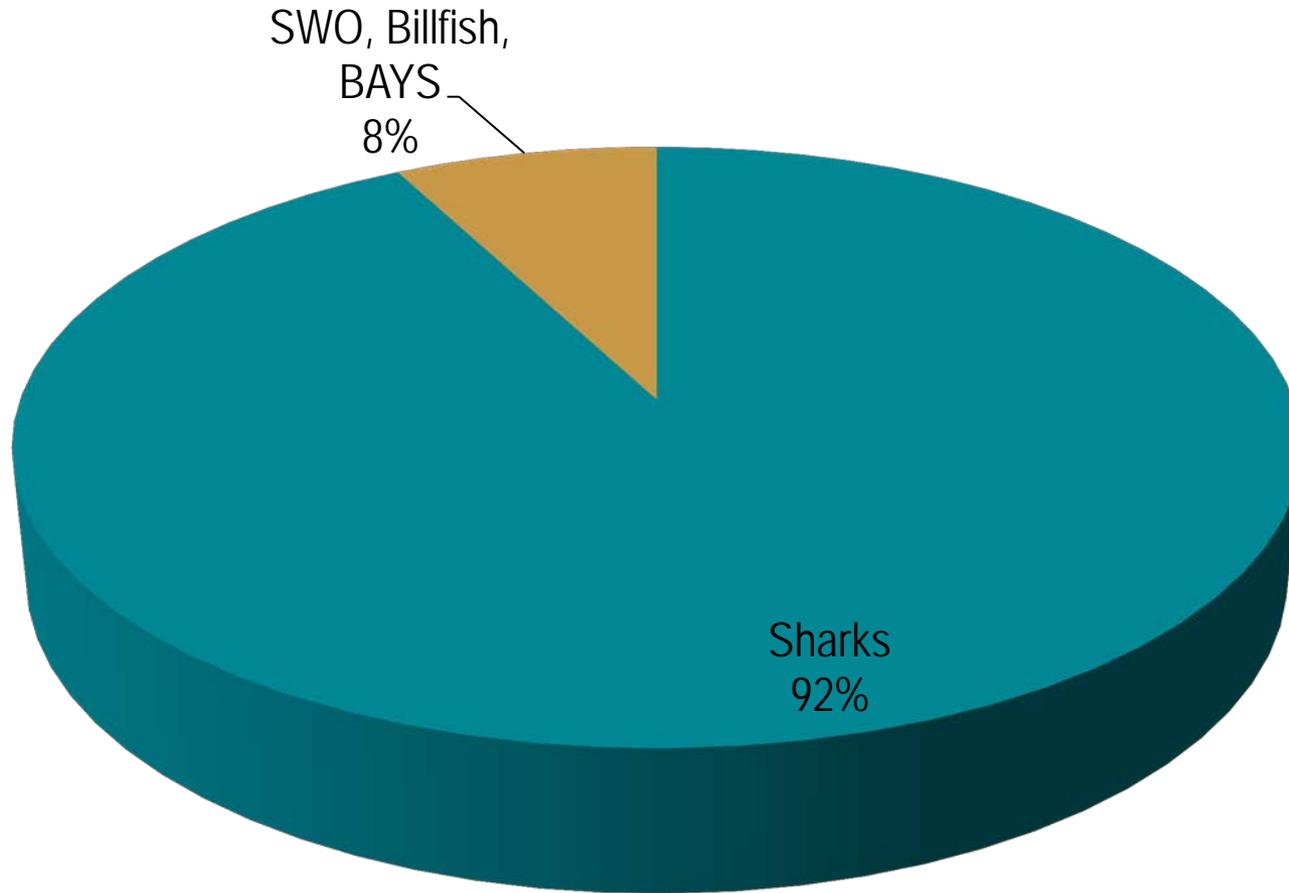
**NOAA OFFICE OF GENERAL COUNSEL: PHOTO CREDITS and DISCLAIMER**

**NOAA:** Privacy Policy | Disclaimer | FOIA | Information Quality | Strategic Plan  
**DEPARTMENT OF COMMERCE:** Privacy Policy | FOIA | Information Quality | Fair Act | ESR System | No FEAR Act | White House  
Updated: July 16, 2013 8:08 AM 7 9:41 AM

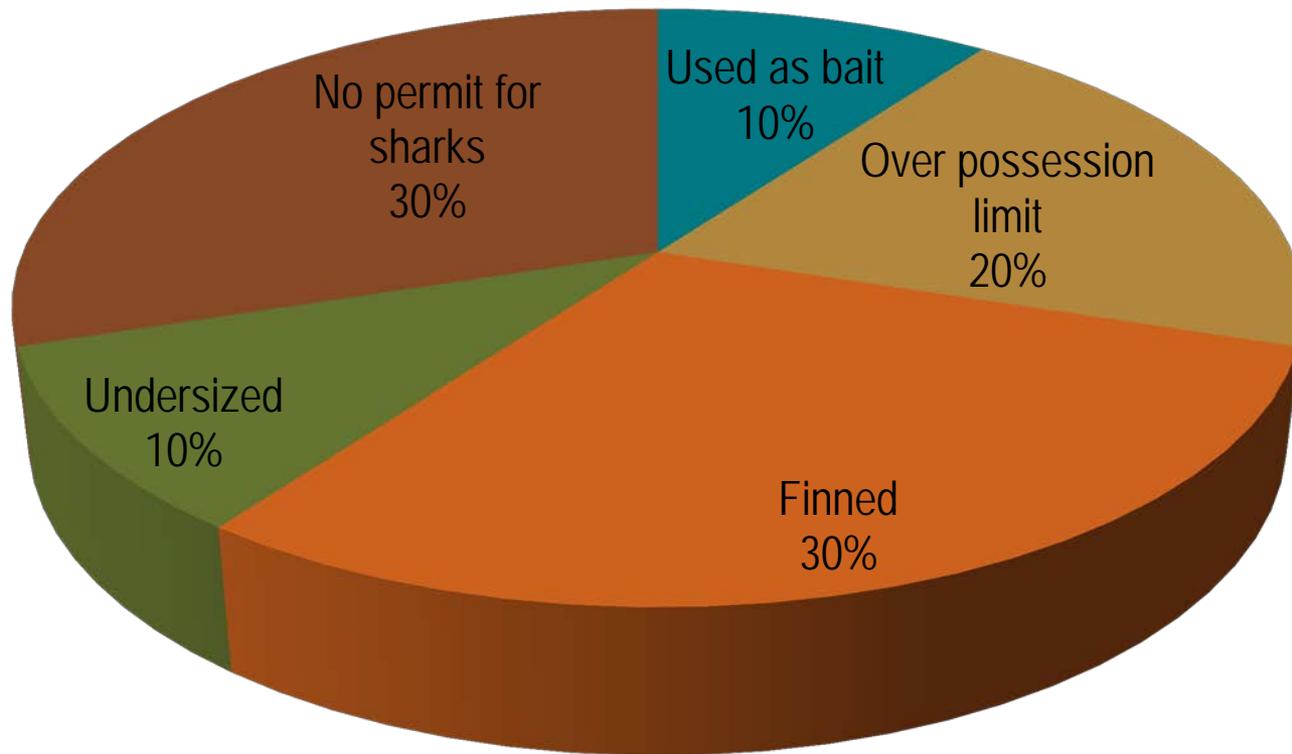
# Civil Administrative Enforcement Case Disposition

- Since September 2013, the Enforcement Section has issued:
  - Notices of Violation and Assessment (NOVAs) in 9 HMS cases
- 19 HMS cases are pending.

# Types of Violations (by count)



# Types of Shark Violations by Count



# Cases Charged September 2013-April 2014

## Notices of Violation and Assessments Issued

- SE1200522; Mississippi state registered vessel – Owner and operator were charged in two counts under the Magnuson-Stevens Act for exceeding the bag limit on large coastal sharks and for possessing undersized sharks. **A \$4,000 NOVA was issued.**
- SE1105098; F/V Watersport – Owner and operator were charged under the Magnuson-Stevens Act for failing to maintain a shark in its proper form by removal of the fins of the shark and no corresponding carcasses. **A \$5,015 NOVA was issued.**
- SE1101510; F/V El Sueno - Owner and operator were charged in two counts under the Magnuson-Stevens Act for possessing blacktip sharks without an Atlantic HMS permit on board the vessel and for possessing twice the number of red snapper while on a commercial shrimp trawling trip. **A \$6,000 NOVA was issued.**
- SE0901883; F/V Can Do – Owner and operator were charged three counts under the Magnuson-Stevens Act for possessing 11 red snappers without a red snapper IFQ allocation, failing to land sharks intact by possessing shark fins without the corresponding carcass, and possessing 21 sandbar sharks without a valid shark research permit. **A \$14,000 NOVA was issued.**
- SE1100674; F/V Whiskey Joe - Owner and operator were charged in two counts under the Magnuson-Stevens Act for possessing shark fins on board the vessel and not having a valid Atlantic HMS permit, and for failing to maintain naturally attached shark fins through offloading. **A \$13,000 NOVA was issued.**
- SE1003391; F/V Big Dog – Owner/operator was charged in two counts under the Magnuson-Stevens Act for failing to land finfish (red grouper and red snapper) intact and failing to land shark intact (both the finfish and shark were cut into pieces and being used as bait). **A \$16,000 NOVA was issued.**

# Cases Charged September 2013-April 2014

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

- SE1202522; F/V Lady Lyanna – Owner and operator were charged two counts under the Magnuson-Stevens Act for failing to land sharks intact (possessing shark fins without corresponding carcasses) and exceeding commercial retention limits for sharks. Respondents in this case were found with 17 bags containing 2,029 shark fins and when combined with the 11 sharks found on board amounts to a taking of approximately 518 sharks. **A \$45,000 NOVA was issued.**
- SE1105096; F/V Sarah Brent – Owner/operator was charged one count under the Magnuson-Stevens Act for landing sharks in excess of that allowed for under the respondent's shark research permit landed (respondent landed approximately 179 sandbar sharks from one trip—almost six times the amount (33) that respondent was allowed to land per trip per respondent's shark research permit). **A \$23,366.97 was issued.**
- NE1003176; F/V Elz Bellz – Owner /operator was charged under the Magnuson-Stevens Act for harvesting a swordfish without an Atlantic HMS swordfish permit. **A \$6,440 NOVA was issued.**

# Office of Law Enforcement

## Northeast Enforcement Division

### Warnings and Summary Settlements Issued

- Officers from the New Jersey Department of Environmental Protection (NJDEP), operating under OLE's Joint Enforcement Agreement Program, conducted a boarding and inspection of a charter fishing vessel and found that the operator possessed yellowfin tuna as well as a dolphin fish without a valid HMS permit. OLE issued a \$2,000 Summary Settlement to the vessel operator.
- NJDEP officers boarded and inspected a charter fishing vessel and found that the operator possessed a wahoo without a valid HMS permit. OLE issued a \$2,000 Summary Settlement to the vessel operator.
- OLE issued a \$3,000 Summary Settlement to a vessel operator who failed to maintain Atlantic HMS, specifically two (2) filleted bluefin tunas, in the form specified by regulation, and who possessed one (1) dolphin fish without a valid HMS permit.
- OLE issued a Violation Notice / Enforcement Action Report to a vessel operator for landing HMS species with tails removed.

# Office of Law Enforcement

## Northeast Enforcement Division (continued)

### Education and Outreach

- An OLE special agent met with the Babylon Tuna Club and provided an overview of various HMS enforcement topics, including HMS permits and HMS permit requirements.
- A NOAA enforcement Officer conducted a fisheries training class for U.S. Coast Guard boarding teams at the USCG Northeast Regional Fisheries Training Center (NERFTC).
- OLE personnel attended and provided outreach support at a public hearing held in Portland, ME for NMFS proposed rule for Draft Amendment 7 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP).

# Office of Law Enforcement

## Southeast Enforcement Division

### Warnings and Summary Settlements Issued

- OLE issued a \$1,500 Summary Settlement to the operator of a commercial fishing vessel in Destin, FL, for operating the vessel with expired Gulf of Mexico Charter reef fish and Highly Migratory Pelagic permits.
- Enforcement personnel issued multiple written warnings to the owners of fishing vessels, which were boarded by JEA partners in Mississippi, and were found to possess illegal fish including sharks fins without carcasses, bags of fillets and tunas without a HMS permit.
- OLE and officers from the Louisiana Department of Wildlife and Fisheries (LDWF) conducted a boarding and inspection of a commercial fishing vessel. On approach, they observed personnel from the vessel offloading coolers into a truck that was dockside. An inspection of the coolers led to the identification of 5 red snapper, 2 grouper, and 10 shark fins without the corresponding carcasses. The F/V was inspected and found to have live bait wells with dip nets, j hooks, illegal tackle, hand lines, and an additional 2 red snapper. An Enforcement Action Report was issued to the vessel operator.

# Office of Law Enforcement

## Southeast Enforcement Division (continued)

### Warnings and Summary Settlements Issued

- OLE issued a \$2,000 Summary Settlement to the owner / operator of an unregistered fishing tournament after OLE had previously informed the owner / operator of the requirement to register the tournament and the owner / operator had failed to do so.
- Officers from the North Carolina Marine Patrol (NCMP) conducted a dealer inspection in Holden Beach, NC and discovered a basket of shark fins in the freezer approximately six weeks after the closure. NCMP contacted OLE who determined that the dealer did not complete trip tickets for the shark fins or carcasses.
- OLE worked with boarding team members from the USCGC Staten Island on an illegal shark harvest investigation. The USCG boarded a commercial fishing vessel offshore of North Carolina and found three pelagic sharks, including one that was finned. The USCG terminated the vessel's voyage and contacted OLE who conducted a follow-up dockside boarding and received a voluntary abandonment of the illegal sharks from the vessel master.

# Office of Law Enforcement

## Southeast Enforcement Division

### Education and Outreach

- OLE personnel attended a public hearing in Fort Pierce, FL for Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan: Bluefin Tuna Management. At the meeting were numerous dealers, commercial fishing vessel owners/operators, and NGO representatives.
- OLE supported and assisted the NMFS Office of International Affairs and NOAA GC-International Affairs in discusses concerning future illegal, unregulated, and unreported training for the Liberian Bureau of National Fisheries.

### Other

- OLE inspected catch from a Mexican “Lancha” interdicted by the U.S. Coast Guard. The catch included 296 red snapper weighing approximately 700-800 lbs. The catch was packed with a very small amount of dirty ice in the fish box and a portion of the catch was found in the bilge of the vessel under fuel tanks. USCG subsequently destroyed the illegal catch.

# VMS Program

## VMS Proposed Rule

- 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.and
  - 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.

### 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 revocation procedure, or of the vendors' appeal rights.

## VMS Proposed Rule - Continued

### Status and general timeline:

- Currently completing internal review of the proposed rule,
- Anticipate publishing the proposed rule in April,
- A 45 day comment period will follow,
- The goal is to have a final rule out in August.

# Questions?

