

PROGRAM CHARTER
FOR
ENFORCEMENT

Program Manager: Dale Jones

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1. EXECUTIVE SUMMARY

The Enforcement Matrix Program is directed by the NOAA National Marine Fisheries Service Office of Law Enforcement. Enforcement employees are deployed in more than 55 locations around the coasts of the United States and in several U.S. Territories to address the enforcement needs of the various programs within the Ecosystem Goal Team, primarily the needs of the Fisheries Management, Protected Resources Management, Corals, and Coastal Marine Resources Programs. The Office of Law Enforcement implements the capability to investigate the civil and criminal violations of conservation laws and supports the prosecution of violators; the capability to monitor and inspect regulated activity; and the capability to educate the public regarding conservation management laws and regulations. The Office of Law Enforcement relies heavily on State and U.S. Territory enforcement partners to increase the enforcement presence around the coast and the level of monitoring activity.

Law Enforcement services (the capabilities defined above; investigations; monitoring; and outreach) are provided in order to gain compliance with the various conservation management regimes implemented by NOAA to protect America's marine resources. The Enforcement Matrix Program exists to efficiently provide professional law enforcement services to NOAA. The requirement drivers listed below define many of NOAA's mandates to protect marine resources.

The Enforcement Matrix Program is a member of the Ecosystem Mission Goal.

Activities of the Office of Law Enforcement occur in all coastal States of the United States including Alaska and Hawaii. Additionally, Agents are stationed in Puerto Rico, Guam, and American Samoa. Agents in the Caribbean and in the Pacific Island duty stations support other U.S. Territories, specifically Puerto Rico, the American Virgin Islands and the Commonwealth of the Northern Marianas Islands. Agents regularly are involved in monitoring activities or investigating potential violations arising from international agreements which, on occasion, require international travel.

Office of Law Enforcement URL: <http://www.nmfs.noaa.gov/ole/>

2. PROGRAM REQUIREMENTS

A. Requirement Drivers

1) Legislation

a) Magnuson-Stevens Fishery Conservation and Management Act

This Act governs the conservation and management of ocean fishing. It establishes exclusive U.S. management authority over all fishing within the exclusive economic zone, all anadromous fish throughout their migratory range, except when in a foreign nation's waters and all fish on the Continental Shelf. Foreign fishing within these areas is prohibited unless conducted pursuant to a governing international fishery agreement, and only if the foreign nation extends reciprocity to U.S. fishing vessels. The Act also establishes eight Regional Fishery Management Councils responsible for the preparation of fishery management plans to achieve the optimum yield from U.S. Fisheries in their respective regions. Among other actions, the Act also makes it unlawful to violate its regulations or a permit; use a fishing vessel to engage in fishing after a

permit is revoked or suspended; violate a governing international fishery agreement; forcibly assault or otherwise obstruct an authorized officer in the conduct of a search or inspection; or to transship fish taken in violation of this Act. The extensive and complex regulatory structure that is spawned by the Act is enforced by the NOAA OLE.

This Act, as reauthorized in Public Law 109-479 in January 2007, further requires NOAA to act to minimize Illegal, Unreported, or Unregulated (IUU) fishing by foreign nations. These requirements emphasize NOAA OLE's requirement to identify such activities, deny access to U.S. markets for products resulting from such activity, and to assist foreign nations in combating IUU fishing.

b) Marine Mammal Protection Act

This Act establishes a federal responsibility to conserve marine mammals, with management vested in the Department of Commerce for cetaceans and pinnipeds, other than walrus. NOAA OLE actively enforces the provisions of the Act nationwide. Each geographic region has unique MMPA issues ranging from the protection of dolphins to whale entanglements.

c) Endangered Species Act

This Act provides protection for species of fish, wildlife and plants that are listed as threatened or endangered in the U.S. or elsewhere. NOAA OLE has enforced ESA by investigating violations involving various species to include salmon, right whales, sea turtles, monk seals, Stellar sea lions and others.

d) National Marine Protection, Research, and Sanctuaries Act

This Act authorizes the Secretary of Commerce to designate and manage national marine sanctuaries based on specific standards. This Act gives the NOAA office of Law Enforcement (OLE) the authority to enforce federal regulations promulgated to protect the thirteen sanctuaries.

e) Lacey Act and Amendments of 1981

This Act replaces the Black Bass Act of 1926 and most of the original Lacey Act. The Lacey Act Amendments make it unlawful to import, export, transport, buy or sell fish, wildlife and plants taken or possessed in violation of federal, state or tribal law. Interstate or foreign commerce in fish and wildlife taken or possessed in violation of foreign law is also prohibited. Moreover, this Act requires that packages containing fish or wildlife be plainly marked. Enforcement measures include civil and criminal penalties, cancellation of fishing licenses, and forfeiture. The enforcement of the provisions of this Act is the foundation of NOAA's authority to assure U.S. compliance with international trade in fisheries products.

f) American Fisheries Act

The American Fisheries Act (AFA), passed in 1998, was implemented to encourage diversity and competition among fish harvesters, processors, and conservation of fisheries resources. The AFA significantly altered the Bering Sea and Aleutian Islands Pollock fishery by allowing the formation of harvesting and processing cooperatives and defining exclusive fishing rights. Enforcement actions include the investigation of violations of the regulations pertaining to the Act as well as ongoing dock side boardings, inspections and records checks.

g) Atlantic Salmon Convention Act

This Act makes it illegal for a person or vessel to fish for salmon in certain Atlantic Ocean waters. NOAA OLE uses this Act to enforce protection of Atlantic salmon utilizing criminal and civil penalties.

h) Antarctic Marine Living Resources Convention Act

This Act is the main driver for protecting the Antarctic marine living resources and supports the US role as a participant in the Regional Fisheries Management Organization, the Commission for the Conservation of Antarctic Marine Living Resources (CAMLR). The NOAA Office of Law Enforcement (OLE) has used this Act to enforce cases involving illegal international trade in Patagonian Toothfish, an Antarctic species.

i) Atlantic Tunas Convention Act/International Convention for the Conservation of Atlantic Tunas

This Act gives authorization through the Secretary of Commerce (NOAA OLE) to enforce the prohibition of entry into the United States any species violating the regulations in International Commission for the Conservation of Atlantic Tunas (ICCAT).

j) Fishermen's Protective Act (Pelly Amendment)

The Pelly Amendment to this Act authorizes the President to prohibit the importation of products from countries that allow fishing operations that diminish the effectiveness of an international fishery conservation program or that engage in trade or taking that diminishes the effectiveness of an international program for endangered or threatened species. While the Pelly Amendment is the most noteworthy section of the Act for wildlife conservation purposes, the Act also provides for federal reimbursement of money paid by owners to secure the release of fishing vessels improperly seized by foreign countries. In addition, the Act set up a fund to compensate owners for damage to or destruction of their fishing vessel or gear. Enforcement actions include the investigation of illegal imports of any prohibited product as certified by the Secretary of Commerce.

k) High Seas Fishing Compliance Act

The High Seas Fishing Compliance Act of 1995 (HSFCA) implements the "Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas." It requires fishing vessels conducting operations upon the high seas to operate under permits issued by the Secretary of Commerce and to comply with international conservation and management measures. This Act provides for civil, criminal, and forfeiture penalties for violations. Examples of violations investigated by the NOAA OLE include the failure to maintain HSFCA logbooks and to secure and maintain HSFCA permits while conducting fishing operations.

See Appendix 1 for expanded list.

2) Executive Orders and Policy Decisions

a) U.S. Ocean Action Plan

On September 20, 2004, the U.S. Commission of Ocean Policy fulfilled its mandate to submit recommendations for a comprehensive national ocean policy to the President and Congress. The Commission's final report, "An Ocean Blueprint for the 21st Century" contains 212 recommendations addressing all aspects of ocean and coastal policy. In response to the Commission's findings and recommendations, on December 17, 2004, the Bush Administration released the "U.S. Ocean Action Plan". Among other actions, the Plan identified various enforcement components, to include the enhancement of penalties under the Marine Mammal Protection Act (MMPA) as an aid to enforcement actions against violators; the creation of a National Strategy for Fisheries Enforcement; and the completion of a Memorandum of Understanding (MOU) among the National Park Service, the U.S. Fish and Wildlife Service, and the National Marine Sanctuary

program.

b) Presidential Proclamations

On June 15, 2006 the President of the United States created the Northwestern Hawaiian Islands Marine National Monument, Proclamation 8031, consisting of 139,793 square miles of emergent and submerged lands and waters. On January 6, 2009 the President of the United States created the Marianas Trench Marine National Monument, the Pacific Remote Islands Marine National Monument, and the Rose Atoll Marine National Monument, Proclamations 8335, 8336, and 8337, consisting of 195,555 of emergent and submerged lands and waters. These monuments are spread across remote areas of the Pacific Ocean and contain significant natural resources which are now included in the trust resources for which NOAA is responsible. NOAA Office for Law Enforcement works with the NMFS Office of Sustainable Fisheries, Office of Protected Resources, Habitat Office, Pacific Island Region, and the NOS Office of National Marine Sanctuaries to create and enforce management measures designed to protect these resources.

B. Mission Requirements:

The Primary drivers of each of the Mission Requirements are the eleven Acts referenced within the Program Requirements section above. Additional drivers are the 30 Acts, Treaties and Conventions referenced in Appendix 1. The Secretary is obligated to enforce each law. The Office of Enforcement is the primary unit charged with this responsibility.

- 1) Maintain the ability to maximize compliance with U.S. marine conservation laws and regulations.
- 2) Monitor domestic harvest and domestic and international trade (e.g., fisheries, protected species, aquaculture, corals, coastal and marine resources) in marine products to maximize compliance with U.S. marine conservation law, regulations, and treaty obligations.
- 3) Maintain an effective deterrent to willful violations of U.S. marine conservation laws, regulations and treaty obligations through application of Enforcement capabilities.
- 4) Support the Department of Commerce, the U.S.C.G., other Department of Homeland Security agencies, and the Department of Justice in matters of the continuity of government operations and homeland security activities
- 5) Support U.S. Ocean Action Plan ecosystem approaches to management and requirement to enforce marine conservation laws and regulations.

3. LINKS TO THE NOAA STRATEGIC PLAN

The Enforcement Matrix program supports the NOAA Strategic Plan goals to “Protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management” and to “Provide critical support for NOAA’s Mission.”

A. Goal Outcomes.

The Enforcement Matrix Program supports the Ecosystems Mission Goal outcome: A well-informed public that acts as a steward of coastal and marine ecosystems.

The Enforcement Matrix Program supports the Mission Support outcome: NOAA Homeland Security related capabilities that are fully integrated into national planning and available at all times.

B. Goal Performance Objectives.

The Enforcement Matrix Program supports the following Ecosystems Mission Goal

performance objectives:

- Increase portion of population that is knowledgeable of and acting as stewards for coastal and marine ecosystem issues.
- Increase number of fish stocks managed at sustainable levels.
- Increase number of protected species that reach stable or increasing population levels.

The Enforcement Matrix Program supports the following Mission Support performance objective:

- Enhance applicability of NOAA services to Homeland Security efforts.

C. Goal Strategies.

The Enforcement Matrix Program primarily supports the following Goal Management and Stewardship strategies:

- Engage and collaborate with our partners (both internal and external) to achieve regional objectives by implementing cooperative strategies to improve regional ecosystem health through compliance with conservation laws and regulations.
- Manage uses of ecosystems to ensure the sustainable use of resources and to balance competing uses of coastal and marine ecosystems by verifying compliance with federal laws, and regulations.

The Enforcement Matrix Program supports the following Mission Support strategies:

- Coordinate NOAA's homeland security related plans, programs, and policies to enhance NOAA-wide program response, risk management, continuity of operations, and other contingency planning, and program infrastructure.

4. PROGRAM OUTCOMES

The Enforcement Matrix Program's long-term outcome is to gain compliance with conservation laws and regulations that safeguard NOAA's trust resources and global marine resources as established in international treaties to which the United States is a party.

5. PROGRAM ROLES AND RESPONSIBILITIES

This program is established and managed with the procedures established in the NOAA Business Operations Manual. Responsibilities of the Program Manager are described in the BOM. Responsibilities of other major participants are summarized below:

A. Participating Line Office, Staff Office and Council Responsibilities:

- 1) NMFS: In addition to those roles and responsibilities outlined in the NOAA Business Operations Manual NMFS provides oversight to the Enforcement Program Manager and two of the Matrix Program's primary customers; the Fisheries Management Program and Protected Species Management Program.
- 2) NOS: In addition to those roles and responsibilities outlined in the NOAA Business Operations Manual NOS provides oversight to two of the Enforcement Matrix Program's primary customers; the Coastal Marine Resources Program (particularly the National Marine Sanctuary Program) and the Corals Program.
- 3) NOAA General Counsel: In addition to their broadly defined role in advising NOAA on general administrative and business matters, the NOAA General Counsel for Enforcement Litigation is responsible for the civil prosecution of violations of the various acts and laws under the purview of NOAA investigated by members of the Office of Law Enforcement or members of a partner enforcement agency acting under agreement with the Office of Law Enforcement.

- 4) The Enforcement Program works closely with other Ecosystem Goal Programs to monitor relevant compliance requirements for all Programs.
- B. External Agency/Organization Responsibilities:
- 1) United States Coast Guard: The U.S.C.G. provides “at sea” fisheries enforcement activity, boarding and inspecting fishing vessels for compliance with the acts, laws and regulations promulgated to protect marine resources. The U.S.C.G. and the Office of Law Enforcement share information, data, and coordinate fisheries enforcement activities.
 - 2) Coastal States and U.S. Territories: The Office of Law Enforcement’s Cooperative Enforcement Program engages approximately 25 Coastal States and U.S. Territories. Participating States/Territories provide direct enforcement services based upon agreement with NOAA addressing NOAA’s and the States/Territories priorities.
6. END USERS OR BENEFICIARIES OF PROGRAM
- A. NOAA NMFS Resource managers - Enforcement action supports compliance with regulations resource managers help implement to protect the target resource.
- B. Fishery Management Councils - Enforcement action implements and supports compliance with regulations the Fishery Management Councils devise in cooperation with NMFS to protect fish stocks and protected resources.
- C. Federal, State, and local government agencies:
- 1) Department of the Interior Fish and Wildlife Service – the program shares information and enforcement response on conservation enforcement matters of mutual concern.
 - 2) Department of Homeland Security, Customs and U.S.C.G. – the program shares information and cooperates on international trade in fisheries and marine mammal products and illegal immigration.
 - 3) Coastal State and U.S. Territories - program provides financial and operational support for marine enforcement activities through cooperative agreements that further both the federal and State/Territorial marine conservation mission.
- D. Fishers – the program works to provide an equal opportunity for all participating in federal fisheries by working to insure compliance with all regulations to eliminate unfair advantage by those who might ignore limits and restrictions.
- E. Commercial fishing industry – As stated above, the program works to provide equal opportunity for all businesses participating in the federal fisheries by working to gain compliance of all regulations by all participants. These efforts include enforcement of U.S. Treaty obligations and monitoring importing fishery products for compliance with country of origin laws and regulations and treaty obligations.
- F. Recreational fishing industry – By gaining compliance with conservation regulations, the program works to insure the sustainability of the fish stocks that sustain both the commercial and recreational fishing industries.
- G. Emergency managers - The program provides direct support for continuity of government operations for NOAA.
- H. General Public – The program provides public education regarding resource protection measures. The programs outreach function attempts to educate rather than penalize member of the public who create conflict with the nations marine resources. Additionally the entire effort to protect the sustainability of marine resources is directed to provide the general public with sustainable marine resources that support a significant part of our economy and provide countless recreational opportunities.

Appendix A
REQUIREMENT DRIVERS

- Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1882;
- Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407;
- National Marine Protection, Research, and Sanctuaries Act, 16 U.S.C. 1431-1439;
- Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378;
- Endangered Species Act of 1973, 16 U.S.C. 1531-1543;
- American Fisheries Act of 1998, Pub. Law 105-277;
- Anadromous Fish Products Act, 16 U.S.C. 1822 note, Section 801(f);
- Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5103(b);
- Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601-3608;
- Atlantic Striped Bass Conservation Act, 16 U.S.C. 1851 note;
- Dolphin Protection Consumer Information Act, 16 U.S.C. 1385 et seq.;
- Fish and Seafood Promotion Act of 1986, 16 U.S.C. 4001- 4017;
- Fisherman's Protective Act of 1967, 22 U.S.C. 1980(g)
- Fur Seal Act Amendments of 1983, 16 U.S.C. 1151-1175;
- Land Remote-Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq.;
- North Pacific Anadromous Stocks Act of 1992, 16 U.S.C. 5001-5012;
- North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1032;
- Northern Pacific Halibut Act of 1982, 16 U.S.C. 773-773k;
- Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. 5601-5612;
- Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. 9101 et seq.;

International or inter-agency cooperation developed bilateral or multilateral requirements documents:

- Antarctic Conservation Act of 1978, 16 U.S.C. 2401-2413;
- Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431-2444;
- Antarctic Protection Act of 1990, 16 U.S.C. 2465(a);
- Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971k;
- Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1401 et seq.;
- Driftnet Impact Monitoring, Assessment, and Control Act, 16 U.S.C. 1822 (Section 4006);
- Eastern Pacific Tuna Licensing Act of 1984, 16 U.S.C. 972-972h;
- High Seas Fishing Compliance Act, 16 U.S.C. 5506(a);
- Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631-3644;
- South Pacific Tuna Act of 1988, 16 U.S.C. 973-973(r);
- Sponge Act, 16 U.S.C. 781 et seq.;
- Tuna Conventions Act of 1950, 16 U.S.C. 951-961;
- Whaling Convention Act of 1949, 16 U.S.C. 916-916l.