



## Research Brief

# Compliance and Enforcement in Fisheries Management

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Since the 1980s, ELI has been studying and publishing reports on environmental compliance and enforcement — and teaching it at the federal, local, and state levels in the U.S. and other countries. Now, our Ocean Program has turned to the unique set of issues related to fisheries.

Fisheries compliance is essential if we are to maintain or restore the health of marine fish stocks such as bluefin tuna and Atlantic cod. As fish stocks decline and regulations increasingly restrict allowable catch, fishers and fishing communities face extraordinary economic pressures that can lead to illegal activity. With fishers struggling and NOAA and the Coast Guard enforcing ever-tightening regulations, conflict between the agencies and the regulated community has exploded. Clearly, we need to reexamine fisheries enforcement and compliance — both dockside and at sea — to assure sustainable fish stocks while also protecting livelihoods and communities.

In collaboration with economists at the University of Maryland, ELI Staff Attorney Read Porter and his team recently completed a two-year study that looks at

how fisheries enforcement has worked in the past and how it can be improved. To understand the enforcement dynamic, Read's team looked at the historical practice documented in enforcement records as well as fishers' and enforcement officers' perceptions of the system. They analyzed a database of over 8,000 enforcement actions that closed between 2001 and 2006, and they surveyed 1,295 fishermen and dozens of enforcement staff, scientists, and regulators from three representative fisheries in the Northeast, Pacific, and Gulf of Mexico.

Read wanted to know how the Coast Guard actually enforces at sea. The Coast Guard reports high rates of compliance that often exceed 97 percent — far higher rates, in fact, than those estimated by the fishers in our survey. The team's 2009 paper "Reassessing the Value of U.S. Coast Guard At-Sea Fishery Enforcement" concludes that the Coast Guard's inflated compliance rate is a function of fishers' ability to predict when they will be boarded and inspected, the inherent difficulty of enforcing — often under extreme weather conditions — com-

plicated regulations that vary from fishery to fishery, and the Coast Guard's other responsibilities such as vessel safety and rescue and drug interdiction.

This conclusion, combined with the cost of enforcement (Read and his co-authors found that the Coast Guard spends approximately \$8.4 million per penalized violation!), led naturally to the question of how to improve at-sea enforcement. Read wondered whether fisheries observers — impartial on-board witnesses who collect data for use in stock assessment — could help improve detection of violations and create the necessary deterrence.

In a study published last year, "Fisheries Observers as Enforcement Assets: Lessons from the North Pacific," Read found that North Pacific observers, who are required by law to report any violations that they witness, report significantly more violations than their colleagues in other regions. Moreover, these observers detect violation types, such as illegal discard and retention, that otherwise are rarely identified by traditional dockside or at-sea enforcement resources. Read concluded that the enforce-

ment benefits of mandatory observer reporting may outweigh any potential compromise to the quality of stock assessment data collected (a common argument used to support the observers' non-enforcement role).

The challenges of fairly and effectively enforcing fisheries regulation are not lost on anyone. And survey respondents, for example, proposed a variety of solutions. One fisherman suggested that education is critical and "passing more unenforceable rules and regulations just makes a dangerous pursuit more difficult." An enforcement official volunteered, on the other hand, that "if fishermen were really serious about protecting their livelihoods they would push for criminal sanctions. After all, isn't what is really going on theft of the resource, [i.e.,] a small percentage of fishermen taking what doesn't belong to them?"

Recognizing that an improved relationship between the fishing community and enforcers is vital, NOAA has begun developing new national and regional enforcement priorities. At NOAA's request, Read and his colleagues participated in an August dialogue that brought together fishermen, enforcement officials, and NGOs.

"NOAA's commitment to addressing fisheries enforcement challenges is commendable," Read observes, "but much work remains to ensure that the enforcement system protects honest fishermen and the sustainability of living marine resources."