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SUBJECT: DELEGATION OF AUTHORITY TO NOAA GENERAL COUNSEL AND REDELEGATION TO ASSISTANT GENERAL COUNSEL AND REGIONAL COUNSELS

TO: FINANCIAL MANAGEMENT CENTERS

1. Legislation: The Secretary of Commerce, pursuant to the legislative enactments listed below and Reorganization Plan No. 4 of 1970, 84 Stat. 2090, is authorized to enforce the following statutes:
 - (a) Agricultural Marketing Act of 1946, 7 U.S.C. 1621-1627;
 - (b) Antarctic Conservation Act of 1978, 16 U.S.C. 2401-2412;
 - (c) Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431-2444;
 - (d) Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601-3608;
 - (e) Atlantic Striped Bass Conservation Act, P.L. 98-613; 16 U.S.C. 1851 note;
 - (f) Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971h;
 - (g) Eastern Pacific Tuna Licensing Act of 1984, 16 U.S.C. 972-972h;
 - (h) Endangered Species Act of 1973, 16 U.S.C. 1531-1543;
 - (i) Fur Seal Act Amendments of 1983, 16 U.S.C. 1151-1175;
 - (j) Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378;
 - (k) Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801-1882;
 - (l) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407;
 - (m) Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1439;
 - (n) Merchant Marine Act of 1936, 46 U.S.C. 1271-1279;

- (o) North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1032;
- (p) Northern Pacific Halibut Act of 1982, 16 U.S.C. 773-773k;
- (q) Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631-3641;
- (r) Sponge Act, 16 U.S.C. 781-785;
- (s) Tuna Conventions Act of 1950, 16 U.S.C. 951-961;
- (t) Weather Modification Reporting Act, 15 U.S.C. 330-330e;
- (u) Whaling Convention Act of 1949, 16 U.S.C. 916-9161.

The Under Secretary/Administrator of NOAA, pursuant to the legislative enactments listed below, is authorized to enforce the following statutes:

(v) Deep Seabed Hard Minerals Resources Act (DSM), 30 U.S.C. 1401-1473;

(w) Ocean Thermal Energy Conversion Act of 1980 (OTEC), 42 U.S.C. 9101-9167.

2. Delegation to the Under Secretary/Administrator of NOAA: By Section 3.01 of Department Organization Order 25-5A (DOO 25-5A), at subsections k, s, t, v, x, z, aa, cc, jj, pp, qq, rr, uu, ww, xx, yy and zz, the Secretary has delegated to the Under Secretary/Administrator, with certain reservations not relevant here, the authorities specified in paragraph 1(a) through (u) of this Circular.

3. Delegation to the General Counsel: Authority is hereby delegated to the General Counsel of NOAA to take such action authorized by the statutes listed in paragraph 1 as is necessary or proper to assess civil money penalties, impose or seek permit or license sanctions, refer cases to the Department of Justice for criminal prosecutions or civil proceedings, and seek in rem forfeitures. That authority includes, but is not limited to, the following actions:

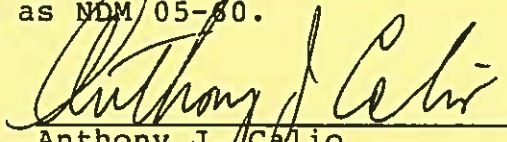
- (a) Issuing notices of violation and assessment of civil penalty, notices of permit or license sanction, and, except in the case of permits or licenses issued under the authorities specified in paragraphs 1(m), 1(v), or 1(w) above, notices of intent to deny permit or license;
- (b) Representing NOAA at enforcement hearings;
- (c) Declining prosecutions for alleged violations;
- (d) Compromising, settling, dismissing, or otherwise disposing of cases;

- (e) Taking actions with respect to administrative forfeitures, including issuing declarations of summary forfeiture;
- (f) Accepting payment of civil penalties and title to abandoned or seized property (or the monetary value thereof);
- (g) Remitting or mitigating civil penalties and forfeitures, including acting on petitions for relief from forfeiture;
- (h) Accepting bonds or other security for seized property;
- (i) Assessing fees for storage, care and maintenance of seized property;
- (j) Referring cases to the Department of Justice for collection of civil penalties and institution of criminal, civil, forfeiture, and license sanction proceedings;
- (k) Requiring submission of information relevant to permit or license sanction proceedings under DSM;
- (l) In the case of permits or licenses under DSM or OTEC, issuing interim permit or license suspensions in consultation with the Chief, Ocean Minerals and Energy Division pending completion of permit/license proceedings; and
- (m) Issuing compliance orders, in consultation with the Chief, Ocean Minerals and Energy Division under OTEC.

This delegation shall not diminish the authority of the Assistant Administrator for Fisheries or his or her designees, independently or in conjunction with the General Counsel of NOAA, to refer cases to the Department of Justice for criminal prosecutions or forfeiture proceedings. The authority delegated in this Circular may be redelegated at the discretion of the General Counsel.

4. Reservation of Authority: The Under Secretary/Administrator specifically reserves the authority: to review and decide appeals of rulings of administrative law judges in civil penalty and permit sanction proceedings, including interlocutory appeals and appeals from initial decisions of administrative law judges; and to review interim permit or license suspension orders under OTEC or DSM upon request of the licensee or permittee.

5. Effect on Other Issuances. This Circular supersedes NOAA Circulars 82-3, 82-3 Change 1, and 82-13, filed as NDM 05-85, and NOAA Circular 83-30, filed as NDM 05-80.


 Anthony J. Calio
 Under Secretary, NOAA

6. Redelegation to the Assistant General Counsel for Enforcement and Litigation and the Regional Councils: Subject to the reservations by the Under Secretary/Administrator in paragraph 4 above, and with the reservations specified in paragraph 8 below, the Assistant General Counsel for Enforcement and Litigation, the Alaska Regional Counsel, the Northeast Regional Counsel, the Northwest Regional Counsel, the Southeast Regional Counsel, and the Southwest Regional Counsel, are hereby redelegated the authorities delegated to the General Counsel in paragraph 3 above.

7. Exercise of Redelegated Authority: The authority redelegated herein shall be exercised in accordance with the policies and procedures of the NOAA Enforcement Operations Manual (NEOM).

8. Reservation of Authority by the General Counsel: The General Counsel hereby reserves the authority to provide general guidance to, and to consult with, the Assistant General Counsel for Enforcement and Litigation and the Regional Councils to the extent permitted by law concerning the authorities delegated herein, and to exercise any of the authorities herein redelegated as to a particular case upon notice to the Assistant General Counsel for Enforcement and Litigation or the appropriate Regional Counsel.

4. Redelegation authorized. The authorities redelegated herein may be further redelegated at the discretion of the delegating official.



Daniel W. McGovern
General Counsel