

# Enforcement Processes and Communications for Incidents in Greater Farallones National Marine Sanctuary

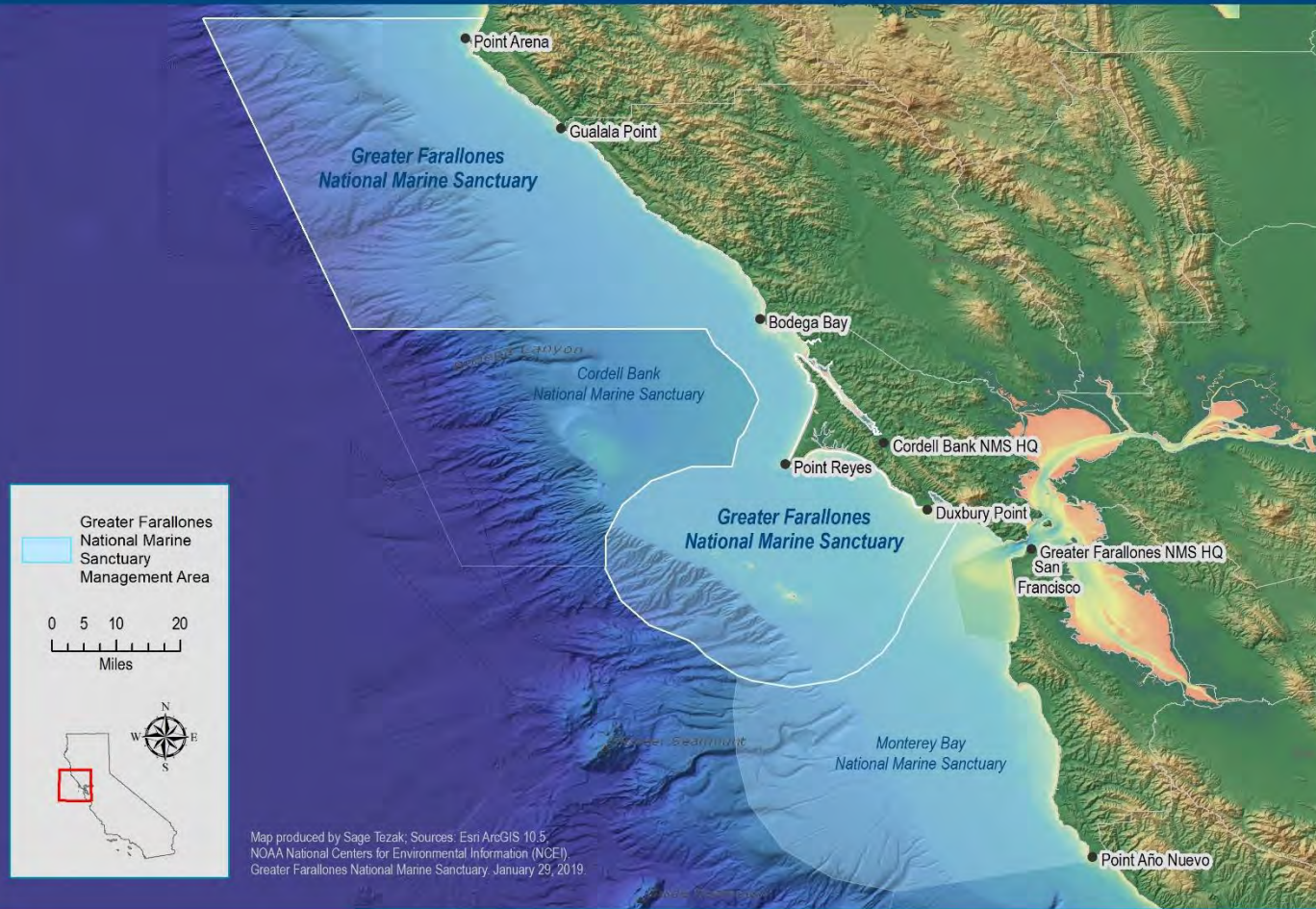
GFNMS Advisory Council Meeting  
Bodega Bay, February 19, 2020

Max Delaney, Resource Protection Specialist  
*Greater Farallones National Marine Sanctuary*



# GFNMS Management Area

## Greater Farallones National Marine Sanctuary Management Area



# How is enforcement conducted within the GFNMS Management Area?

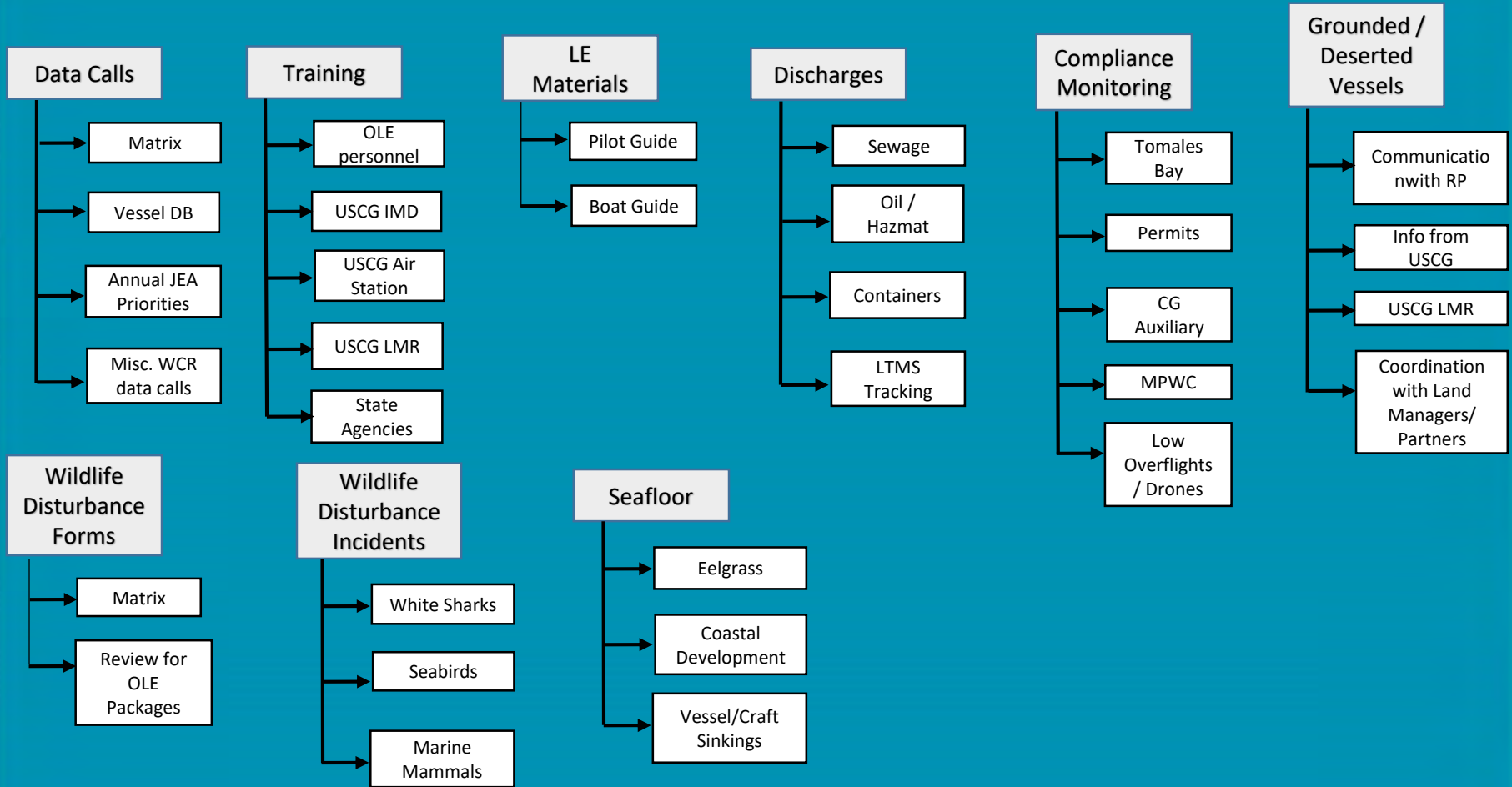
- 1) GFNMS staff are NOT the enforcers – we rely on our enforcement partners to bust violators!
- 2) GFNMS staff track incidents, submit referrals to appropriate enforcement agencies, document actual and potential harm, write damage assessments, and help enforcement personnel with case development
- 3) Developing a case package is often complex, challenging, and involves multiple chains of communication throughout NOAA and with partner agencies

# How does GFNMS staff get involved in enforcement in the sanctuary?

- Regularly perform over 30 tasks related to tracking incidents, communicating with colleagues within the ONMS program, other agencies, and NOAA enforcement personnel
- GFNMS must document every known detail of an incident and every one of our actions / communications in order to help build a case
- Minimum of 3 forms to submit while responding to an incident or shortly thereafter



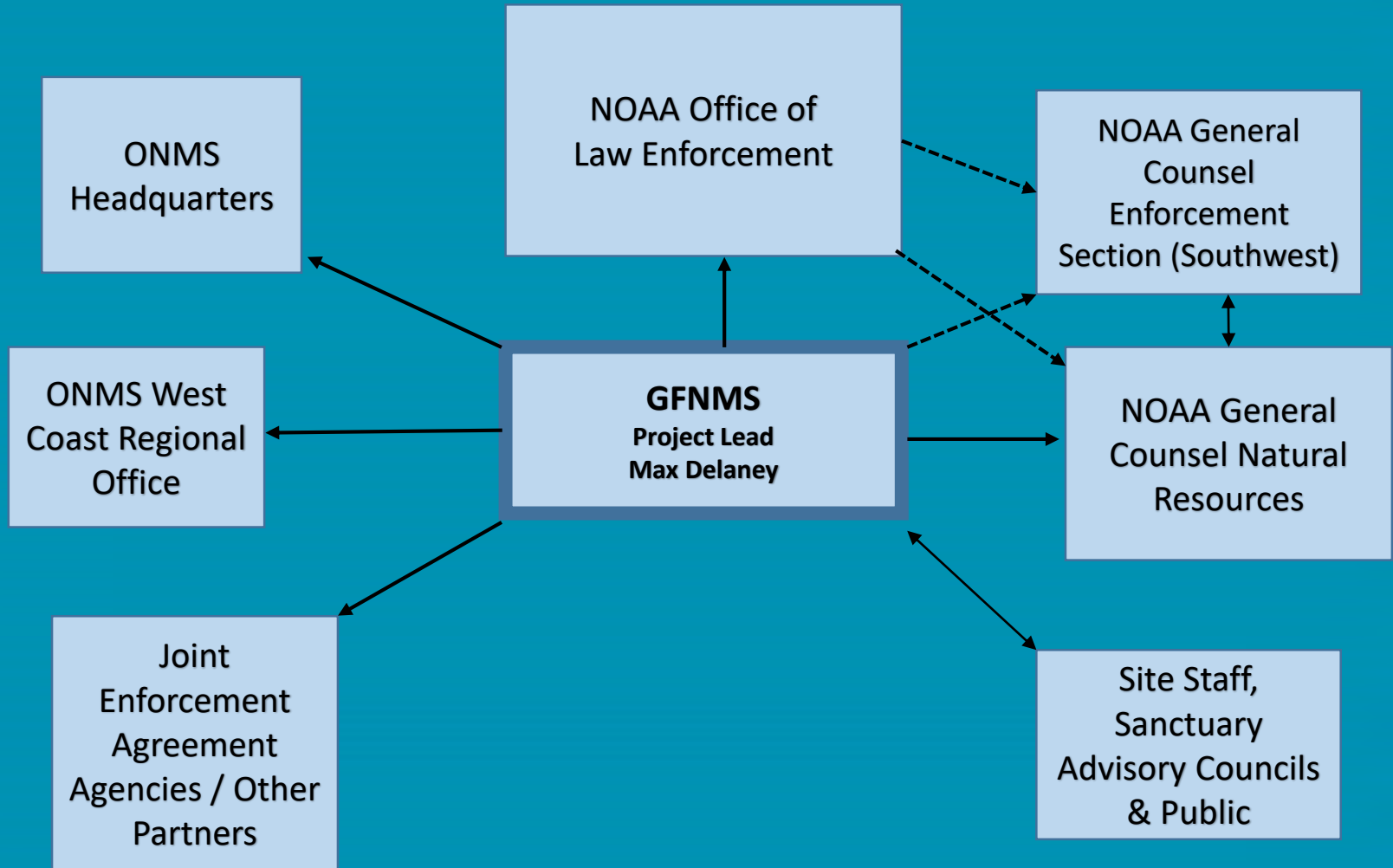
# GFNMS – Overview of Resource Protection Topics, Tasks and Activities Related to Enforcement



# Law Enforcement Partnerships



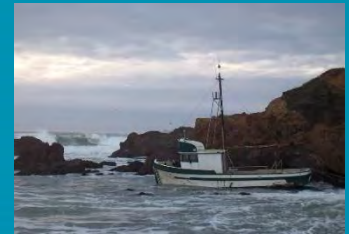
# GFNMS Enforcement Communications Tracking Flowchart





# Sanctuary Enforcement Issues in GFNMS Management Area

- Marine mammal harassment
- Aircraft violating overflight restrictions (zones)
- MPWC operating outside zones
- Unauthorized construction (e.g. seawalls, moorings, fences in Tomales Bay)
- Illegal attraction / disturbance of white sharks at the Farallones
- Abandonment of beached / submerged vessels and other debris
- Illegal discharges and known or orphan spills





# GFNMS staff responsibilities during incidents:

- Receive reports from public / stakeholders
- Document incidents
- Notify NOAA Office of Law Enforcement and other enforcement partners as quickly as possible
- Assess damages / generate reports
- Continue to track the incident and provide updates to NOAA colleagues and other partners

# Potential pathways for enforcement cases:

- Strict Liability Cases
- Natural Resource Damage Assessment (NRDA) Cases

# Potential enforcement actions: Strict Liability Cases

- If strict liability (i.e. damages not as part of a Natural Resource Damage Assessment (NRDA)), General Counsel Enforcement Section (GCES) manages the case
- GFNMS submits a report (Incident Action Report (IAR)) that answers specific questions to help enforcement understand the gravity and culpability of the responsible party

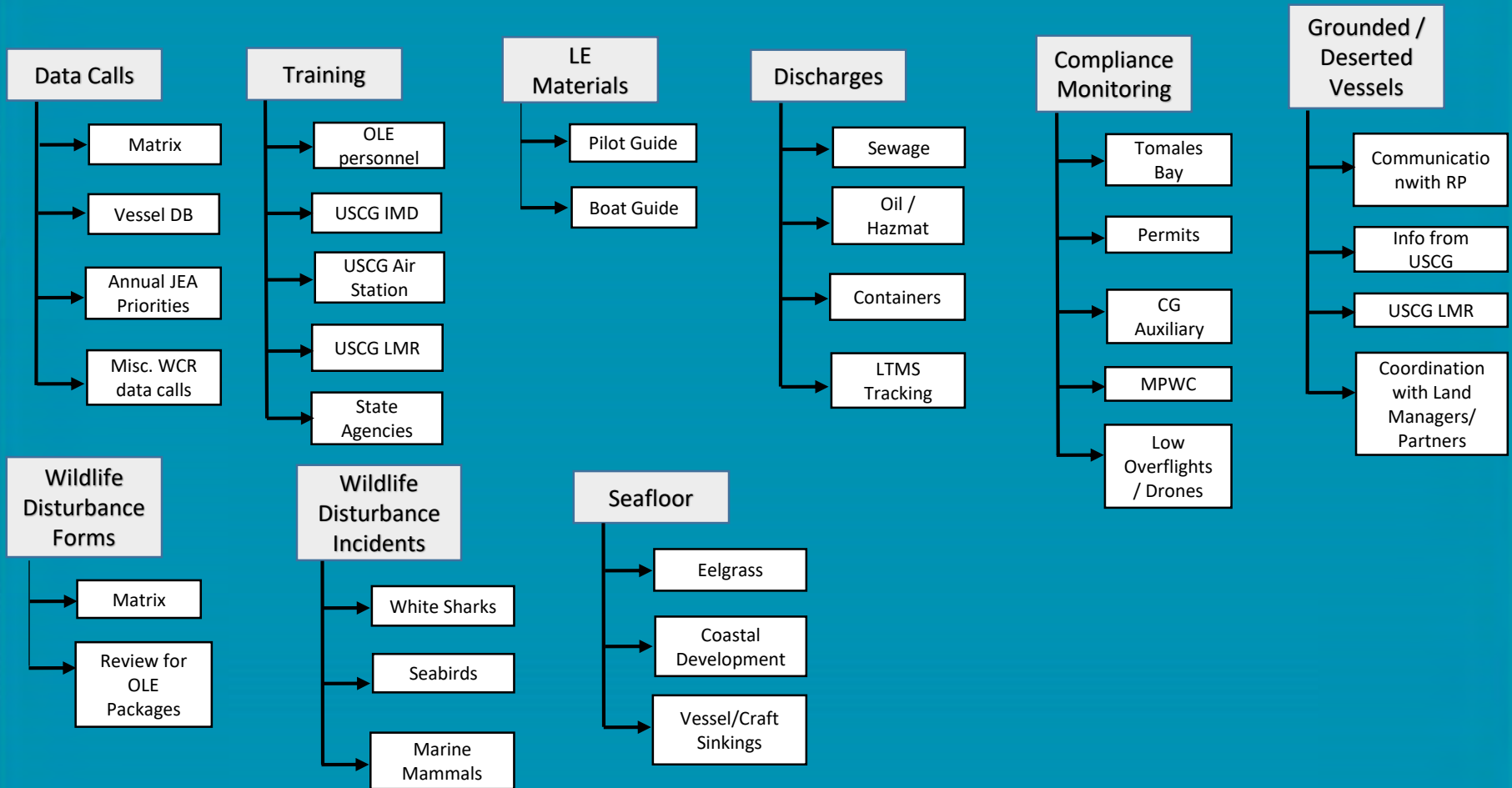
- A. The **nature and status of the resource** at issue in the incident;
- B. The **extent of harm** done to the resource...;
- C. The **potential harm** to the resource...;
- D. Whether the **violation involves fishing** in closed areas, fishing in excess of quotas, fishing without a required permit, or fishing with unauthorized gear;
- E. Whether the incident provides a **significant competitive advantage** over those operating legally;
- F. The **nature of the regulatory program** (e.g., limited versus open access fishery);
- G. Whether the incident is **difficult to detect** without an on-scene enforcement presence or other compliance mechanisms; and
- H. Additional Relevant Information.



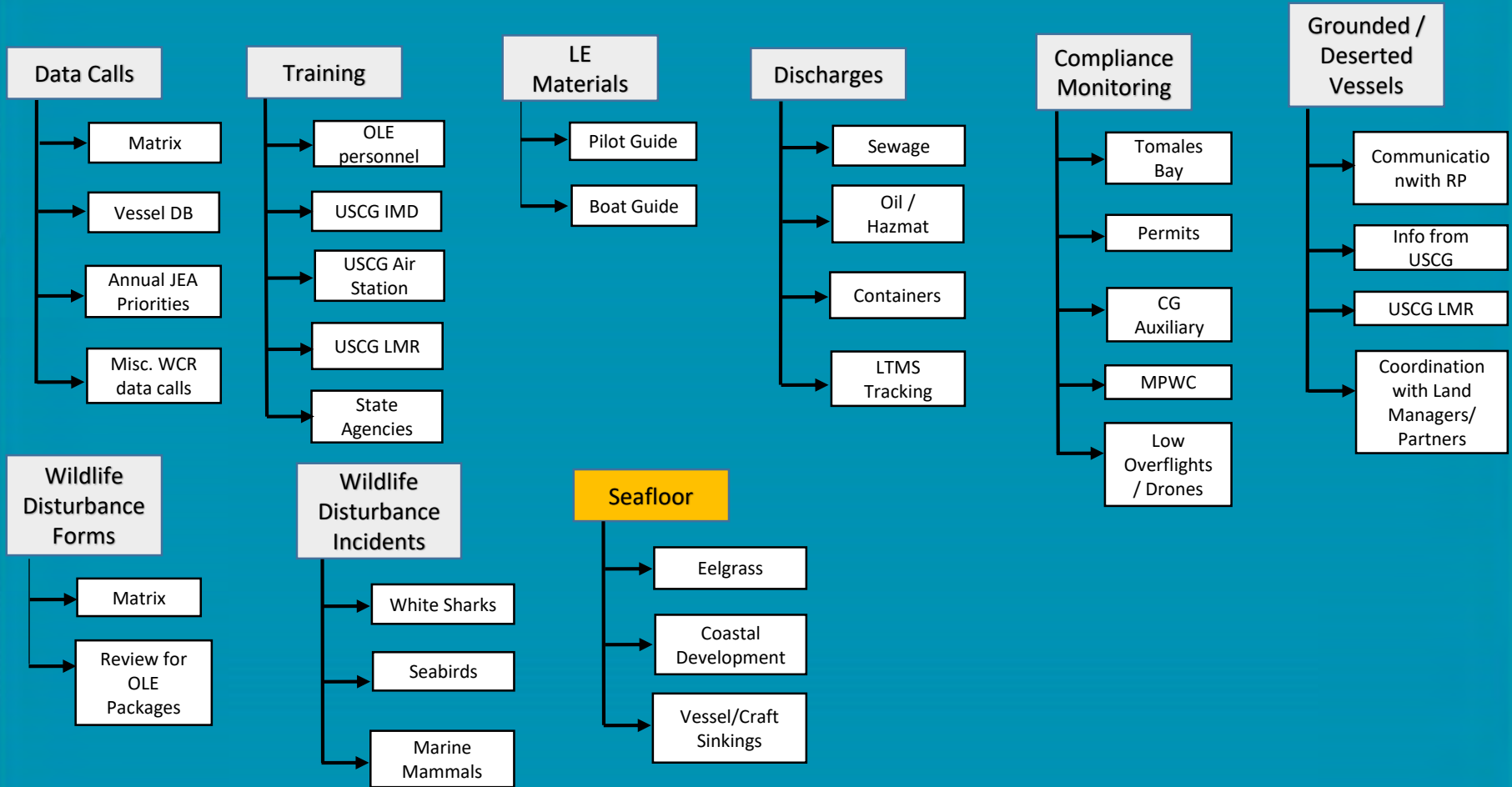
# Potential enforcement actions: Natural Resource Damage Assessment (NRDA) Cases

- If we are able to conduct a NRDA, General Counsel Natural Resources Section (GCNR) manages the case utilizing the provisions of Section 312 (NMSA)
- section 312 allows NOAA to: *Recover (financially) for destruction, injury, loss and damage to sanctuary resources*
- GFNMS develops a Damage Assessment which summarizes what details the impacts to sanctuary resources
- Damages can include the actual harm to the resources as well as the cost of the damage assessment and the reasonable cost of monitoring

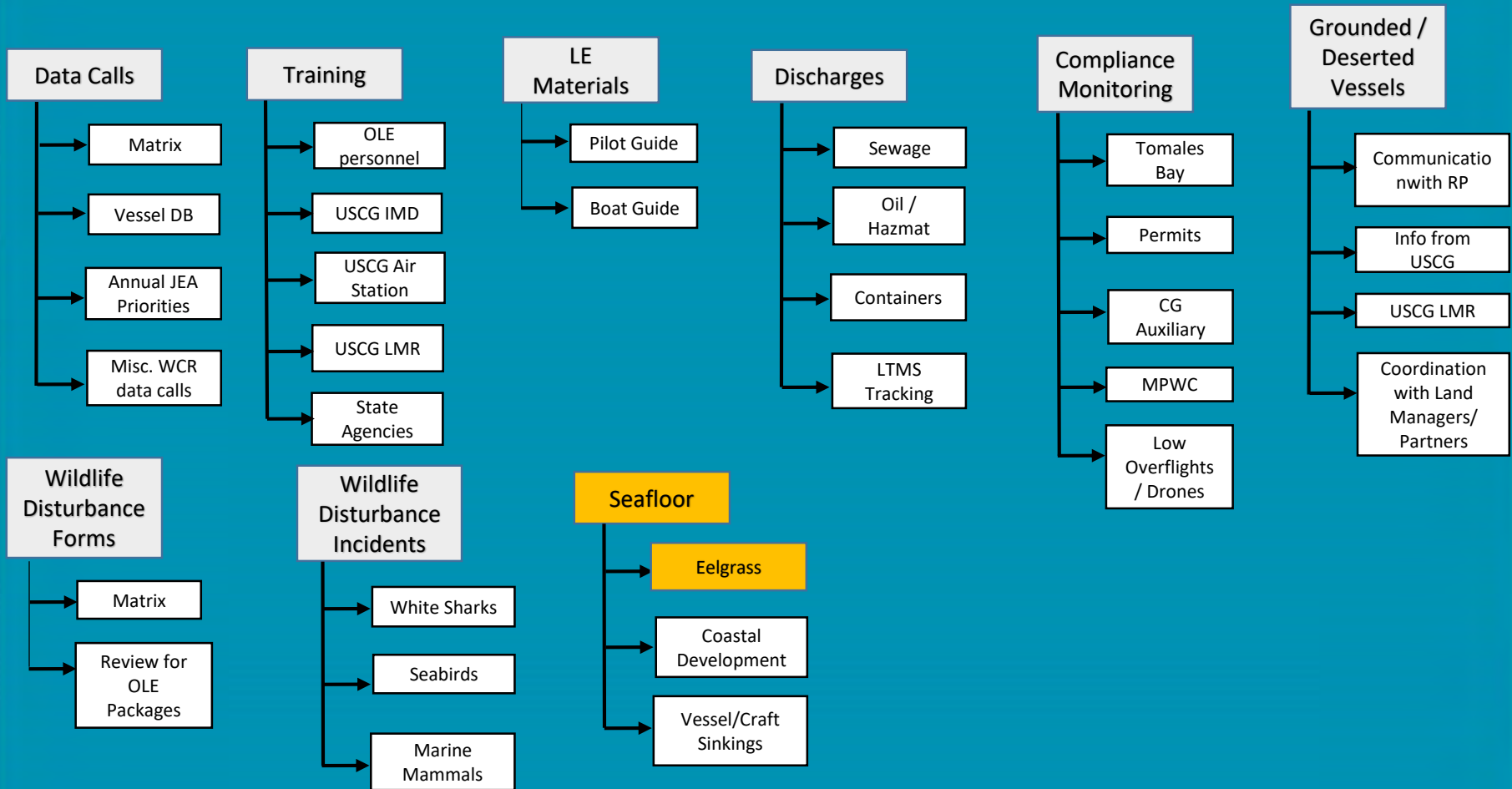
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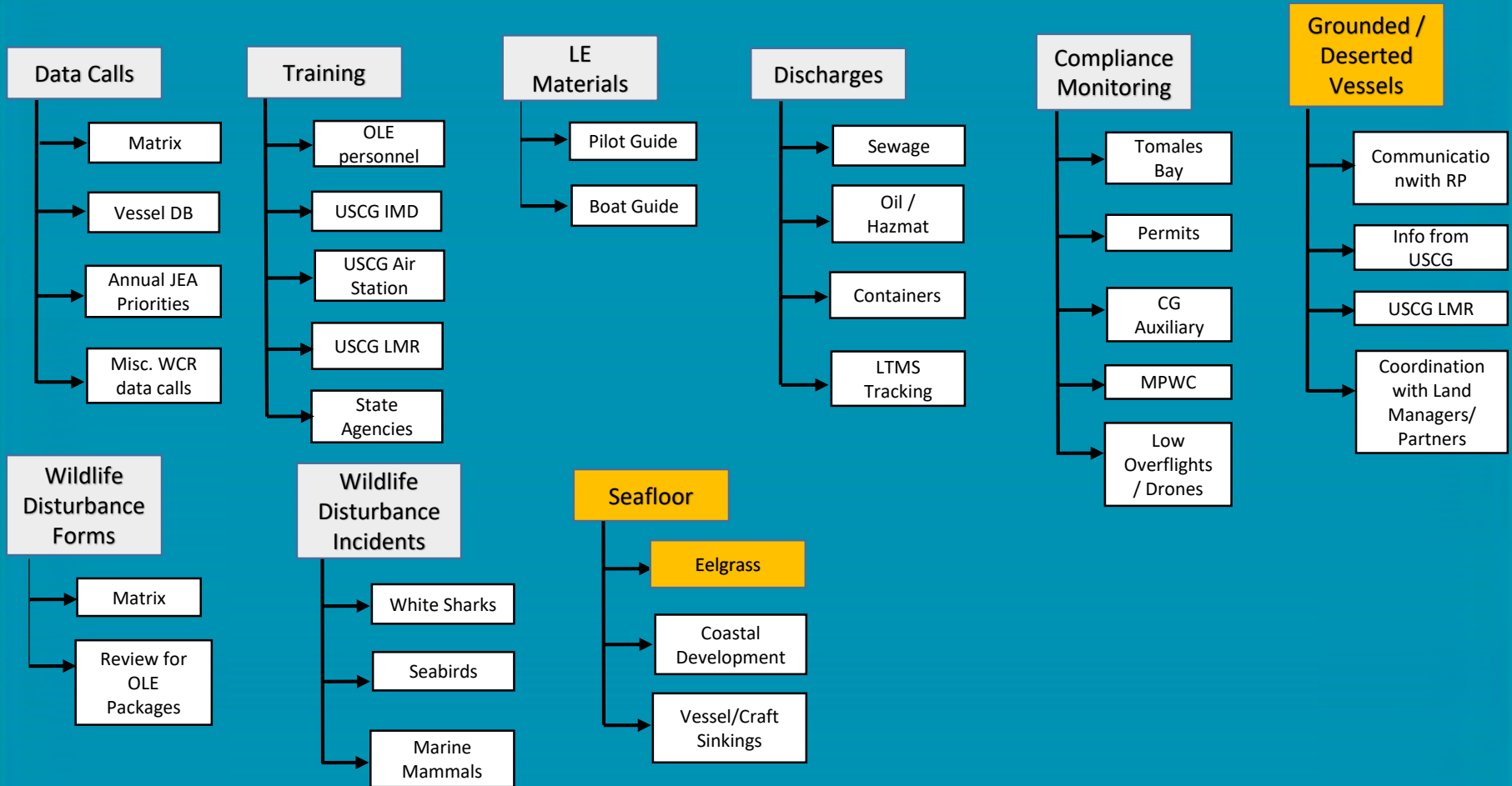


# Example incident: Vessel Grounding

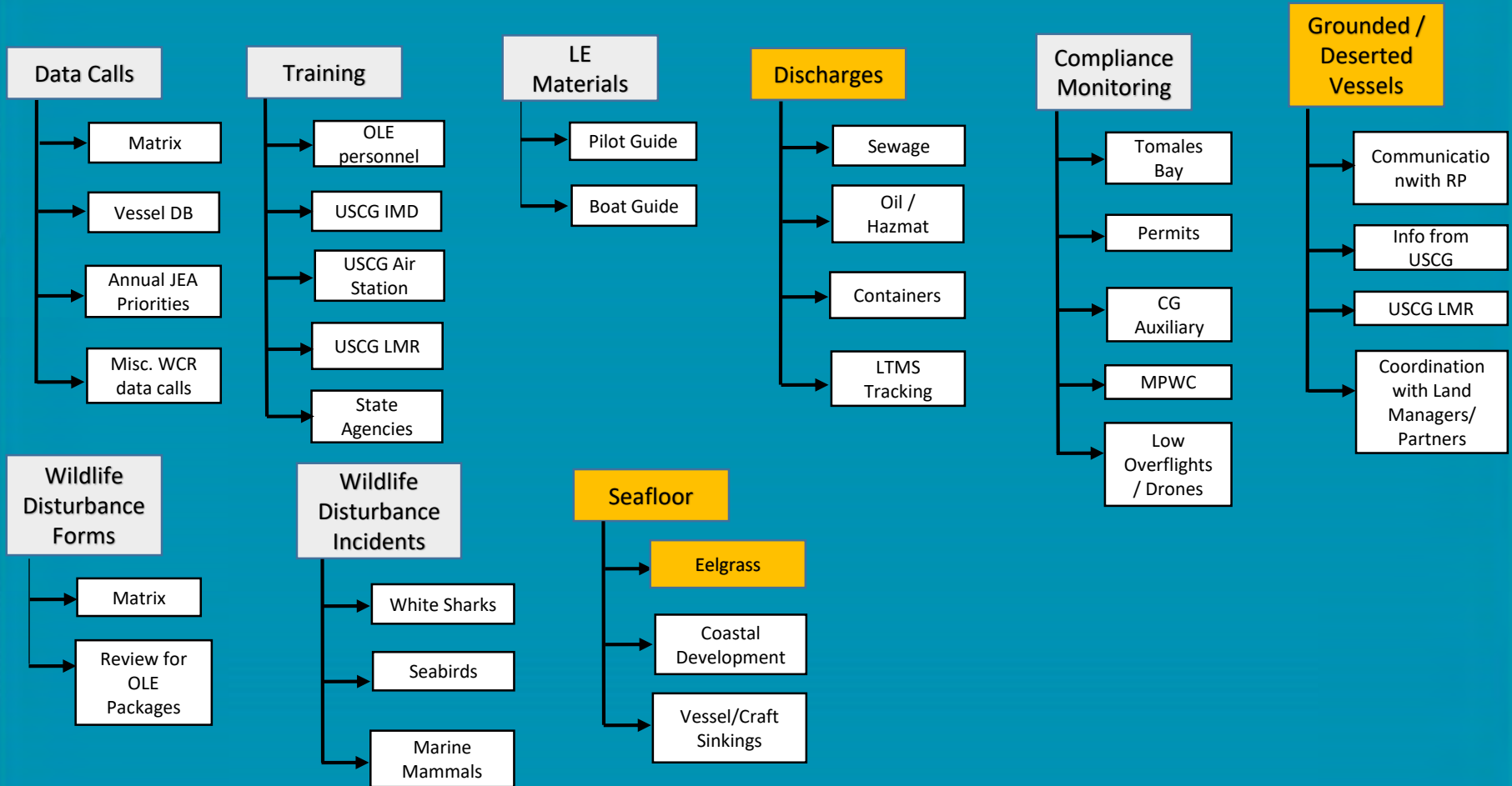




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## In summary, GFNMS coordinates enforcement in multiple ways:

- Documenting incidents / assessing damages
- Working within NOAA and with partner agencies to build cases
- Providing updates to ONMS colleagues to track longer-term trends
- Conducting law enforcement trainings
- Conduct outreach to the public to prevent violations from occurring
- Working with the WCR office to identify annual enforcement priorities
- Tracking permit compliance (observers)

# Contacts

Max Delaney, Resource Protection Specialist

(alternate: Karen Reyna Resource Protection Coordinator)

Greater Farallones National Marine Sanctuary

991 Marine Drive

San Francisco, CA 94129

Phone: 415-970-5255

Email: [max.Delaney@noaa.gov](mailto:max.Delaney@noaa.gov)