

National Marine Fisheries Service  
Alaska Enforcement Division

**ENFORCEMENT REPORT**



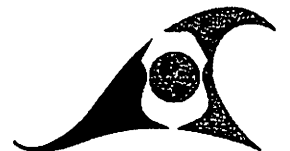
January 1, 2002 – December 31, 2002

National Marine Fisheries Service  
Office for Law Enforcement  
P.O. Box 21767  
Juneau, AK 99802-1767

*This report can be viewed at:*

<http://www.nmfs.noaa.gov/ole/Alaska/>

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call our National Hotline at  
1-800-853-1964.**



**ENFORCEMENT REPORT  
FOR THE PERIOD 01/01/2002 THROUGH 12/31/2002**

National Marine Fisheries Service  
Alaska Enforcement Division

**INTRODUCTION:**

The Alaska Enforcement Division (AED) opened 930 cases last year. In 2002, AED had ten Special Agents and seven Enforcement Officers working cases. There were six Enforcement Officer and six Special Agent vacancies. People have been selected for all vacancies, however only two new Special Agents have started work. We are waiting for successful completion of the others' background investigations.

Our agency has a unique enforcement role in that we have regulatory and criminal justice responsibilities. The goal of regulatory enforcement is compliance. The goal of criminal justice is to access responsibility and punish violations. The majority of our cases fall in the regulatory realm. We have been most successful gaining compliance through education and outreach. You will note in this report the many hours agents and officers spent doing just that. This is not to say that those who commit civil violations and intentional criminal violations will not be aggressively pursued. Time spent by enforcement preventing unintentional and minor violations is time well spent when we can focus more time on pursuing egregious and intentional crimes.

**VESSEL MONITORING SYSTEMS (VMS)**

VMS became mandatory on June 10<sup>th</sup> for vessels permitted for directed fishing for pollock and Pacific cod. Enforcement had software and hardware systems in place, tested and operable on June 3<sup>rd</sup>. Activations of shipside VMS units went smoothly, with an average of 11.5 activations per week. As of December 31, there were a total of 356 activations. During 2002, the Argos Mar-ge was the only unit available for use. There were 27 malfunctioning units replaced under warranty during this period. About ½ of those were recalled by NACLS to update the battery back-ups.

INMARSAT C based Thrane & Thrane 3022D VMS unit has been approved. We expect this to be published in the Federal Register in early February, 2003. This technology has the ability to provide two-way communications, enhancing our enforcement effort, as well as enhancing vessel communications with shoreside owners and managers.

There were 26 VMS generated cases for No-Transit area incursions. Of those, eight were dismissed as unfounded, one was given a Written Warning, and eleven were issued Summary Settlements. Of those eleven, three have paid the \$2,500 penalty. Six cases are being investigated at this time.

## HIGHLIGHTS OF PRIORITY ISSUES:

### 1. OBSERVER-RELATED OFFENSES

Peter Pan Seafoods settled a case we documented on observer sexual harassment at its King Cove plant. Peter Pan Seafoods Inc. agreed to pay \$40,000, with \$25,000 suspended, provided that Peter Pan does not violate the regulation prohibiting harassment of federal fisheries observers for three years. Peter Pan agreed to increase training of its plant employees and they produced a training video addressing sexual harassment in the fish processing plant environment. This video will be made available to other interested persons and companies.

#### Enforcement Cases / Statistics:

Observers wrote 230 affidavits in 2002. This is an increase of 43 affidavits from 2001. The following is a breakdown by the category of violations.

Accommodations	18
Assistance	3
Failure to Notify	24
Harassment-Assault	1
Harassment-Interfere/Intimidate	7
Harassment-Offensive/Hostile	6
Harassment-Pressuring into performing crewmember duties	1
Harassment-Sexual	2
Harassment-Tamper/Destroy/Destruct equipment	5
IFQ	2
Improved Retention/Utilization	9
Marine Casualty	14
Marine Mammal (Fail to retain for observer)	1
Marine Mammal Feeding	4
Marine Mammal Harassment	2
Marine Mammal (Other)	1
Marpol	23
Miscellaneous	9
Multi-Species CDQ	15
Observer Misconduct	2
Prohibited Species Mishandling	28
Prohibited Species Retaining	6
Recordkeeping and Reporting	7
Safety	25
Sample Bias	11
Sample Bias Seabirds	3
Seabird avoidance	1
<hr/>	
<b>Total</b>	<b>230</b>

The 230 affidavits resulted in 165 cases being initiated (162 from Anchorage and three from Dutch Harbor).

## 2. COOK INLET BELUGAS

The goals for the protection of Cook Inlet Belugas were to continue Community Oriented-Policing and Problem Solving (COPPS), patrols, and to investigate reports of harassment or unlawful takes of Cook Inlet beluga whales. Enforcement efforts centered on air, land, and sea patrols and involved 7 Special Agents and Enforcement Officers who provided more than 300 hours in patrol and COPPS. No unauthorized takes of beluga whales were documented. In addition, COPPS was a major theme in increasing the awareness of the public and government agencies through education and partnership.

The cooperative agreement between the National Marine Fisheries Service (NMFS) and the Cook Inlet Marine Mammal Council (CIMMC) permitted two strikes for the possible harvesting of two beluga whales for 2002. One strike was permitted for the Alaska Native Marine Mammal Hunters Committee (ANMMHC) and the second strike was permitted to the Native Village of Tyonek (NVT). Only one beluga was harvested during 2002.<sup>1</sup>

The role of the Alaska Enforcement Division (AED) during the hunts conducted by the ANMMHC and the NVT was to provide a point of contact between Protected Resources Division (PRD) and the Native hunters for regulatory guidance and communication. During 2002, the hunts were coordinated by AED, but were not monitored. PRD assumed the role of sampling after the harvest. The following is a synopsis of the ANMMHC and NVT hunts:

### Results of ANMMHC hunt

The ANMMHC was permitted one strike to harvest one beluga whale starting July 15, 2002. The whaling team was selected at a CIMMC meeting earlier in May by open lottery and the distribution of the beluga meat was detailed among the members. In late July, the ANMMHC harvested one beluga whale on their first attempt.

### Results of the NVT hunt

The NVT was also permitted one strike to harvest one beluga whale starting July 15, 2002. In order to allow PRD of the NMFS and Enforcement to oversee the hunts, NVT allowed the ANMMC to conduct the first hunt. After completing a commitment in assisting PRD in tagging beluga whales, the NVT made several attempts at harvesting a beluga whale, but were unsuccessful due to bad weather. The NVT did not make a strike.

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<sup>1</sup> On March 29, 2002, Administrative Law Judge P.L. McKenna, in Docket #000922272-0272-01, forwarded to NMFS Alaska Region a recommended decision allowing a total of six strikes that could result in the harvesting of six beluga whales during the period of 2001-2004.

### 3. STELLER SEA LION PROTECTION MEASURES

AED's efforts to protect Steller sea lions were mainly through the use of VMS. In addition to VMS, there were 65 hours of patrol using AED patrol vessels. There were 25 cases opened involving the harassment and unlawful feeding of Steller sea lions.

### 4. SEABIRD AVOIDANCE

In 2002, an Observer reported a vessel not deploying seabird avoidance measures. However, our investigation showed the vessel was complying with the proposed regulations which allow for weather conditions.

Kim Rivera, Protected Resource Division, Garland Walker, NOAA GC, and I met to create a Summary Settlement Schedule for minor violations of the proposed regulations for seabird avoidance measures. This Schedule will be submitted to HQ's for approval when the Final Action is published.

### 5. RECORD KEEPING AND REPORTING

AED Enforcement Officers and Special Agents conducted 408 vessel boardings and 47 plant inspections in 21 ports in Alaska. Overall, vessels had a 69% compliance rate. This number includes minor violations resulting in Fix-it-Notices, verbal warnings, and written warnings. There was a 62% compliance rate overall for plants. Plants in Alitak, Anchorage, and Cordova brought the average down, although there were no major problems noted in any of the plants.

Last quarter the owner/operator of the F/V REBECCA IRENE was issued a \$360,000 NOVA and a Notice of Permit Sanction (sanctions six different federal permits for 90 days) for directing the crew of the vessel to interfere with observer sampling procedures of the observer by removing halibut from the deck prior to the observers sampling. The vessel owner has asked for a hearing.

### 6. IFQ SPECIFIC

After meeting with the IFQ Implementation Team, NMFS proposed changes in the IFQ regulations. The proposed changes will reduce the Prior Notice of Landing from 6 to 3 hours, and eliminate the requirement to declare a Registered Buyer; require IFQ halibut and sablefish be reported on Product Transfer Reports and eliminate the Shipment Report; and eliminate the requirement for dockside vessels clearances, but retain the Departure Report.

A very successful operation targeting illegal activity in a state waters sablefish fishery was conducted in Seward during the summer of 2002. The operation involved two Enforcement Officers and two Special Agents in Seward, and one Special Agent in Anchorage who conducted an air patrol with Alaska Fish & Wildlife Protection on the state's King Air.

For years we've heard rumors about vessels cheating in this fishery by reporting they were in state waters, when they were actually in federal waters and about IFQ card holders being aboard,

but not having the fish debited from their quota. Utilizing a combination of at-sea patrols/boardings, dockside boardings and air patrols the team found two vessels (F/V AUTOMATIC and ZIG ZAG) that had illegally fished during the fishery. Both vessels loads of sablefish were seized for failing to file prior notice of landings, failure to submit landing reports and for fishing in areas for which they had no quota. Both seizures totaled approximately 9,200 pounds of sablefish valued at approximately \$20,000.

## **7. MARITIME BOUNDARY FOREIGN FISHING VESSEL SEIZURES**

On August 13, 2000, the F/F/V MING CHANG (a flag vessel of the People's Republic of China) was detected fishing approximately 1200 yards inside the U.S. EEZ with four other foreign fishing vessels. The F/F/V MING CHANG, along with approximately 375 metric tons of fish product, was seized by the United States for violations of the MSFCMA and a forfeiture action was filed against the vessel in the Federal District Court of Alaska. The vessel was bonded out to the claimant, CNFC Overseas Fishery Co., Ltd., Zhoushan Branch, for \$1.5 million. In April of 2002, the forfeiture action was settled with the claimant agreeing to pay \$721,350.

The Russian Fishing Vessel, VIYTNA, was seized in September for unlawfully trawling in the U.S. EEZ. The vessel was illegally fishing for pollock in the western Bering Sea when spotted by a Coast Guard C-130 aircraft. The VIYTNA was escorted to Dutch Harbor, Alaska, where Special Agents of NOAA Office for Law Enforcement took custody. During the follow-up investigation, the U.S. Attorney's Office and NOAA GC identified a problem with the case and decided to release the vessel.

## **COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)**

For 2002, the COPPS efforts for Cook Inlet Belugas focused on law enforcement agencies with responsibilities in geographical areas concerning suspected illegal beluga hunting. Education and joint patrols were conducted with the Alaska State Troopers, Alaska State Park Rangers, and U.S. Fish & Wildlife Service. NMFS Protected Resources Division helped us in the COPPS efforts by giving marine mammal presentations that included beluga enforcement education. The presentations were conducted during the Campbell Creek summer education program for elementary school classes.

Public reporting of suspected beluga violations, strandings, and whale sightings provided valuable information in most events. Both the NOAA Enforcement National Hotline and the Beluga Hotline were available to the public from well placed beluga signs and posters. A total of 85 hours were dedicated to COPPS.

AED personnel staffed a booth at ComFish in Kodiak. During the show, we presented a seminar on the upcoming Vessel Monitoring System (VMS) Program and regulations. Subsequent to the premier at Comfish, AED personnel presented this VMS seminar at 11 ports throughout Alaska.

The following table shows the locations and attendance of the VMS workshops given in Alaska during April and May:

<u>Location</u>	<u>Attendees</u>
Kodiak	40
Homer	40
Seward	1
Dutch Harbor	13
Juneau	16
Petersburg	3
Ketchikan	0
Sitka	3
Cordova	5
Sand Point	20
<u>King Cove</u>	<u>10</u>
Total Attendees:	151

The staff of the Kodiak office participated in several pre-fishery meetings between the Alaska Marine Mammal Observer Program staff, observers and fishermen, prior to the first deployments in the Kodiak set gillnet fishery. During the fishery, several vessel patrols were conducted. These patrols served to support the deployed observers, and to resolve potential conflicts between observers and fishermen. No serious enforcement actions were necessary during the fishery.

AED staff made a pre-season visit to Nome to meet with managers, buyers and fishermen of Norton Sound Economic Development Corporation, to discuss requirements of the Halibut CDQ Program.

AED staff were actively involved in Kodiak's WhaleFest event. Enforcement staffed the always popular bone table, and distributed marine mammal viewing guidelines, literature and posters. During a patrol with Alaska Fish & Wildlife Troopers, AED agents presented a program on wildlife management and enforcement to approximately 50 children at a remote village school on Kodiak Island.

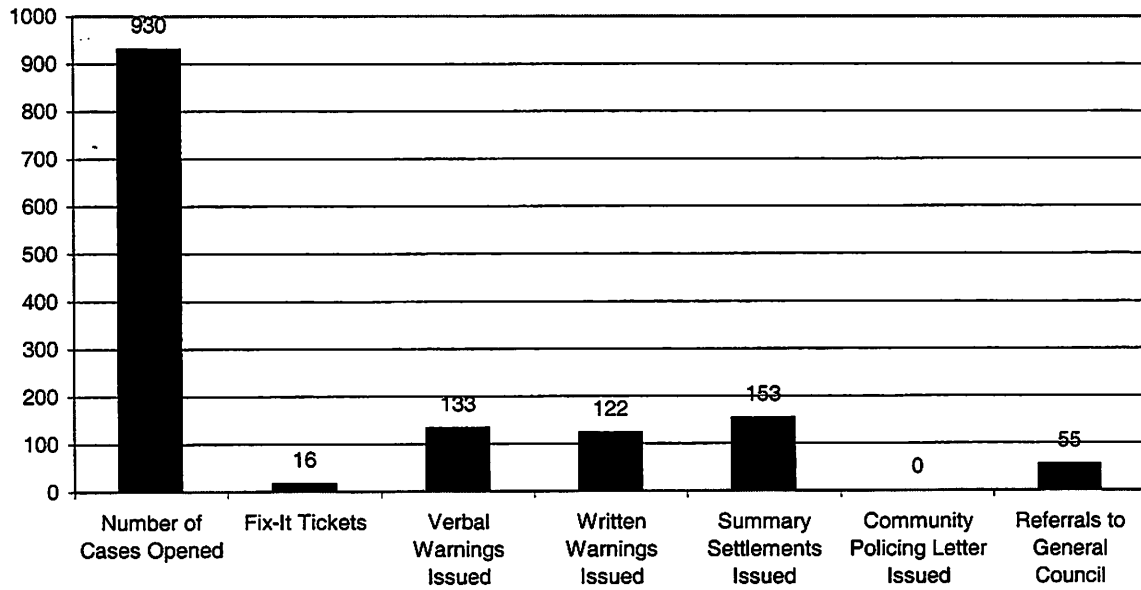
## **2003 ENFORCEMENT EFFORTS**

AED will focus our attention on the same priorities as last year. As new agents and officers enter on duty this year, time will be spent training them and introducing them to the fishing community. I have identified 13 major regulatory issues requiring enforcement input and/or consultation. Each of these 13 issues have been assigned to enforcement personnel. A list of the issues, and the enforcement point of contact for each, has been given to the NMFS staff. I have provided a copy to Chris Oliver for his staff as well. These enforcement persons will be available to participate in meetings and conference calls, as well as help draft enforcement comments as necessary.

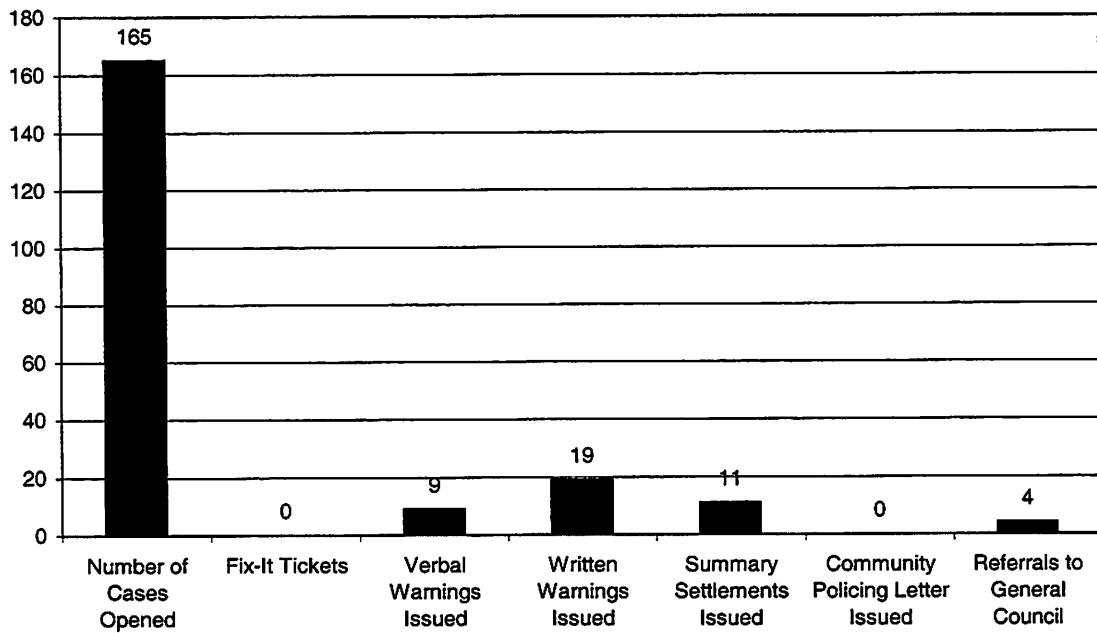
Last year, we entered into a Joint Enforcement Agreement (JEA) with the Alaska Department of Public Safety. This Agreement provides for our agency to give \$1 million to the Fish & Wildlife Troopers to be used in areas where we have mutual concern and interest. This includes vessel and air patrols, as well as assistance dockside with IFQ offloads. Some of this money is also being used by the state to build two new patrol vessels. The JEA will allow us to join forces with the Troopers to provide a more comprehensive enforcement effort.



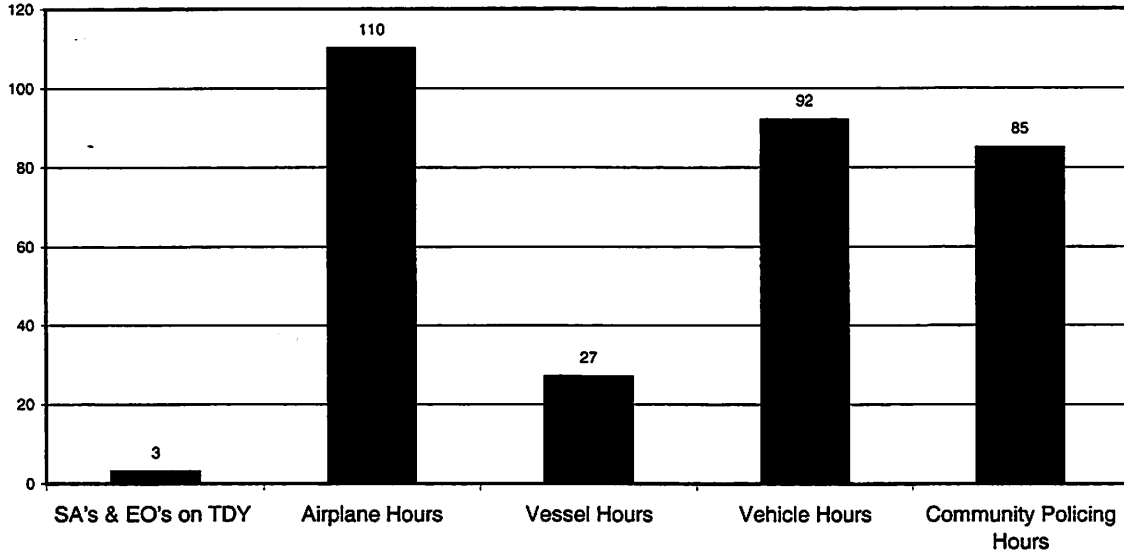
**Alaska Region Case Actions for All Cases  
January 01, 2002 - December 31, 2002**



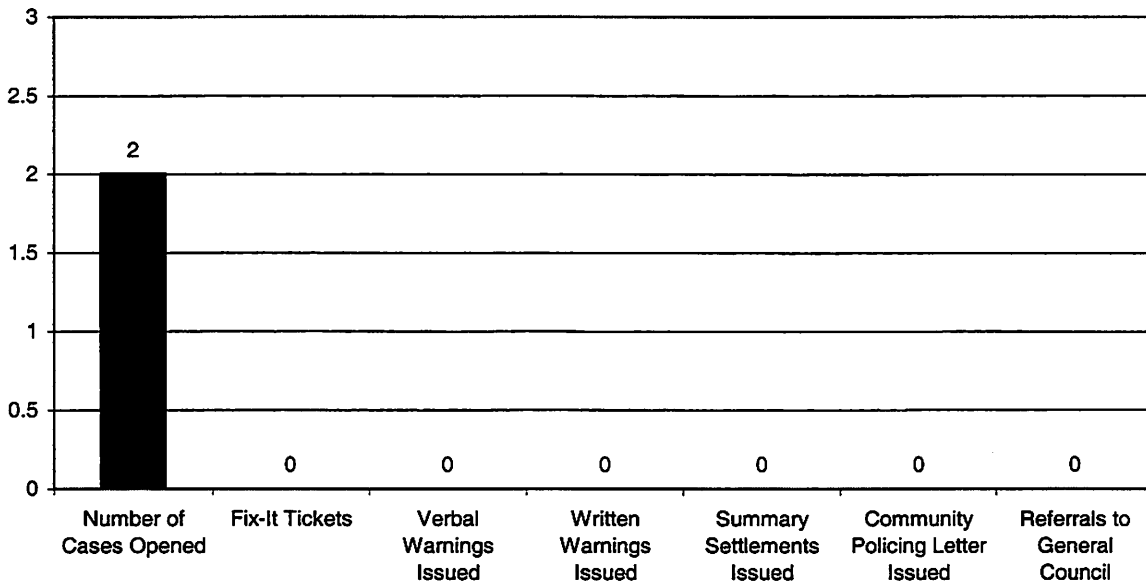
**Alaska Region Case Actions for Observer Cases  
January 01, 2002 - December 31, 2002**



**Enforcement Effort for Beluga Patrols  
January 01, 2002 - December 31, 2002**



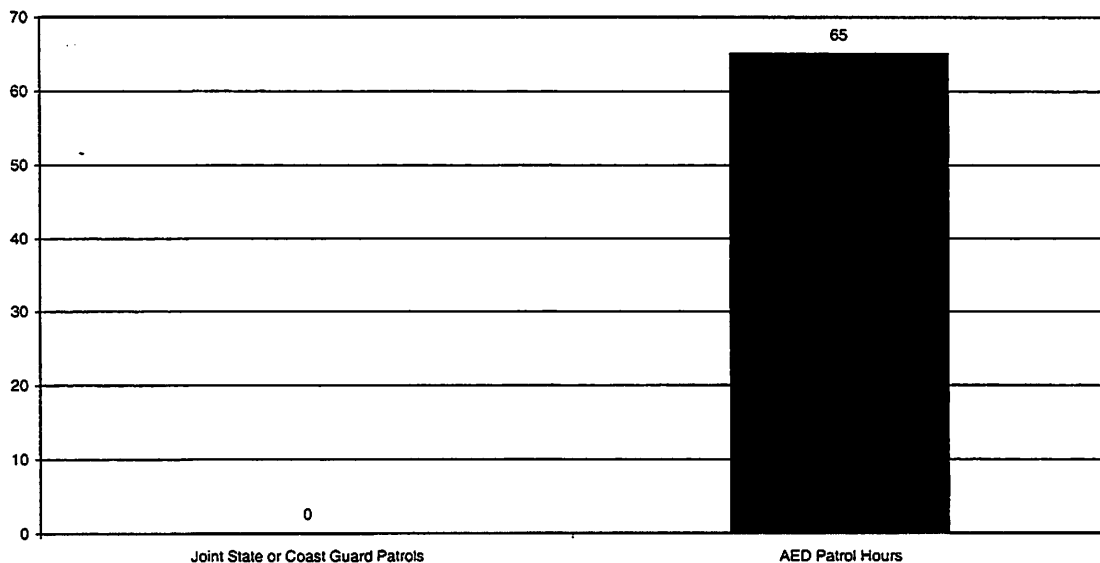
**Alaska Region Case Actions for Beluga Cases  
January 01, 2002 - December 31, 2002**



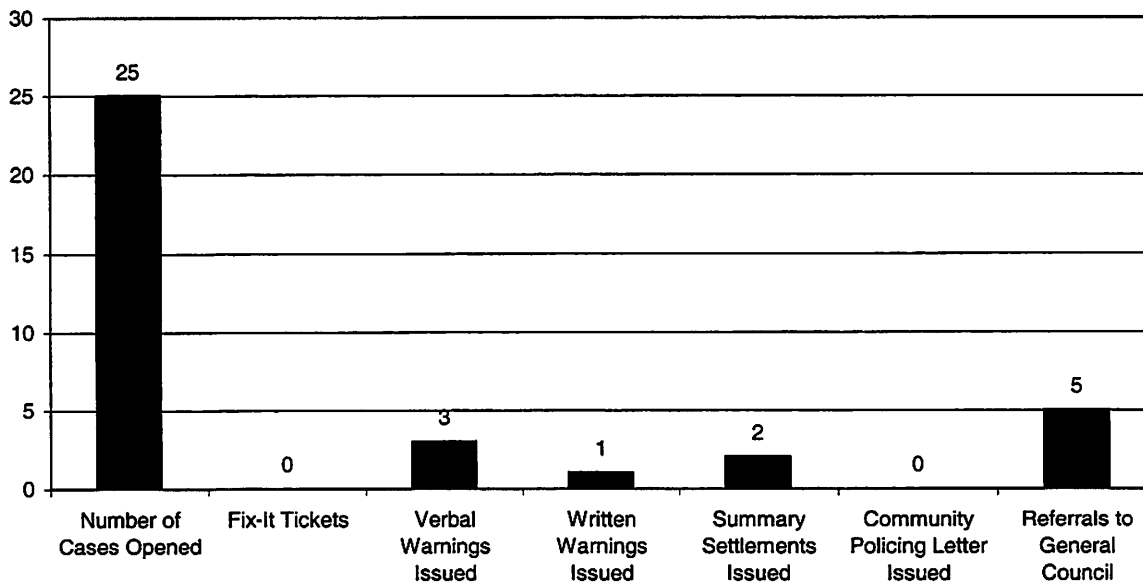
The above cases reflect the following violation description:

- Unlawful take/harassment of beluga whale(s)

**Enforcement Effort for Stellar Sea Lions  
January 01, 2002 - December 31, 2002**



**Alaska Region Case Actions for Stellar Sea Lion Cases  
January 01, 2002 - December 31, 2002**



The above cases reflect the following violation description:

- Unlawful take/harassment of Stellar Sea Lion(s)
- Unlawful feeding of Stellar Sea Lion(s)

**Alaska Region Enforcement Patrol and Inspections**  
January 01, 2002 - December 31, 2002

	Total	Adak	Akutian	Alitak	Anchor Point	Anchorage	Cordova	Craig	Dutch Harbor	Halibut Cove	Homer	Hoonah	Kenai	Ketchikan	Kodiak	King Cove	Ninilchik	Petersburg	Sand Point	Seward	Sitka	Whittier	
<b>Boardings and Inspections</b>																							
<b>No. of Vessel Boardings By Port</b>	408	3						2	22		114	1	3	5	112	2	2	5	2	90	38	7	
<b>No. of Boardings with Violations</b>	178	2						0	8		40	1	1	0	26	1	0	1	0	81	15	2	
<b>Compliance Rate (excluding state violations)</b>	65%	33%						100%	64%		65%	0%	67%	100%	77%	50%	100%	80%	100%	10%	61%	71%	

<b>No. of Plant Inspections By Port</b>	47	2	1	2	2	10	12	1		1		1			12	1			1		1	
<b>No. Inspections with Violations</b>	18	1	0	2	0	6	6	1		0		0			1	1			0		0	
<b>Compliance Rate</b>	64%	50%	100%	0%	100%	40%	50%	0%		100%		100%			92%	0%			100%		100%	

<b>No. of Community Policing Visits</b>	14	1	1	1	1	1	1			1	1								1	3		
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**Alaska Region Enforcement Effort with Patrol Vessels**  
January 01, 2002 - December 31, 2002

**Vessel Patrols**

<b>No. of Vessel Trips Taken</b>	52
<b>No. of Hours on the Water</b>	347
<b>No. of Boardings/Inspections</b>	61

<b>No. of Unmanned Port Visits</b>	16
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<b>No. of Violations Detected on Patrol</b>	18
<b>Compliance Rate</b>	65%

Paul MacGregor

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**From:** Jeff Passer [Jeff.Passer@noaa.gov]  
**Sent:** Thursday, January 16, 2003 12:10 PM  
**To:** Paul MacGregor  
**Cc:** Sue Salvesson  
**Subject:** roe retention

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Paul,  
Today we discussed how the NOAA OLE will enforce the 7% roe retention regulation. The OLE will enforce the regulation as printed. However, in the event that we are made aware of, or conduct an investigation that leads to the awareness of, violations of the above regulation, any actions initiated pursuant to that knowledge will be based upon the totality of information pertaining to the specific violation. The OLE policy relative to furthering investigations and pursuing actions for violations of regulations is based upon, but not limited to, the severity of the violation, the overall impact upon the resource, related violations, credibility of the information, and the overall priorities of the agency relative to the application of agency resources to pursue such actions.

Good Luck and I will see you at the Council meeting.  
Jeff Passer