

**NOAA Fisheries Office of Law Enforcement
Alaska Enforcement Division
Report to
The North Pacific Fishery Management Council**



January 2008 to December 2008

**NOAA Fisheries Office for Law Enforcement
Alaska Enforcement Division
P.O. Box 21767
Juneau, AK 99801**

**TO REPORT VIOLATIONS:
Call
1-800-853-1964**

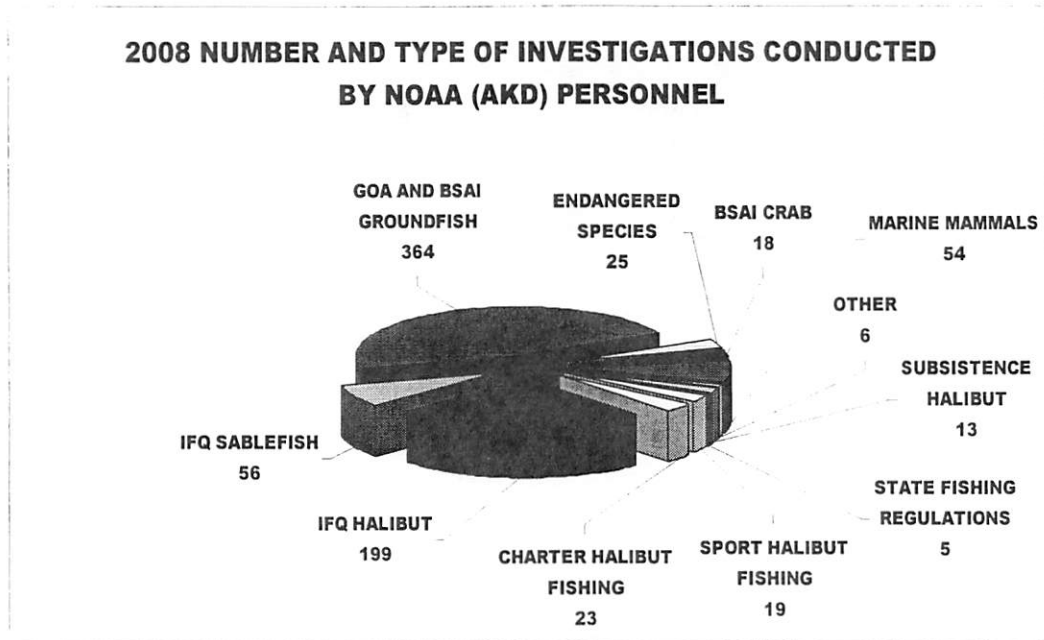


INTRODUCTION:

The Alaska Enforcement Division (AKD) consists of 52 personnel. The following is the general break down of positions:

Special Agent in Charge	= 1 (Currently vacant)
Deputy Special Agent in Charge	= 2
Assistant Special Agent in Charge	= 5
Special Agents	= 17 (1 vacancies)
Enforcement Officers	= 14 (4 vacancies)
Administrative Staff	= 10
Student Interns	= 2 (Both vacant)

The Alaska Enforcement Division opened 556 Cases documenting 778 violations in 2008.



MAJOR CASES

HIGHLIGHTS OF PRIORITY ISSUES:

1. OBSERVER-RELATED OFFENSES

The partnership with the North Pacific Observer Program (NPGOP) continues to be a high priority for the Alaska Enforcement Division (AKD). AKD provides support to NPGOP in the form of investigation, prosecution, education & outreach. AKD supports NPGOP staff with

issues during observer deployment, observer debriefing, troubleshooting regulations, program-related rulemaking, as well as providing training for staff, new observers, and prior observers. In addition, AKD investigates violations witnessed by observers and provides support to those who are victims of crimes.

Per regulation, and as a condition of their employment, observers are required to report violations they might witness to AKD. Observer statements allege potential violations of the Magnuson Act, Endangered Species Act, and Marine Mammal Protection Act. NPGOP staff facilitates the proper documentation of violations witnessed by observers and their delivery to AKD for enforcement action. Special Agents and Enforcement Officers throughout Alaska initiate investigations based on many of the allegations.

On November 21, 2008, NOAA's Office of the General Counsel for Enforcement and Litigation accepted a settlement agreement with the Fishing Company of Alaska and the captains and the owners of the *F/V Alaska Juris* for fisheries violations occurring from 2002 through 2004 and the *F/V Alaska Juris* and *F/V Alaska Warrior* for fisheries violations occurring in 2007. The Fishing Company of Alaska agreed to pay \$449,700 to settle the charges against them. They admitted violations of the Magnuson-Stevens Fisheries Conservation and Management Act, including interfering with observer sampling, tampering with observer gear, failing to assist observers, mishandling prohibited species, fishing in a habitat conservation area, and fishing during a closed period.

On March 21, 2008, Lauti Fale Tuipala was arrested by AKD agents for sexual harassment of an observer aboard the *F/V Aleutian Spray*. Tuipala, who served 21 days in jail, pled guilty and was sentenced on June 26, 2008 in Federal court in Anchorage to pay restitution of \$461 to the observer, to stay at least 50 yards away from the observer during the probation period, to complete sexual harassment training approved by the probation department, and to pay any associated costs of that counseling. This was the 3rd arrest by AKD in the last 2 years for sexual harassment of an observer.

Following the principles of Community Oriented Policing & Problems Solving (COPPS), AKD seeks to educate partners and stakeholders that misconduct towards observers is illegal and can result in civil and/or criminal penalties. In furtherance of this, AKD has created a Warning Sign for use by stakeholders in communicating the seriousness of this issue to industry personnel. A water-resistant copy of this Warning Sign has been included in Alaska Region's December 2008 triennial permit mailing to ~500 fishing vessels over 60 feet in length and 25 shoreside processors required to carry observers. It is hoped that permit holders will find opportunities to publicly display the Warning Sign as well as use it in employee training (See attached Warning Sign and letter). AKD is asking observers and stakeholders for feedback on the Warning Sign and suggestions for reducing observer victim crimes future.

In 2008, the total number of observer generated affidavits increased by approximately 52% compared to 2007 (see table below). This is due primarily to the 108 affidavits generated for potential violations in the Amendment 80 program which was new in 2008. Of 2008 affidavits, 279 were forwarded directly to the US Coast Guard by the NPGOP.

Total Affidavits 2007 & 2008

Violation Category	2007	2008
AFA	6	12
Amendment 80 (<i>NEW in 2008</i>)	N/A	108
Contractor problems	9	11
Failure to notify	35	61
Harassment (sexual)	3	9
Harassment (assault)	0	0
Harassment (intimidate/interfere)	23	19
Harassment (other)	14	9
Inadequate accommodations	13	17
IR/IU	15	14
Marine mammal	0	4
MARPOL / oil spill (USCG) *	36	33
Miscellaneous	16	20
MSCDQ	18	10
Prohibited species (mishandling)	32	48
Prohibited species (retaining)	1	3
Record keeping and reporting	23	32
Reasonable assistance	11	21
Restricted access	6	4
Rockfish Program (<i>NEW in 2008</i>)	N/A	4
Safety (NMFS)	15	32
Safety (USCG – equipment)*	20	43
Safety (USCG - fail to conduct drills)*	52	67
Safety (USCG - marine casualty)*	109	136
Sample Bias (other)	7	0
Sample Bias (groundfish)	12	16
Sample Bias (seabirds)	1	1
Seabird (avoidance measures)	4	2
Seabird (other)	1	0
Seabird (harassment)	1	0
Forwarded to USCG*	217	279
Forwarded to NOAA	266	457
TOTAL	483	736

2. COOK INLET BELUGAS

In December 2008, the NMFS listed the Cook Inlet beluga stock as endangered under the ESA. The Alaska Enforcement Division (AKD) commenced Operation Beluga Watch 2008 on October 1, 2007 and continued outreach and law enforcement operations through September 31, 2008. AKD Officers and agents supplemented by the Alaska Wildlife Bureau (AWB) Troopers, US Army Conservation Officers, Bureau of Tobacco, Alcohol, and Firearms agents, and US fish and Wildlife agents contributed over 1600 hours of patrol, investigation, and Community Oriented Policing and Problem Solving (COPPS). Traditional law enforcement methods utilized investigations of stranded beluga whales along with air, land, and sea patrols to detect and to deter any illegal harassment or takes of beluga whales in and about Cook Inlet. COPPS law enforcement methods provided crime prevention outreach and education at events, shows, and activities for public involvement.

AKD PERFORMANCE GOALS FOR 2008

AKD Performance Goals for 2008		
Activity	Projected Hours for 2008	Actual Hours for 2008
Patrol high threat areas	200	380
Conduct Surveillance and Investigation	100	110
COPPS Outreach and Education	125	1,120
Total	425	1,610

AKD performance goals for 2008 were achieved and exceeded for patrolling, conducting surveillance and investigations, and COPPS outreach and education. Patrols in high threat areas were assisted by US Fish and Wildlife agents and Alaska State Troopers. ATF acted in a consulting and backup role in the event weapon violations were encountered. The focus for 2008 was an increased effort in pulse operations to deter crime prevention due to the threat presented by the Alaska Native Hunter's Marine Mammal Committee (ANHMMC). The president of the ANHMMC issued a memo to NMFS PRD threatening that he was invoking a traditional right to hunt Cook Inlet beluga whales and that any co-management agreement with NMFS no longer existed. Additionally, the above chart does not include numerous hours of administration, research, and vessel maintenance.

3. CRAB

There were 11 IFQ overages for the 2007/08 year, compared with 23 for the 2006/07 year. Breakdowns of overages by species in the 2007/08 were 7 Red King crab, 1 Brown King crab and 3 Opilio crab. It appears the Co-operative managers are successfully managing their IFQ quota to see a significant drop in overages. TAC was not exceeded in any fisheries.

In 2008 NOAA implemented additions to the Summary Settlement schedule for IFQ crab overages. This allowed all the above overages based on the amount of IFQ exceeded except one, to be addressed and completed with the vessel at the time of offload, without further General Council involvement. In addition to the above overages, one Community Oriented Policing Letter (COPPS) letter was sent out to a vessel owner/operator to re address IFQ crab reporting requirements. No significant violations occurred this season

4. STELLER SEA LION PROTECTION MEASURES

During the period, 17 investigations were opened on vessels unlawfully transiting through no-transit areas adjacent to Steller Sealion rookeries. As in the past, specific rookeries account for a large number of these violations. These include Sugarloaf Island, Marmot Island, and the SSL rookeries in the vicinity of Unimak Pass. Vessel owners and operators are encouraged to insure they are aware of the locations of these no-transit areas. A table defining these areas may be obtained at the Alaska region website.

5. SEABIRD AVOIDANCE

There were no significant seabird avoidance issue to address in 2008.

6. RECORD KEEPING AND REPORTING

NOAA investigators began an investigation into the fishing activities of a stern trawler registered to participate in the Gulf of Alaska Rockfish Pilot Program Entry Level fishery. Investigation indicates the vessel operator falsely reported where he fished for Pacific Ocean perch (POP) to cover illegal harvest and selling of POP. The operator of the vessel is responsible for causing the Total Allowable Catch for POP in the entry level fishery in 2007 to be exceeded by approximately 100% and causing the RPP entry level fishery in 2008 to be closed prior to legal harvest of POP beginning. All of the POP that was misreported was landed and sold to a processor that was not authorized to purchase POP harvested from within the RPP entry level program. The case agent is currently working with the U. S. Attorney's Office regarding prosecution.

AKD has forwarded an investigative report alleging the F/V TRIDENT falsely reported areas fished for IFQ sablefish on five landings in 2006 and 2007. The value of the falsely reported sablefish was approximately \$500,000. The case has been forwarded to NOAA General Counsel recommending issuance of a NOVA.

The numbers of groundfish Maximum Retainable Allowance (MRA) overages have generally increased over previous years. Some vessels had in excess of 10 overages over the calendar

year. The reasons for the increase may be attributed to a multitude of factors and variances in particular fish stocks. We are continuing to evaluate the data.

Following concerns expressed by Bristol Bay communities, NOAA OLE conducted increased aerial and at-sea patrol of the Nearshore Bristol Bay Trawl area aboard USCG platforms. Reports were received from the community alleging two vessels conducted non-pelagic trawling in closed "state waters" adjacent to the Nushagak Peninsula. The investigation subsequently revealed a conflict in two state regulations pertaining to this trawl closure, which precluded further investigation or prosecution. The inconsistency has since been resolved by the Board of Fish. NOAA OLE continued to work with the trawl industry and local community representatives to increase understanding of the lawful fishery in this area, and to maintain compliance.

AKD is investigating several IFQ holders for exceeding IFQ halibut and sablefish use caps by putting IFQ permits in the names of individuals who act as proxies but receive no benefit from the IFQ.

A small Kodiak based longline vessel is being investigated for the illegal harvest and subsequent sale of halibut to a small processing facility in the Bristol Bay area. This investigation involves harvesting Pacific halibut in a closed area, then selling the fish to a small unpermitted processing facility. Further investigation revealed the processor is not permitted to receive Pacific halibut, but is commercially selling a smoked halibut fillet product.

A NOVA was issued in the amount of \$27,650.42 to the operator of the F/V ALASKAN DREAM for exceeding the IFQ halibut vessel cap by 5,317 pounds.

A fishing vessel self-reported an intentional discard of Pacific Ocean Perch (POP) during a GOA Rockfish Program trip. A verbal warning was issued because the discard was made for safety reasons. Two other small discards of RPP species were investigated, and written warnings were issued.

An investigation was initiated into a self-reported Rockfish Pilot Program cooperative overage. The overage was covered by a post overage transfer.

7. SUBSISTENCE, CHARTER, and SPORT HALIBUT

NOAA OLE personnel have increased inspection of halibut sport, charter and subsistence fishing vessels.

Violations documented in the Charter Halibut Fishery

- * Exceed bag or possession limit
- * Logbook violations
- * Charter halibut fishing in Sitka Sound LAMP during closer
- * Exceeding charter halibut size limits

- * Fillet/mutilate/remove skin from halibut
- * Charter Captain retain sport halibut
- * Sale of sport caught halibut
- * Feeding Sea Lions

Violations documented in the Sport Halibut Fishery

- * Fillet/mutilate/skin halibut so that number cannot be determined
- * Sale of sport caught halibut
- * Exceed bag or possession limit

Violations of the NOAA Subsistence Halibut Fishery Regulations:

- * Improperly marked subsistence buoys
- * Subsistence fishing without SHARC, did not qualify
- * Fishing too many subsistence hooks
- * Unlawful sale of subsistence halibut
- * Unqualified person applied for/received SHARC

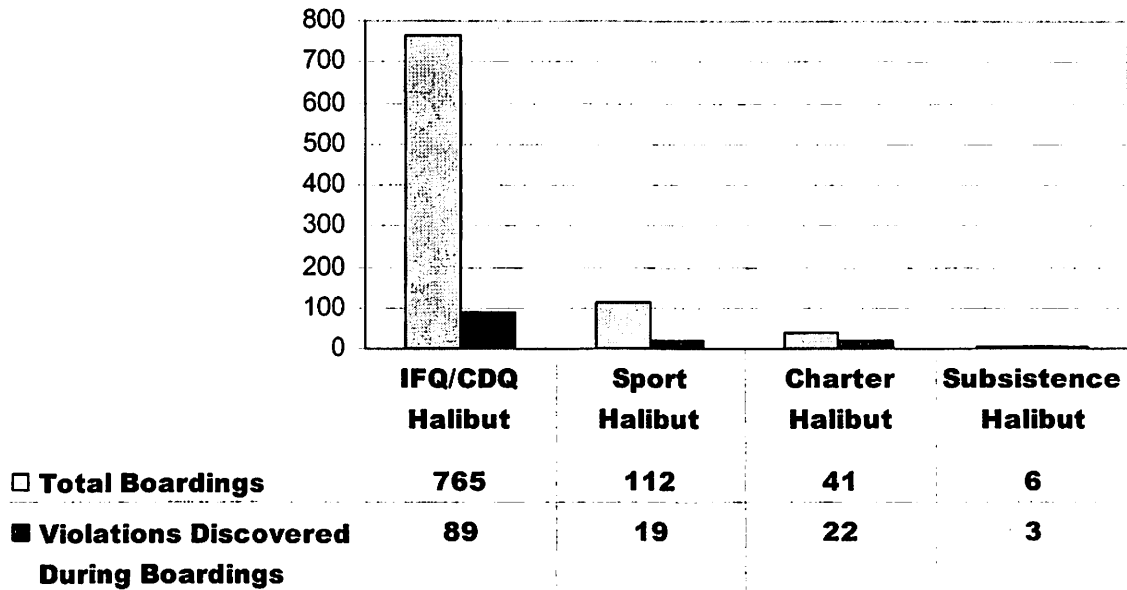
8. IFQ Halibut

Vessel boardings continue to be one of the cornerstones of the IFQ halibut and sablefish enforcement strategy employed by NOAA OLE to achieve maximum compliance. IFQ Halibut vessel boardings conducted by NOAA and Alaska Wildlife Troopers personnel in 2008 increased 15% over 2007 levels. There were 661 IFQ vessel boardings in 2007 and 765 in 2008.

NOAA OLE employs 3 classifications of commercial fishing vessel boardings. An IFQ **Inspection** consists of checking all regulatory requirements except verification of catch species and quantity. An IFQ **Audit** consists of an Inspection with verification of catch species and quantity. An IFQ **COPPS Contact** is an informational contact in which current regulatory information is provided to the vessel operator or IFQ permittee.

	IFQ Halibut Vessel Inspections	IFQ Halibut Vessel Audits	IFQ Halibut Vessel COPPS Contacts	Total
NOAA & JEA Conducted	711	43	11	765

2008 Observed Compliance of Halibut F/V's Boarded



Facility Inspections

In 2008, AKD personnel conducted 8 IFQ focused Audits/ Inspections of shore side facilities in Alaska that receive, process, or ship IFQ halibut.

There were 7,033 IFQ Halibut Vessel Offloads in which 5,937 IFQ Halibut and 2,311 CDQ Halibut Landings were documented.

1,430 Vessels made IFQ and CDQ landings.

8,698 IFQ Prior Notification of Landing (PNOL's) were documented by the IFQ Data Clerks.

447 potential violations were automatically flagged by the IFQ data base system for IFQ landing errors. These errors are commonly referred to as "redlines". Most of these landing errors were administrative or clerical in nature and were caused by Registered Buyers entering incorrect information on an IFQ Landing Report.

Below, are some examples of the types of halibut violations that the Alaska Enforcement Division investigated in 2008.

Violations of the NOAA IFQ regulations:

- * IFQ Halibut Overages - 41
- * No Prior Notice of Landing (PNOL) or inaccurate info provided on PNOL

- * No IFQ Landing Report submitted or inaccurate info provided on IFQ Landing Report
- * IFQ Permit holder or permit not onboard vessel

Violations of the IPHC Commercial Halibut Fishery Regulations

- * Logbook Violations
- * Retaining Undersize Halibut
- * Mutilating or Filleting Halibut onboard a commercial fishing vessel
- * Improperly marked or unmarked buoys

9. MARITIME BOUNDARY FOREIGN FISHING VESSEL SEIZURES

NOAA/NMFS Special Agents and Enforcement Officers deployed with USCG HC-130 and Canadian CP-140 patrols (139 hours) to assist in the identification of vessels and investigation into suspected illegal activity. The following is a summary of enforcement effort by NOAA/NMFS:

NOAA/NMFS Special Agent & Enforcement Officer Effort (person-hours)

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Patrol	190 hrs	210 hrs	459 hrs	271 hrs	257 hrs	125 hrs	159 hrs	225 hrs	166 hrs	162 hrs
Logistics	427 hrs	1204 hrs	180 hrs	0 hrs	0 hrs	0 hrs	0 hrs	0 hrs	0 hrs	37 hrs
Investigation	265 hrs	234 hrs	46 hrs	0 hrs	0 hrs	0 hrs	0 hrs	0 hrs	17 hrs	183 hrs
Total	882 hrs	1648 hrs	685 hrs	271 hrs	257 hrs	125 hrs	159 hrs	225 hrs	183 hrs	382 hrs

10. MARINE MAMMALS and ENDANGERED SPECIES

A female fur seal was taken in violation of the Fur Seal Act by a St Paul Native, the case is pending. Eleven juvenile fur seals were illegal taken on St Paul. The community of St Paul is assisting the investigation and has posted a reward poster offering \$500.

COMMUNITY RELATIONS

NOAA OLE continues to embrace the Community Oriented-Policing and Problem Solving (COPPS) philosophy. OLE personnel are expected to meet regularly with the public and the fishing industry to discuss compliance issues and work together to determine the best course of action to achieve compliance. The options for achieving compliance are: providing information and education, issuing verbal or written warnings, issuing citations for a monetary penalty, or pursuing criminal convictions for jail time.

NOAA OLE officers, agents, and staff participated in 11 shows and events across Alaska to conduct community involvement and crime prevention. Major shows such as the Alaska State Fair and the Alaska Federation of Natives were attended along with smaller community shows such as the Sitka Whale Fest. Schools were visited to educate children about conservation and

our agency's mission, and Career Day's were attended at high schools and colleges to promote career opportunities within NOAA OLE.

Plans for 2009

For 2009 we plan to continue to enforce the priorities set forth by NMFS and the NPFMC. We will continue to evaluate data and information to determine if any particular trends or indications of concern with respect to fisheries and priorities are identified. Any areas of concern will be reported immediately.

WARNING

HARASSMENT OF AN OBSERVER WILL NOT BE TOLERATED.

VIOLATORS WILL BE PROSECUTED !

Violators are subject to Civil and/or Criminal Penalties up to \$130,000 and 6 months imprisonment under the Magnuson Act and \$20,000 and 1 year imprisonment under the Marine Mammal Protection Act .

It is unlawful to:

- (1) Intimidate, resist, oppose, impede, sexually harass, bribe, or interfere with an observer.
- (2) Interfere with or bias the sampling procedure employed by an observer.
- (3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photos, papers, or personal effects.
- (4) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from conducting observations.
- (5) Harass an observer by comments, innuendoes, or otherwise creates an intimidating, hostile, or offensive environment.
- (6) Require, pressure, coerce, or threaten an observer to perform crew member duties.



To report a
violation contact the
NOAA Enforcement Hot Line
800-853-1964

