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AGENDA B-3
FEBRUARY 2006

National Marine Fisheries Service
Alaska Enforcement Division

ENFORCEMENT REPORT



January 01 – December 31, 2005

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/ak_enforce.html



**To report fisheries violations,
call our National Hotline at
1-800-853-1964**



INTRODUCTION:

The Alaska Enforcement Division (AED) opened 717 cases in 2005. Comparing this to the 923 opened in 2004, there was a 22% decrease. One reason for the decrease was vacancies in some of the main ports of landings. In 2005 we conducted 317 vessel boardings. Comparing this to the 508 boardings in 2004, there was a 37% decrease. In general, the number of cases generated correlates with the number of boardings. Also, there was an increase in the number of major, complex, cases which took more time away from the boardings.

In 2005, the Alaska Enforcement Division (AED) opened many important cases involving a variety of offences. Some of those will be highlighted below. This report also includes a special section on our enforcement in the crab fisheries.

PERSONNEL

In 2005, AED had 12 Special Agents and 8 Enforcement Officers working cases. When fully staffed, we have 17 Special Agents and 15 Enforcement Officers.

VESSEL MONITORING SYSTEMS (VMS)

There are currently approximately 600 commercial fishing vessels fitted with VMS. This includes an additional 40 crab vessels which added VMS prior to the crab fishery last fall. In 2005, there were five cases involving vessels not operating their VMS as required. VMS allowed us to detect ¹⁸₂₅ vessels for entering no-transit areas.

We assisted fishermen when they had problems with their VMS units. Exemptions of up to two weeks have been given to the vessel owners to allow for fishing while they waited for parts or for new VMS units. The vessel owners were required to provide a work order from a repair facility showing why there was a delay in repairing the unit.

JOINT ENFORCEMENT AGREEMENT – ALASKA STATE TROOPERS

The Alaska State Troopers continue to assist us through our Joint Enforcement Agreements (JEA). Troopers and Public Safety Technicians (PST) conduct groundfish, halibut/sablefish IFQ, and crab dockside boardings and inspections. AST aircraft and patrol vessels provide surveillance and enforcement of fisheries of mutual concern. The State conducts these duties under our authority through a Cooperative Enforcement

Agreement, and they receive funds through the JEA's. The following provides a summary of their effort for calendar year 2005:

Commercial Vessels Boarded = 843

Aircraft Patrol Hours = 105

Patrol Vessel Days = 32

HIGHLIGHTS OF PRIORITY ISSUES:

CRAB

Season Summary to Date

For the golden king crab fisheries, 8 catcher vessels and 1 catcher/processor have fished. For red king crab, 87 catcher vessels and 3 catcher/processors have fished. (In the 2004 Bristol Bay Red king season, 243 catcher vessels and 8 catcher processors fished.) Red king crab deliveries continued into December which seems to indicate that processors did not put excessive pressure on boats to fish in unsafe conditions. The three catcher/processors moved to snow crab after finishing red king crab. In the catcher vessel fleet, snow crab fishing started about January 1. Only a small percentage of the fleet was fishing snow crab when this report was written; many are targeting Pacific cod and will move to snow crab when Pacific cod closes. There have also been several deliveries of Tanner crab. Agents have been in monitoring landings in St Paul and Dutch Harbor in coordination with the U.S. Coast Guard, Alaska State Troopers, and Alaska Department of Fish & Game.

IFQ Issuances

IFQs were issued 3 times; the last issuance was on October 7. This created some unease prior to the season—several captains asked if the quotas were going to change again.

Overages

To date, there have been four IFQ overages and one vessel cap overage—all in the red king crab fisheries. Since fishing is still in progress, it is too early to develop an overall picture of overages. Many of the captains did not pay close attention to permit balances or which quotas got debited. We have found at least one “overage” where the holder had remaining quota. Several co-ops have asked to re-allocate landings between permits.

Highgrading

We are investigating one incident of unreported deadloss. We are also looking at one other plant that has reported smaller than average amounts of deadloss.

Several plants have started grading crab for the first time and offering a lower price for dirty shell crab. At least one plant is paying more for B & C share crab than for A shares.

Reporting Problems

eLandings, a joint state and NMFS reporting system, was introduced with crab rationalization. This is a web-based system that generates an ADF&G fish ticket and RAM IFQ landing report. This had numerous problems and required a lot of enforcement resources to ensure landings were in compliance.

Catcher/processors and stationary floating processors use a computer program that generates a file that is emailed to NMFS. A return file is generated, returned to the sender and the program then generates a fish ticket and IFQ landing report. Of the five vessels to use this, only two have been able to get it to work. This may be a problem for the snow crab season when additional numbers floating processors will be use the software to report catcher vessel deliveries.

OBSERVER-RELATED OFFENSES

There was little change in the number of affidavits written in 2005 (574) compared to 2004 (576). The numbers reflect continued emphasis placed on reporting during observer training. There was

a noticeable decrease in affidavit numbers for the Failure to Notify Category, Sample Bias, and Failing to Deploy Adequate Seabird Avoidance measures. There was a significant increase in affidavits written in the Fail to Conduct Drills Category which are forwarded to the Coast Guard.

The following table shows the number of affidavits received in the last three years 2005, 2004, and 2003 grouped by violation category. With a few exceptions involving repeat offenders, overall compliance remains high as evidenced by the number of non-egregious reports received.

Violation Category	2005	2004	2003
Contractor problems	8	10	9
Failure to notify	58	72	45
Harassment (sexual)	4	3	1
Harassment (assault)	2	2	1
Harassment (intimidate/interfere)	20	17	3
Harassment (other)	11	8	20
Inadequate accommodations	9	4	12
IR/IU	35	20	30
Marine mammal (other)	4	1	1
Marine Mammal (feeding)	2	0	1
MARPOL / oil spill	35	42	40
Miscellaneous	24	24	38
MSCDQ	11	15	20
Prohibited species (mishandling)	51	51	45
Prohibited species (retaining)	3	5	5
Record keeping and reporting	30	34	9
Reasonable assistance	16	7	2
Restricted access	4	1	2
Safety issues			112
Safety (NMFS)	18	9	3
Safety (USCG – equipment)	22	18	4
Safety (USCG - fail to conduct drills)	89	54	26
Safety (USCG - marine casualty)	112	129	25
Sample Bias (other)	4	8	7
Sample Bias (physical)	1		13
Sample Bias (groundfish)	4	13	3
Sample Bias (seabirds)	1	1	1
Seabird (lack of avoidance)	9	22	1
Seabird (other)		3	3
Seabird (harassment)	2	3	1
TOTAL	574	576	481

A vessel owner is being investigated for institutional regimes of observer sample biasing and observer interference/harassment. There are numerous vessel operators, who, over a multi-year period, are alleged to have directly pre-sorted halibut from observed catches. They have employed other methods to bias observer sampling to reduce observed prohibited species, possibly to delay Prohibited Species Catch (PCS) triggering the closer of their fishery. The investigation has documented that observers have repeatedly reported the pre-sorting and data bias activities to the captains and although they may stop for a short time, they resume again. Two case reports have been submitted to NOAA Office of General Counsel for two captains. We are waiting for GC to provide guidance on proceeding with the remaining cases.

During the 3rd and 4th quarters of 2005, operators and owners of numerous vessels, of varying gear types, (many of which have long histories of good compliance with observer coverage requirements), have reported continued inability to obtain observers from an observer provider. These vessels have contracts with provider and in many cases have paid money up front. The owners/operators of the vessels are potentially subject to penalties for failure to meet required coverage levels. There is a prohibition for an observer provider to "fail to provide observers". Agents are still obtaining statements from vessel captains and owners, and have conducted initial interviews with the observer provider.

COOK INLET BELUGAS

2005 Operation Beluga Watch commenced on October 1, 2004 and continued through September 31, 2005. A total of 11 Alaska Enforcement Division (AED) Enforcement Officers and Special Agents contributed over 1200 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.

AED Performance Goals for 2005		
Activity	Projected Hours for 2005	Actual Hours for 2005
Patrol high threat areas	200	205
Conduct Surveillance	100	224
COPPS Outreach and Education	125	831
Total	425	1260

AED performance goals for 2005 were achieved and exceeded for conducting surveillance and investigation and COPPS outreach and education. Patrols in high threat areas were decreased from 2004 due to the village of Tyonek (NVT) and the Alaska Native Marine Mammal Hunter's Committee (ANMMHC) each receiving one permitted strike for 2005. The focus for 2005 was an increased effort in crime prevention and education.

STELLER SEA LION PROTECTION MEASURES

There were 30 VMS related cases opened in 2005. Twenty-five of those were for No-Transit area incursions. Of these, eight were closed for no violation, thirteen were issued summary settlements, one a written warning, one case remains under investigation and two cases were referred to General Counsel. Eleven of the summary settlement offers were paid at \$2,500 each. The two cases referred to General Counsel are pending investigation.

Five cases have been opened for failure to comply with VMS requirements. Two were closed with written warnings, two were closed with verbal warnings, and one is still under investigation.

In addition to VMS specific cases, 26 cases were opened involving the illegal take or harassment of Steller sea lions.

SSL Rookery Incursions

Number of Cases	Status
11	Summary settlement paid
2	Summary settlement pending
1	Written warning issued
4	Dismissed - no violation
2	Declined
1	Closed -merged
1	Closed - lack of F/EN resources
0	Verbal warning issued
2	Sent to GC
1	Open, pending investigation
25	TOTAL

Illegal Take/Harassment of SSL

Number of Cases	Status
25	Still under investigation
0	Summary settlement issued
0	Summary settlement paid
0	Written warning issued
1	Dismissed - no violation
0	Closed - Intel only
0	Closed - lack of evidence
0	Declined by F/EN
0	NOVA issued
0	Settlement agreement conditions met
26	TOTAL

SEABIRD AVOIDANCE

There were 82 cases opened involving seabird avoidance issues:

Number of Cases	Status
8	Still under investigation
14	Summary settlement paid
30	Written warning issued
1	Declined by F/EN
1	Closed, lack of evidence
1	Closed, lack of resources
15	Verbal warning issued
5	Sent to GC
1	Returned from GC to F/EN for more investigation
1	NOVA issued
2	Merged
1	Settlement agreement signed by GC
2	Transferred to another Region or agency
82	TOTAL

RECORD KEEPING AND REPORTING

Commercial fishing company Unimak Fisheries, LLC, operator of the Fishing Trawler UNIMAK pleaded guilty and was sentenced in U.S. District Court for intentionally under-reporting the amount of "by-catch" halibut brought aboard the UNIMAK during the 1999 and 2000 groundfish seasons in the Bering Sea and Gulf of Alaska. According to the terms of the plea agreement, the company agreed to the maximum fine of \$300,000; restitution in the amount of \$200,000; a 14-day suspension of fishing privileges during the January 2005 groundfish season; 18 months of probation; and a requirement that the company hire an expert to examine and correct policies which may have led to the criminal conduct.

A fishing vessel is being investigated for illegally fishing over a 3 years period. This vessel had no Federal Fisheries Permit and no License Limitation Permit for the majority of the time. The vessel operator conducted pot fishing for Pacific cod in closed state and federal waters and fraudulently reported areas of harvest in logbooks and state fish tickets. Much of the unlawful fishing occurred in areas closed to directed fishing for Pacific cod, and areas closed under Steller sea lion protection measures. The vessel was boarded by State troopers, at the direction of NMFS Enforcement, who caught the operator fishing in a closed area, but he continued to fish in closed areas later. There are 50 to 60 counts at this time accounting for approximately \$500,000 of illegal catch. The U.S. Attorney's Office and defense counsel have been discussing settlement, but defense recently indicated they wanted to go to trial. The investigation was presented to the Grand Jury in December.

Another case involves the unlawful harvest and sale of Demersal Shelf Rockfish and other types of groundfish from closed federal waters. The captain of the vessel submitted false records to ADF&G concerning the harvesting location. The vessel made numerous trips into federal waters, but claimed they were all in state waters.

HALIBUT AND SABLEFISH IFQ SPECIFIC

Christine Swanson was issued a Notice of Violation and Assessment for \$20,000 for submitting two illegal IFQ halibut landing reports, providing false information on her IFQ eligibility application and making false statements to a federal investigator during the course of an investigation. Following a hearing in front of a federal administrative law judge, Swanson was found guilty on all counts and fined \$20,000. Her IFQ permit was permanently voided.

Philip Twohy, operator and owner of the fishing vessel MAR DEL SUD, agreed to pay a civil penalty of \$72,365 for fishing violations that occurred on May 22, 2004 in the Alaska halibut and sablefish fishery. Twohy received a Notice of Violation and Assessment (NOVA) for multiple violations of the Magnuson-Stevens Fisheries Conservation and Management Act, including fishing illegally in an area for which he had no halibut Individual Fishing Quotas and for home-packing unreported halibut fillets.

Another case involves a conspiracy between the owner/operator of a fishing vessel and an IFQ Permit Holder. The vessel fished for sablefish in Southeast Alaska without a valid IFQ permit or IFQ cardholder onboard. The IFQ card holder met the vessel after the fishing trip to create the illusion that he was on board the vessel during the trip and had fished the quota. False documents were submitted to conceal their violations.

Another case involves IFQ fraud regarding several persons who submitted false information to NMFS's Restricted Access Management (RAM) Division in order to obtain hired skipper permits. The individuals provided false information on numerous occasions over several years. The fraudulently obtained Hired Skipper Permits were used to land over \$500,000 worth of IFQ fish.

CHARTER HALIBUT

There is an investigation of a captain of a charter vessel who is allegedly selling sport caught halibut in Alaska and Washington. The halibut which is harvested by the charter captain and his clients and is being sold because they do not want to retain all of their catch or they do not want to pay to have it processed and shipped. Two other individuals have been identified in helping to get the halibut out of Alaska and into the market.

SUBSISTENCE HALIBUT

An investigation is on-going which involves at least one U.S. citizen who is harvesting subsistence halibut and, with the assistance of a Canadian citizen, shipping and selling the halibut in the Yukon Territory. Canadian enforcement authorities have confirmed that at least one restaurant in the Yukon has purchased halibut from the Canadian citizen.

FOREIGN FISHING

The Honolulu, Hawaii, based Pacific Star Resources, LLC was issued a \$45,000 Notice of Violation and Assessment for violation of international fisheries regulations under the Magnuson-Stevens Fishery Conservation and Management Act. In August 2002, the U.S.-flagged fishing vessel PACIFIC STAR traveled approximately 75 nautical miles into Canada's Exclusive Economic Zone (EEZ) in search of squid. The vessel, with its fishing gear deployed and prepared to fish, was spotted by a Canadian Department of Fisheries and Oceans plane while on patrol. In

accordance with the implementation of the 1990 "Agreement between the Government of Canada and the Government of the United States of America on Fisheries Enforcement" (Canada/United States Reciprocal Enforcement Agreement), the case was handed off to the Alaska Enforcement Division where a special agent investigated the alleged incursions and violations into Canadian waters. An inspection of the PACIFIC STAR revealed over 350 cases of squid aboard. The subsequent investigation further revealed that the vessel was not permitted to fish in Canadian waters and had not requested the appropriate clearances for entry or transit in Canadian waters.

In October, 2005, the State of Alaska commercial shrimp fishing season opened in Southeast Alaska. At this time, a U.S. fishing vessel working with a Canadian flagged processing vessel began shrimp fishing without the required permits. In November, 2005, the Alaska State Troopers (AST) boarded the Canadian vessel and found it to be processing shrimp without the required State of Alaska permits, in violation of Alaska State Law. At that time, the Alaska State Troopers seized approximately 3518 pounds of shrimp from that vessel. The Troopers contacted our agents to assist with the investigation. So far, the investigation has revealed that from September thru November, 2005, the vessels shipped approximately 22,000 lbs of shrimp to Washington. A federal seizure warrant was used to seize the shrimp already stored in Washington. The domestic retail value of the illegal shrimp is approximately \$254,958. This case is with the U.S. Attorney's Office and indictments are expected in February, 2006.

MARINE MAMMALS and ENDANGERED SPECIES

A take of a female seal out of season in St. Paul by an Alaska Native was reported last year. A suspect who was interviewed confessed to the shooting. The case has been forwarded to NOAA General Counsel.

A nine member team consisting of NOAA OLE and USFWS agents served three consecutive search warrants at a business, a work shop and a residence in Anchorage. The focus of the warrants was illegal baleen being worked and sold by non-Alaska Natives. The search warrants resulted in the seizure of approximately 2,586 items made from marine mammal parts (104 pieces of raw bowhead baleen, 52 pieces of raw humpback baleen, 43 pieces of minke baleen, 1,171 carved and polished baleen items, and 61 pieces of walrus bone and ivory). The value of the seized items, as reported by the business owner, is approximately \$50,000.00.

COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)

NOAA OLE manned a booth during ComFish in Kodiak, Alaska. This is the largest trade show dedicated to the commercial fishing industry in Alaska. Numerous contacts were made during the show. Agents attended a Crab Rationalization workshop being put on by NMFS during ComFish. Agents answered questions concerning enforcement of the new program.

Agents and Officers manned the NOAA OLE booth for the Anchors Aweigh Boat Show. The show was held in Anchorage, Alaska, and ran from February 3 – 13, 2005. Enforcement will offer crime prevention information on beluga conservation, halibut sport fishing limits, and registration of marine mammal parts.

ASAC Hansen attended a meeting hosted by the Alaska Draggers Association (ADA) in Kodiak, Alaska. Utilizing Alaska Fisheries Development Foundation grant funding, ADA contracted John Gauvin of Groundfish Forum to develop and implement a program of real-time reporting of halibut bycatch rates by Gulf of Alaska trawlers. Modeled after the very successful "Seastate"

program in the Bering Sea Aleutian Island, this program will initially involve operators making daily phone calls to an answering phone in Seattle, where they will leave a coded message. Reported data include haul number, position, OTC/hail, and tow by tow data including kg halibut/kg sample size for observed tows and percent halibut estimate for unobserved tows. Data will be entered into "Seastate" database and where charts will be generated, showing relative halibut bycatch rates by areas. Data will be transmitted to vessel with ability to receive the data, and/or Shoreside processors who can update the fleet. This effort is a step toward co-op management under the pending GOA Rationalization program. Notwithstanding the requirement for more reporting, 95% of the fleet was supportive of the program.

**Alaska Region Case Actions for All Cases
January 01, 2005 - December 31, 2005**

