

NOAA

Office of Law Enforcement

Alaska Enforcement Division

December 2019
Report To
North Pacific Fisheries Management Council



Highlights - April to September 2019
Summaries - FY2019

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1. Enforcement Operational Highlights

In addition to daily patrol and investigative efforts, from April 1 to September 30, 2019 the Office of Law Enforcement (OLE), Alaska Division (AKD) conducted many multi-day patrols. These patrols were often coordinated with partners including U.S. Customs and Border Protection (CBP), U.S. Fish and Wildlife Service (USFWS), U.S. Coast Guard (USCG), Alaska Wildlife Troopers (AWT), and Canadian authorities - Department of Fisheries and Oceans (DFO) and Royal Canadian Mounted Police (RCMP). Working with partner agencies provides multiple benefits including added efficiency, force multiplication, inter-agency interaction and coordination, and combined compliance and outreach efforts.

In June, an AKD Enforcement Officer deployed with AWT for a 12-day patrol aboard the Patrol Vessel (PV) Enforcer. The patrol focused on charter and sport fishing enforcement in northern Southeast Alaska. The officers logged approximately 700 skiff miles and boarded 24 charter, 22 sport fishing, 13 commercial, and three subsistence vessels. Several commercial and sport crab pots were inspected. OLE issued one Summary Settlement to a commercial processor for record keeping and reporting violations, and AWT cited two sport fishermen for failing to have a fishing license.

In July, three Enforcement Officers and a USCG boarding officer conducted a 5-day patrol of Kodiak waters on the PV Kingfisher targeting charter and recreational fishing and marine mammal viewing vessels. One unsafe voyage was terminated, one Compliance Assistance provided, and one Summary Settlement issued for failure to record Pacific halibut retention (PV Kingfisher pictured right).



In May, a Special Agent and Enforcement Officer responded aboard the Patrol Vessel (PV) Natoma Bay to reports of a mid-air collision between two small planes in Southeast Alaska. The Agent and Officer participated in search and rescue efforts at the scene of the crash. Plane debris was located and information passed to the USCG, Alaska State Troopers, and National Transportation Safety Board (NTSB). AKD continued to assist NTSB for several days.



One Special Agent and two Enforcement Officers worked with USCG during a 6-day pulse operation in Dutch Harbor in July. Two observer harassment cases were reported and investigated as the top priority during the operation. Teams also boarded AFA and A80 vessels and conducted plant inspections. A total of nine cases were resolved and four were furthered, pending enforcement action. Enforcement actions issued included multiple Compliance Assistance, one Written Warning, and one Summary Settlement for an observer safety violation.

An Enforcement Officer and Special Agent participated in a 2-day coordinated international patrol along the eastern side of the A-B line involving a Canadian patrol vessel and the PV Natoma Bay. The first day of the patrol, officers identified illegal gear operated by a Canadian citizen in US waters and boarded a Canadian vessel sport fishing in US waters without sportfish licenses. The second day was spent working the disputed zone south of Prince of Wales Island. No Canadian vessels were observed in US waters. Five US vessels were boarded and one vessel could not provide a current US Vessel Document.

Two Enforcement Officers conducted a 6-day patrol of northern Southeast, Alaska, covering 846 miles. The officers patrolled to the communities of Juneau, Haines, Gustavus, and Kake and conducted inspections and outreach at two charter lodges and one processor. While underway, they boarded nine charter vessels, six sport fishing vessels and one commercial Halibut vessel. This patrol documented high compliance rates; a single logbook violation was addressed.

In August, an Enforcement Officer conducted a 10-day patrol with AWT aboard the PV Enforcer from Juneau to Yakutat. AWT issued 25 citations and seven warnings. NOAA OLE issued one Written Warning for a sport-caught halibut on a commercial salmon vessel and one Summary Settlement for failure to have clients sign the Charter Logbook. Officers boarded 59 vessels and made 327 contacts.

An Enforcement Officer conducted a 4-day offshore patrol aboard USCGC John McCormick focused on at-sea boardings in waters farther than 3NM offshore. The patrol began in Juneau and ended in Ketchikan. Ten vessels were contacted, five vessels boarded at sea, and one violation documented.

2. Outreach and Education

NOAA OLE outreach and education efforts encourage and facilitate responsible and sustainable marine resources use and interactions. NOAA agents and officers visited communities throughout Alaska, utilizing multiple venues to deliver a message of resource protection. The table below provides an account of AKD formal outreach efforts from April 1, 2019 to September 30, 2019.



Table 2.1 – NOAA Office of Law Enforcement Outreach and Education Efforts

Date	Location	Description
April 6, 2019	Kodiak, AK	Kodiak Children Fair: NOAA OLE hosted booth. Officers and agents discussed fishing regulations, marine mammal laws, dangers of feeding marine mammals, and the mission of NOAA OLE.
April 4-7, 2019	Anchorage, AK	Great Alaska Sportsman Show: Three Enforcement Officers and the USFW hosted an interactive education booth. Over 800 people stopped by to learn about NOAA OLE and marine resources.
April 10, 2019	Juneau, AK	Juneau Charter Halibut Meeting: An SEO and AWT met with the Juneau Sports Fishing and Charter Fishing Association. Officers shared regulatory updates for the 2019 season and discussed marine mammal laws and viewing guidelines.
April 17, 2019	Seward, AK	Seward Charter Halibut Meeting: Three Enforcement Officers with ADF&G, AWT and USCGC spoke to Charter Halibut stakeholders at the Seward Sea Life Center. Officers discussed closure days of the week in 3A and the definition of compensation.

April 26-28, 2019	Soldotna, AK	Kenai Sport Show: Enforcement Officers hosted an interactive booth, made 960 contacts, and provided outreach to about 100 people. Officers provided information on NOAA OLE, sport fishing, transporting catch, and IFQ, CDQ, MMPA and ESA regulations.
May 2, 2019	Homer, AK	Homer Charter Halibut Meeting: An OLE Enforcement Officer, AWT, ADF&G and International Pacific Halibut Commission (IPHC) hosted an outreach meeting for the Homer Charter Association and local charter operators.
May 4-5, 2019	Anchorage, AK	Great Alaskan Aviation Gathering: An Enforcement Officer provided outreach during the Great Alaskan Aviation Gathering in Anchorage, Alaska. The officer discussed reporting suspicious behavior, marine mammal parts collection, and OLE mission.
May 15, 2019	Sitka, AK	Sitka Charter Halibut Meeting: An OLE Enforcement Officer, ADF&G, AWT, USCG and IPHC provided outreach and answered questions at the annual Sitka Area Charter Meeting.
July 25-28, 2019	Haines, AK	Southeast Alaska State Fair: An Enforcement Officer Provided outreach and education at the 4-day event. Over 500 people asked questions about marine mammals and subsistence halibut.
July 29-30, 2019	Utqiagvik, AK	Alaska Eskimo Whaling Commission Meeting: The Deputy Special Agent-in-Charge attended the Commission meeting regarding changes to the Cooperative Agreement between NOAA and AEWC
September 21, 2019	Anchorage, AK	Second Annual Beluga's Count: Citizens volunteered to count belugas at multiple stations along upper Cook Inlet. The event concluded at the Alaska Zoo where two Enforcement Officers partnered with NOAA Protected Resources Division to provide information about marine mammals and NOAA.

3. Case Updates

Notices of Violation and Assessment

The NOAA Office of General, Enforcement Section (GCES) issued Notices of Violation and Assessment in the following civil administrative cases. A Notice of Violation and Assessment (NOVA) is not evidence of liability; it is only an allegation. A Respondent is entitled to a fair hearing before an administrative law judge where the government must prove liability by a preponderance of the evidence.

AK1604816 – The NOVA, for \$2,000, alleges that an individual charter vessel guide made inaccurate reports in his logbook, in violation of the Northern Pacific Halibut Act.

AK1701779; F/V Seafisher – The NOVA, for \$60,000, alleges that a crewman assaulted and sexually harassed a female observer in her stateroom, in violation of the Magnuson-Stevens Act.

AK1802383A; F/V Victory – The NOVA, for \$5,750, alleges that the vessel operator and vessel owner retained IFQ sablefish in an amount that exceeded the total amount of unharvested IFQ currently held by all IFQ permit holders aboard the vessel for the regulatory area in which the vessel was deploying fixed gear, in violation of the Magnuson-Stevens Act.

AK1802383B; F/V Victory – The NOVA, for \$5,750, alleges that the IFQ permit holder failed to be aboard the vessel at all times during the IFQ sablefish fishing trip, in violation of the Magnuson-Stevens Act.

AK1804012; F/V Seafisher – The NOVA, for \$55,000, alleges that a crewman assaulted and sexually harassed a female observer in her stateroom, in violation of the Magnuson-Stevens Act.

AK1804443; F/V Cynosure – The NOVA, for \$2,200, alleges that the vessel operator and vessel owner failed to maintain an accurate log of IFQ halibut fishing operations, in violation of the Northern Pacific Halibut Act.

Cases Settled

NOAA GCES entered into Settlement Agreements in the following civil administrative cases:

AK1606765; Big Fish Charters – This is an update on a case from the December 2018 Report. The charter business owner and GCES settled the \$37,000 NOVA for \$20,000.

AK1704676A; True Alaskan Charters – Charter vessel guide and his employer were charged with failing to submit logbook pages to the Alaska Department of Fish and Game, as required by federal regulations, in violation of the Northern Pacific Halibut Act. They were issued a \$3,000 NOVA. The case settled for \$2,700.

AK1704676B; True Alaskan Charters – Charter vessel guide and his employer were charged with failing to submit logbook pages to the Alaska Department of Fish and Game, as required by

federal regulations, in violation of the Northern Pacific Halibut Act. They were issued a \$2,000 NOVA. The case settled for \$1,800.

AK1705049 – An individual in Dillingham, Alaska was charged with illegally taking a harbor seal in violation of the Marine Mammal Protection Act. He was issued a \$6,500 NOVA. Based on a demonstrated inability to pay, the case settled for \$100.

AK1800956; F/V Tribute – This is an update on a case from the December 2018 Report. The vessel operator and vessel owner and GCES settled the \$91,472 NOVA for \$70,000.

AK1803567; F/V Alaska Spirit – The First Mate was charged with one count of sexually harassing a female observer, in violation of the Magnuson-Stevens Act. He was issued a \$30,000 NOVA. The case settled for \$27,000.

AK1807777; F/V Leslie Lee – The vessel operator and the vessel owner were charged with exceeding the 300,000 pound daily limit on harvest of Pollock by 36,382 pounds, in violation of the Magnuson-Stevens Act. They were issued a \$7,865.84 NOVA. The case settled for \$7,079.26.

Other Disposition

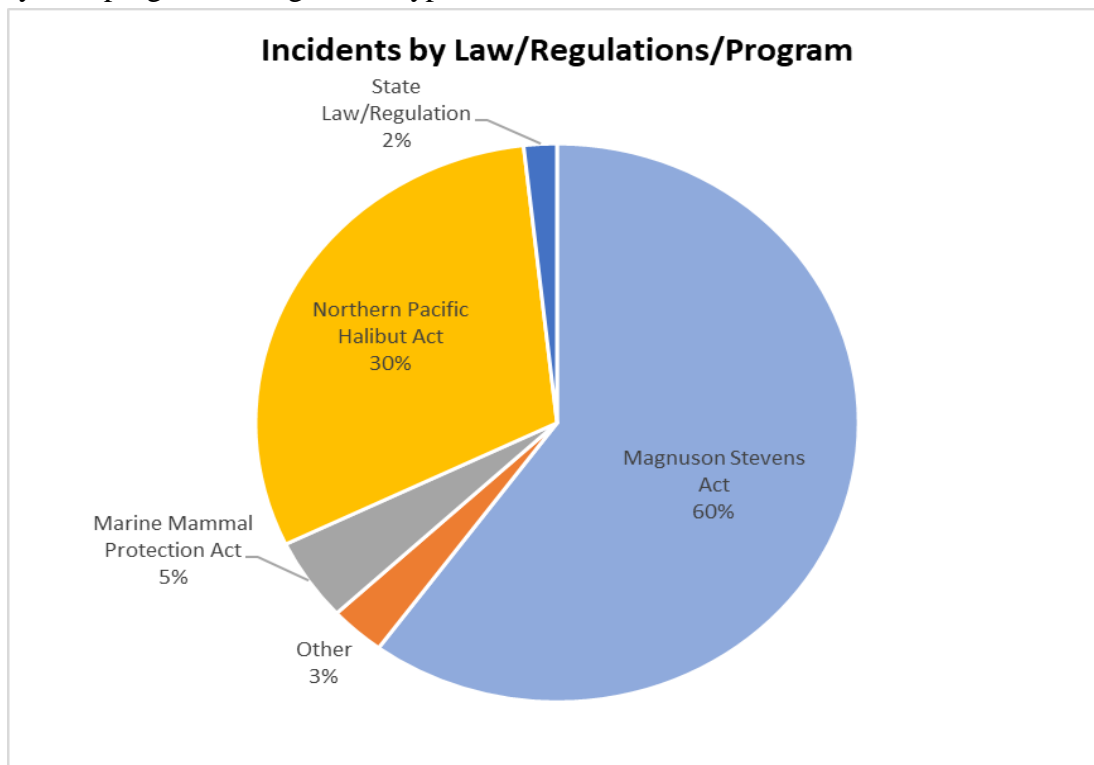
AK1802901; F/V Buccaneer – The vessel operator and the vessel owner were charged with engaging in a fishery that required retention of groundfish without a valid Federal Fisheries Permit and submitting an inaccurate report to NOAA Fisheries. They were issued a \$6,000 NOVA. The Respondents defaulted and the NOVA became a Final Administrative Order for \$6,000.

4. Incident and Summary Settlement Information

From October 1, 2018 to September 30, 2019 NOAA officers and agents opened 2924 incidents including 1756 Magnuson Stevens Act, 889 Northern Pacific Halibut Act, 140 Marine Mammal Protection Act and 139 others (Endangered Species Act, Lacey Act, Highly Migratory Species, Whaling Convention Act and Other Federal Law/Regulation). (Figure 4.1)

The majority of incidents were closed or completed. Of 2648 closed incidents, 1087 required no enforcement action (no recorded violation or minor violation). 278 incidents remain under investigation. (Figures 4.2 and 4.3)

Figure 4.1 – Incidents by percent **October 1, 2018 to September 30, 2019** categorized by primary law, program, or regulation type.



**Other includes Endangered Species Act, Lacey Act, Highly Migratory Species, Whaling Convention Act and Other Federal Law/Regulation*

Figure 4.2 – Incident dispositions for incidents created October 1, 2018 to September 30, 2019

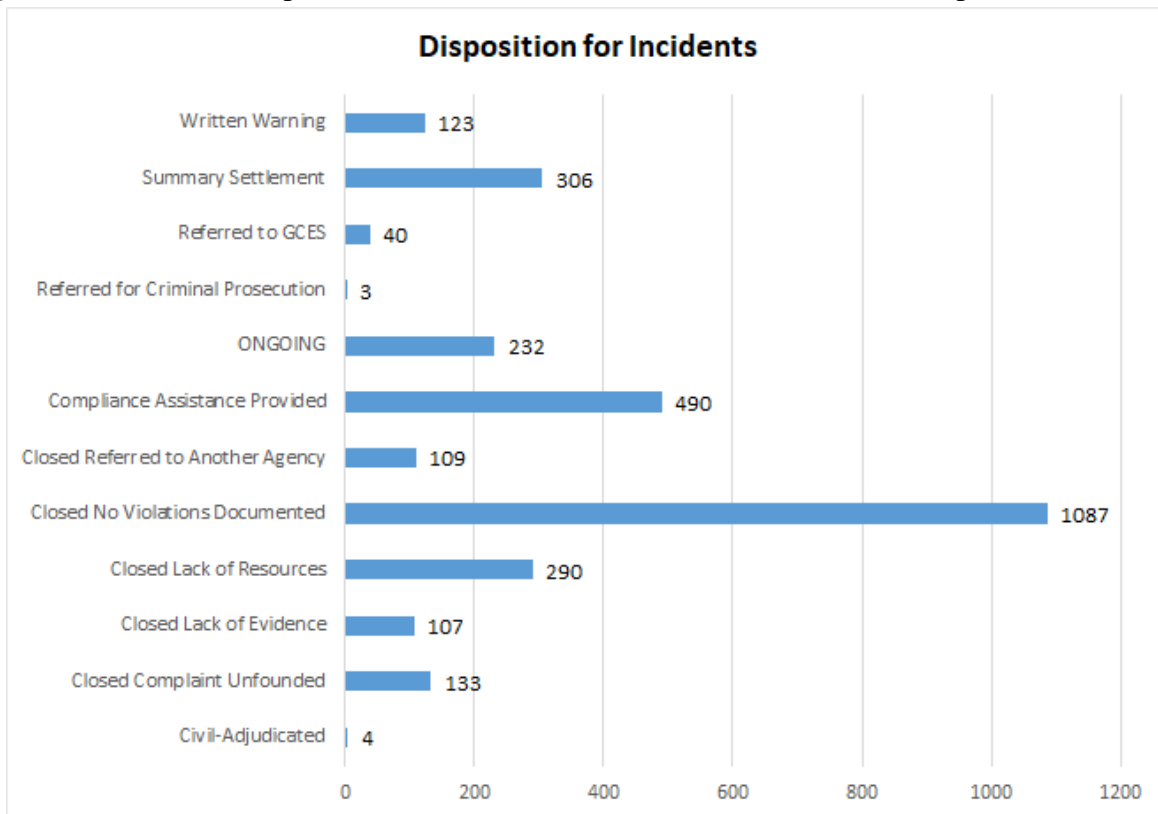
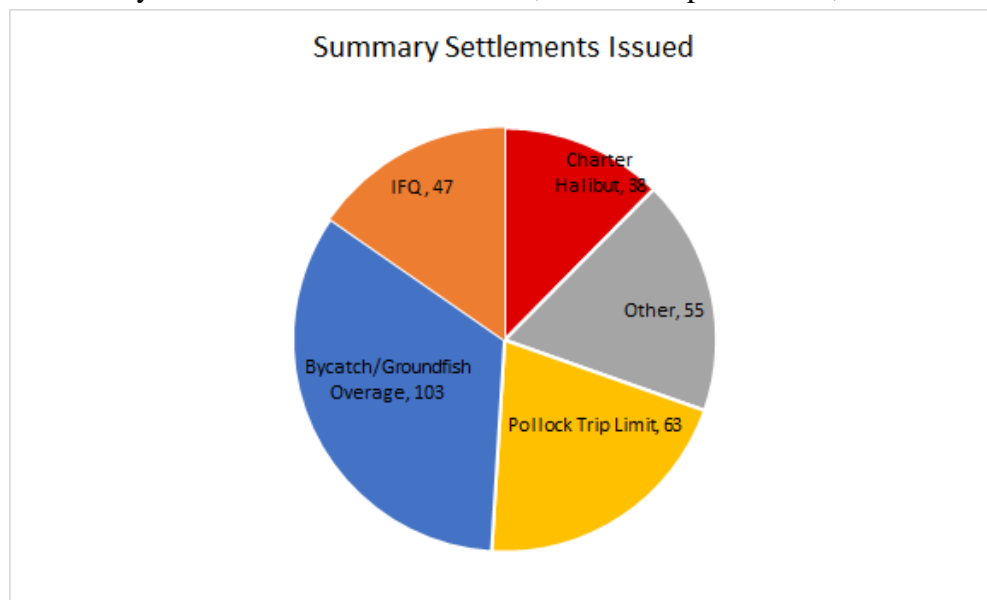


Figure 4.3 Summary Settlements Issued October 1, 2018 to September 30, 2019



* Other includes invalid FFP, MMPA, observer trip logging, vessel safety, fishing gear, record keeping and reporting, flow scale violations, recreational and sport halibut.

5. Pollock Trip Overages

Over five years, AKD has tracked GOA 300,000 pound, pollock trip-limit overages. (Figure 5.1) AKD provided outreach to the GOA Pollock trawl fleet during boardings, at meetings and community events, and through coordinated emails. In 2018 and 2019, following enforcement and outreach efforts, trip-limit overages fell from 1:10 to 1:20 deliveries (Table 5.1).

In 2019, AKD submitted no pollock trip cases for Notice of Violation and Assessment. To date, all significant 2019 violations were handled under the AKD Summary Settlement Schedule. In 2019, only one vessel landed more than four overages; in 2018, six vessels landed 4 – 7 overages; and in 2017, 23 vessels landed 4 - 15 overages. This downward trend may indicate the fleet has responded to the 2018/2019 enforcement and outreach efforts.

Figure 5.1: Pollock Trip Limit Overages from 2012-2019

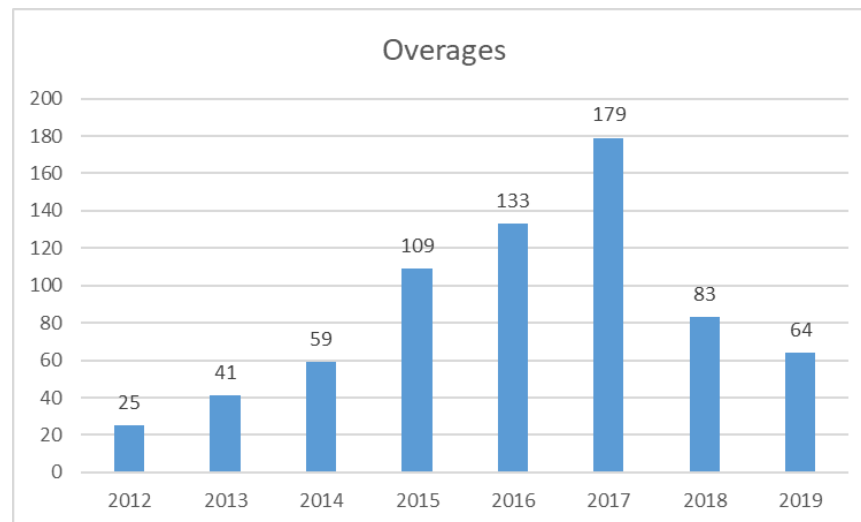


Table 5.1: Comparison of Total Pollock Trip-Limit Overages to Deliveries, 2012 to 2019

Year	Pollock TAC*	Overages	Deliveries	Overages: Delivery
2012	102426	25	1300	1:52
2013	106887	41	1043	1:25
2014	157610	59	1592	1:27
2015	181807	109	1860	1:17
2016	238604	133	2129	1:16
2017	191183	179	1835	1:10
2018	157455	83	1623	1:20
2019	141227	64	1259	1:20

*Weights in Metric tons

6. Observer Program

In 2019, AKD received more observer statements compared with 2017 and 2018. AKD has planned analysis to determine potential causes of the increases.

Table 6.1: Number of statements received each fiscal year. *Numbers represent observer statements only and may not directly correlate to the frequency of violations.*

STATEMENT TYPE	Full Coverage			Partial Coverage			Totals		
	2017	2018	2019	2017	2018	2019	2017	2018	2019
OLE PRIORITY									
Harassment - Sexual	5	8	6	1	0	3	6	8	9
Harassment-Assault	1	2	5	0	0	0	1	2	5
Interference/Sample Biasing	28	14	31	1	2	7	29	16	38
Intimidation, coercion, hostile work environment	23	24	40	2	2	2	25	26	42
Disruptive/Bothersome Behavior - Conflict Resolved	19	18	35	1	1	3	20	19	38
Safety-NMFS	26	46	70	3	10	20	29	56	90
Total OLE Priority	102	112	187	8	15	35	110	127	222
LIMITED ACCESS PROGRAMS	2017	2018	2019	2017	2018	2019	2017	2018	2019
AFA	20	26	31	N/A	N/A	N/A	20	26	31
Amendment 80	62	57	90	N/A	N/A	N/A	62	57	90
Catcher Processor Longline	22	14	23	N/A	N/A	N/A	22	14	23
Rockfish Program	1	1	1	0	0	0	1	1	1

IFQ Retention	1	2	1	16	10	15	17	12	16
Total Limited Access Programs	106	100	146	16	10	15	122	110	161
PROTECTED RESOURCES & PROHIBITED SPECIES	2017	2018	2019	2017	2018	2019	2017	2018	2019
Gulf of Alaska Salmon Bycatch	N/A	N/A	N/A	36	20	27	36	20	27
Bering Sea Pollock Salmon Bycatch	72	65	88	N/A	N/A	N/A	72	65	88
Prohibited Species	57	42	65	16	9	16	73	51	81
Marine Mammals	1	4	5	0	1	2	1	5	7
Seabird	2	1	4	15	6	15	17	7	19
Total Protected Resources & Prohibited Species	132	112	162	67	36	60	199	148	222
ALL OTHER STATEMENT TYPES	2017	2018	2019	2017	2018	2019	2017	2018	2019
Contractor Problems	4	11	13	0	0	5	4	11	18
Failure to Notify	51	32	51	15	10	9	66	42	60
Inadequate Accommodations	4	7	13	1	1	3	5	8	16
IR/IU	34	35	38	17	16	16	51	51	54
Miscellaneous Violations	2	5	7	2	0	4	4	5	11
MS-CDQ	0	1	0	0	0	0	0	1	0
Reasonable Assistance	27	34	30	9	13	23	36	47	53

Record Keeping and Reporting	90	140	97	179	70	67	269	210	164
Restricted Access	2	5	7	1	0	0	3	5	7
Observer Coverage (ODDS)	N/A	N/A	N/A	238	80	114	238	80	114
All Other Statement Types	214	270	256	462	190	241	676	460	497
TOTAL RECEIVED	554	594	751	553	251	351	1107	845	1102
TOTAL WITHOUT ODDS	554	594	751	315	171	237	869	765	988

OLE Priority Cases

OLE prioritizes cases involving actions or behavior that negatively impact observers or data. Assault, sexual harassment, sexual assault, and rape are OLE highest priorities. Safety and intimidation, coercion and hostile work environment are the next priority, followed closely by interference and sample biasing.

Disruptive/Bothersome Behavior - Conflict Resolved is an important observer statement category. These statements usually describe situations where observers and industry members work together to successfully address conflict at sea. Observers are asked to report these resolved conflicts to help AKD monitor for potential patterns. Statements involving resolved conflict doubled in 2019; 19 in FY18 and 38 in FY19 (Fig 6.1).

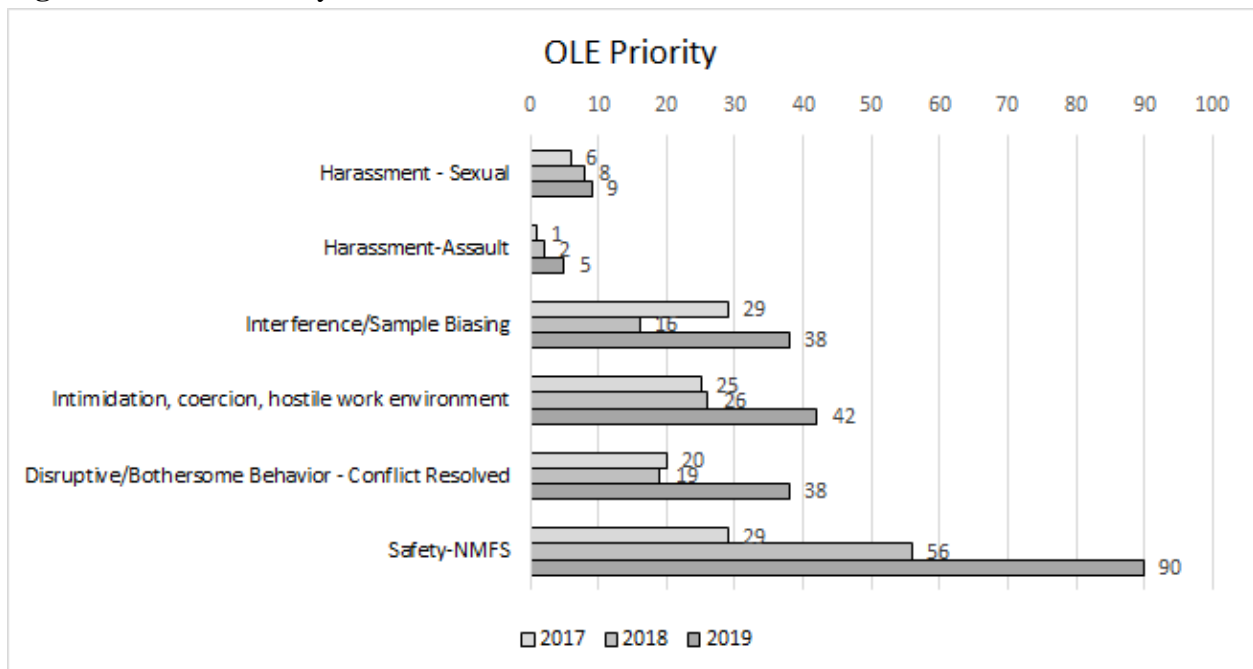
There were nine sexual harassment or sexual assault statements reported in 2019, one more than in 2018. Five were handled at the field level and involved a single incident of unwanted comments of a sexual nature. Four additional cases remain under investigation.

In 2019, AKD received five statements of harassment or assault. Four of the five investigations were forwarded to another agency as the appropriate authority. One case is under investigation.

Statement numbers involving interference or sample bias rose in 2019; 16 in FY18 and 38 in FY19. Statements involving intimidation, coercion, and hostile work environment also rose; 26 in FY18 to 42 in FY19.

Observer safety statement numbers rose from 56 in FY18 to 90 in FY19. Most safety concerns occurred at sea. AKD received nine reports of vessels failing to maintain a proper lookout. There were five reports of crew drug or alcohol use while underway; three involving an intoxicated operator. Other reports from vessels included three unsafe skiff conditions (2 after daylight hours); three undrinkable water; one equipment caused injury; one carbon monoxide leak that led to illness; 10 leaking or open watertight doors during rough weather; and 12 general unsafe conditions (tripping hazards, open hatches, or broken grating). Shoreside processor involved reports included lack of a safety net for observer transfer and ammonia leaks.

Figure 6.1: OLE Priority statements FY2017 to FY2019



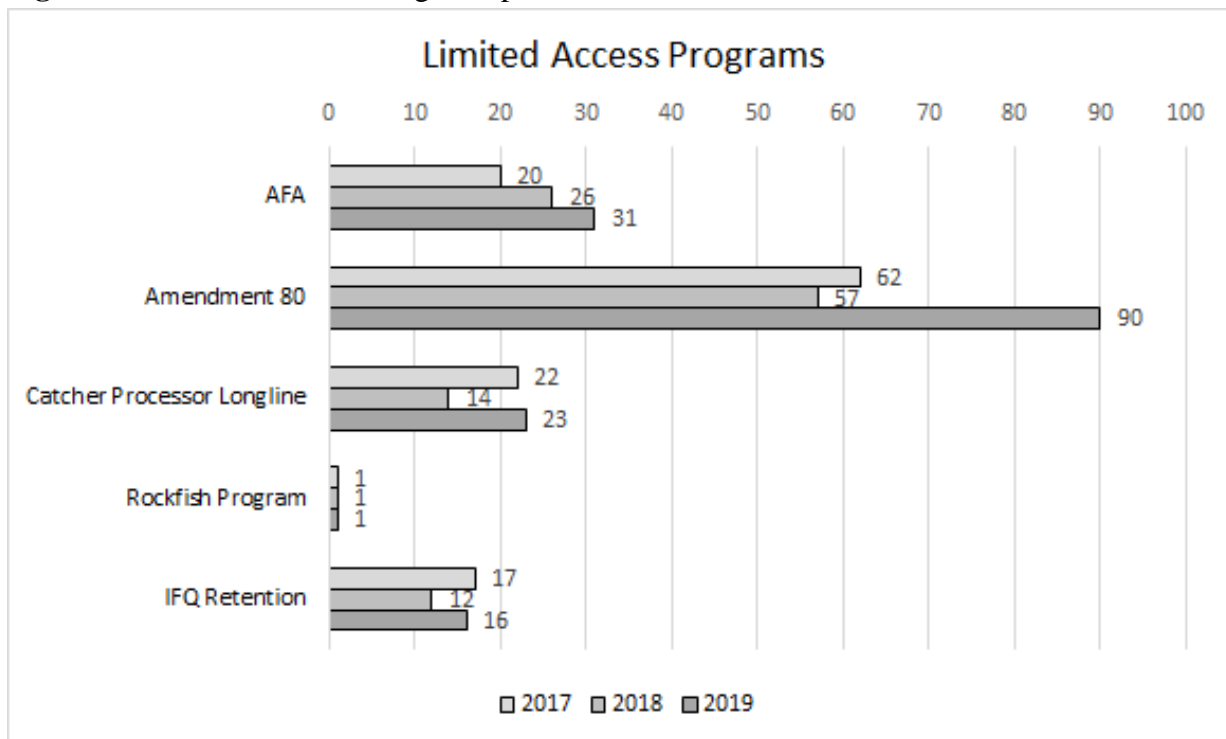
Limited Access Privilege Programs

AKD received 31 AFA statements in FY19, compared with 26 in FY18. The majority of statements involved malfunctioning flowscales or Motion Compensated Platform (MCP) scales. Additional statements involved haul mixing and failure to provided test weights for the MCP.

AKD also received more statements from the Amendment 80 category – 57 in FY18 and 90 in FY19: 17 statements alleged mixing of hauls; 13 documented a flowscale malfunction or overloading; and 12 documented a sample station concern including crew members or equipment in working areas, missing hoses, or broken grating. Other issues include failure to follow the approved Bin Monitoring Plan, missing test weights, and failure to perform flowscale tests.

In the Catcher Processor Longline sector, statements increased from 14 in FY18 to 23 in FY19. About half of the statements involved sample station concerns including trash, equipment or crew in the sample area; non-operational hoses; or tripping hazards. Other issues include failed flowscale tests, failure to conduct flowscale tests, failure to provide test weights, and an expired inspection report.

Figure 6.2: Limited Access Program specific statements FY 2017 to FY 2019



Protected Resources and Prohibited Species

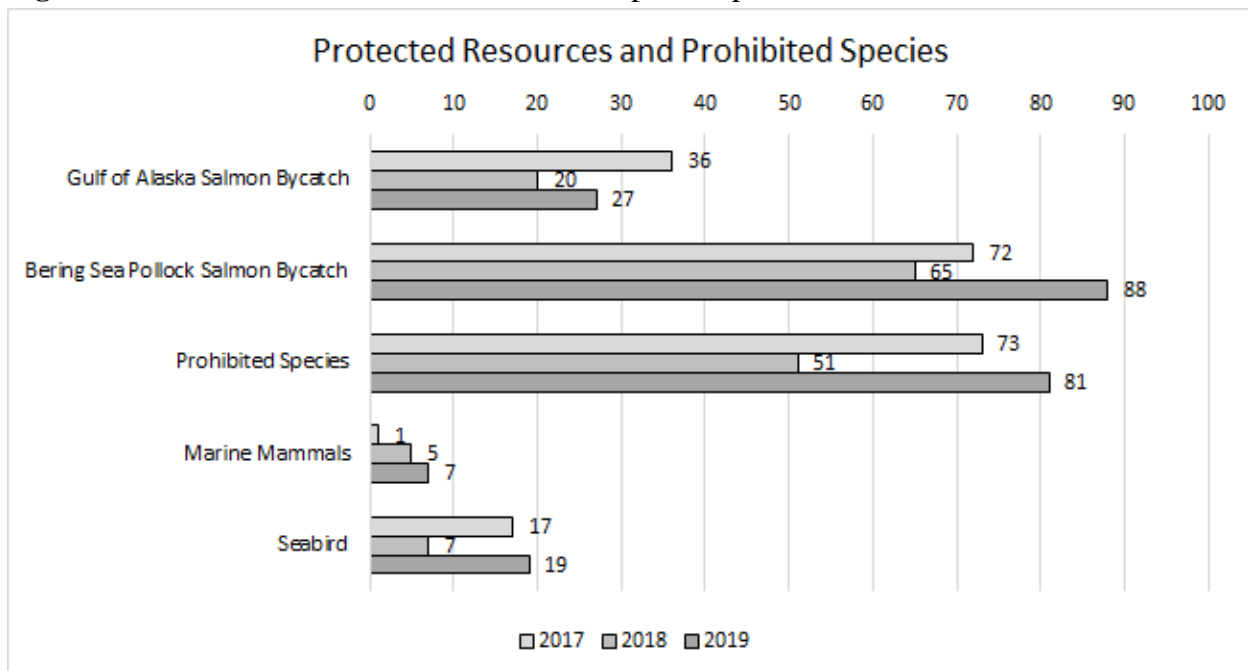
Statements involving salmon retention rose in both the GOA and the Bering Sea (BS). Most issues involved discard of salmon prior to collection or salmon passing by the observer sorting point. There were also reports of overflowed salmon bins.

In the GOA, there were several reports of processors failing to properly identify salmon. In the BS multiple reports involved failure to contain deck loads to prevent sorting on catcher vessels. On catcher processors, multiple statements involved crew running fish from a new haul before salmon from the previous haul could be sampled.

Statements involving prohibited species mishandling increased from 51 in FY18 to 81 in FY19. The majority of incidents involved halibut mishandling on Am80 vessels targeting Pacific cod or yellowfin sole. Many originated on trawl vessels and involved crew carrying halibut by the caudal peduncle. Longline vessel statements often involve crucified or gaffed halibut. There were also several reports of crab mishandling on trawl vessels.

Statements reporting failure to use appropriate seabird avoidance gear increased. AKD received three seabird harassment statements; two involving bald eagles (forwarded to USFWS) and one involving a vessel operator who used seal bombs on birds.

Figure 6.3: Protected Resource and Prohibited Species specific statements 2017 to 2019



All other statement types

Despite increased outreach efforts, Failure to Notify statements increased from 42 in FY18 to 60 in FY19. There was also an increase in statements involving inadequate accommodations on both catcher processors and catcher vessels. Additional statements involved presence of bed bugs, mold, smoke, or sewage in staterooms; poor food quality; or the lack of safe drinking water. Many issues were resolved while the observer was still onboard. ODDS, trip logging incidents increased from 80 in FY18 to 114 in FY19. Many concerns resulted from shoreside or tender deliveries that were inconsistent with the logged trip.

Figure 6.4: All other statements 2017 to 2019

