



NOAA FISHERIES



Office of Law Enforcement Alaska Enforcement Division

June Report To
North Pacific Fisheries Management Council



October 2021 to March 2022

Report fisheries or marine mammal violations,
call our National Hotline at 1-800-853-1964

<https://www.fisheries.noaa.gov/topic/enforcement>

NOAA Fisheries, Office of Law Enforcement, Alaska Division

Report to the North Pacific Fishery Management Council

June 2022

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Alaska Enforcement Division

1. Enforcement Operational Highlights

From October 1, 2021, to March 31, 2022, the Office of Law Enforcement (OLE), Alaska Division (AKD) conducted extensive patrols for the purposes of enforcement and education. In addition to daily dockside and vessel patrols, AKD conducted several multi-day patrols. 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 National Park Service (NPS). Partnering with multiple agencies broadens enforcement and outreach opportunities and allows for mentoring across agencies.

From September to October, a Special Agent along with the Canadian Department of Fisheries and Oceans (DFO) personnel completed a 21-day, 4,800 nautical mile patrol from Japan to Hawaii onboard the Coast Guard Cutter Bertholf. The patrol encompassed the North Pacific and Western and Central Pacific Fisheries Commissions (NPFC and WCPFC) Regional management fisheries organizations' (RFMOs) areas of authority. The team boarded or contacted 26 vessels, resulting in the discovery of RFMO Conservation Management Measures (CMMs) and U.S. law violations. Violations included refusal to allow authorized inspectors to board, failure to document bycatch, possession of shark fins without the associated carcass, failure to complete logbook as required, failure to possess a high seas permit onboard and available for inspection, and failure to use adequate seabird mitigation.



The annual Observer Operation commenced in January with four teams of Officers and Agents participating over the course of several weeks. The Operation started with approximately 35 cases with 104 individual complaints. The teams initiated several new cases involving unsafe work conditions, sexual harassment, interference with sampling, and creating a hostile work environment. Due to the increased attempts by the industry to remain in compliance and immediately resolve potential violations when notified by an observer, many incidents were completed without the need for enforcement action. Some cases involving any form of harassment or interference remain open and ongoing. Agents and Officers noticed an increase in communication between vessel management and observers which contributed to an

improved rate of compliance.

In conjunction with the Observer Operation, an Enforcement Officer participated in a 20-day, 2,521 nautical mile patrol onboard the AWT PV Stimson. A total of 134 vessels were observed at sea, 43 vessels were boarded with over 196 commercial fish contacts. Two shoreside processors and one floating processing plant were inspected. Outreach and education were conducted by the team members in four unmanned ports. A variety of logbooks, permits, licenses, gear, observers, and record-keeping and reporting violations were discovered and/or investigated during the patrol.



An Enforcement Officer participated in the Vietnam Fisheries Assessment and PSMA inspectors training in Vietnam. The goal of the fisheries assessment was to gain a better understanding of Vietnam's efforts and challenges in promoting sustainable fisheries conservation and development while reducing IUU fishing to assist in the removal of the European Union's yellow card status. The assessment team traveled to six provinces and met with the local agencies to assess how fishery conservation and management is conducted in each area. Additionally, the

team met with members of the Vietnam Coast Guard, Vietnam Border Guard, and port authorities. At the end of the assessment, the team met with the Director General of Vietnam's Directorate of Fisheries (DFISH) to report on best practices and next steps to consider in order to overcome challenges to create sustainable fisheries in their EEZ.

2. Outreach and Education

NOAA OLE outreach and education efforts facilitate and encourage responsible and sustainable uses of marine resources. NOAA agents and officers visit industry representatives and communities throughout Alaska using multiple online and in-person venues to deliver a strong message of resource protection. With our Joint Enforcement (JEA) partners, AKD provided resources and outreach at local and virtual events. OLE continued to work extensively with industry leaders and representatives by hosting virtual meetings to discuss potential compliance issues. To learn more about these meetings or request a meeting, please contact Compliance Analyst Alex Perry at 907-271-3021 or alex.perry@noaa.gov. The tables below provide a summary of formal outreach efforts from October 1, 2021, to March 31, 2022.



Date	Description
October 21, 2021.	A Special Agent presented to a high school marine biology class in Southeast Alaska. He facilitated a discussion on NOAA OLE’s Mission, fishery regulations, MMPA/ESA, subsistence fisheries, and marine mammal harvest regulations.
October 26-29, 2021.	Two Enforcement Officers assisted the Southeast Asian Fisheries Development Center (SEAFDEC) Training Department in facilitating a Regional Training on PSMA implementation for inspectors in Southeast Asia. Participants include inspectors from Myanmar, Thailand, Indonesia, Vietnam, the Philippines, Timor-Leste, and the Food and Agriculture Organization of the United Nations.
October 27, 2021.	OLE Compliance Analyst and Observer Liaison presented to a multi-partner meeting concerning recent and current Halibut Deck Sorting issues (number of vessels participating, halibut encounter rates: Amendment 80 Cooperative), data issues, and upcoming observer sampling changes (FMA).
November 3, 2021.	An Enforcement Officer assisted Marine Biology professors and their students from the University of Alaska Kachemak Bay Campus in Whiskey Gulch with a necropsy of a dead beluga whale. Additional education and outreach to the public were provided during the necropsy.

November 3, 2021.	OLE Compliance Analyst and Observer Liaison presented at an Observer Provider meeting hosted by the Observer Program. Topics covered were observer conduct, reporting requirements, conflict of interest when placing observers on vessels, and mental health and sexual assault and sexual harassment (SASH) resources AKD provides to observers.
December 1, 2021.	A Special Agent attended the 3rd Triannual Alaska Eskimo Whaling Commission (AEWC) meeting.
January 2022.	A Special Agent presented “Ensuring a Safe Work Environment for Observers” at multiple virtual trainings and workshops attended by observers, Regional Observer Programs, Industry representatives, and other OLE divisions.
December 2021- January 2022	A Special Agent, Observer Liaison, and Compliance Analyst conducted 10 compliance outreach/education meetings with Industry leaders and fishermen. Audiences included representatives from Alaska Groundfish Data Bank, Aleutian Spray Fisheries, Amendment 80 Cooperative, Bristol Waves Seafoods, Fishermen's Finest Inc, North Star Fishing Co, Ocean Peace Inc, O'Hara Corp, Premier Pacific Seafoods, and Trident Seafoods.
February 2, 2022.	Assistant Director and Compliance Analyst attended the Annual Alaska Eskimo Whaling Commission Captain's Convention to provide outreach and field questions, and track issues relevant to AKD's resources.
February 23, 2022.	A Special Agent and Enforcement Officer presented a PowerPoint explaining the role of NOAA OLE and enforcement personnel routine operations to students who are currently studying conservation.
March 21, 2022.	A Special Agent provided a presentation on MMPA, ESA, and MSA regulations applicable to the Sitka Sound Sac Roe Herring fishery. The audience consisted of ADF&G biologists, AWT, USCG, herring fishermen permit holders, tender vessel operators (American and Canadian), and subsistence users.
March 24, 2022.	An Enforcement Officer and AWT participated in the annual commercial fisheries convention (ComFish) held annually in Kodiak.

3. Case Updates

Criminal Conviction

AK1904334; Paul Gil – Paul Gil was charged by the U.S. Attorney for the District of Alaska with Illegal Take in violation of the Marine Mammal Protection Act (MMPA) in *United States v. Gil*, No. 3:22-cr-00006-JMK-KFR (D. Alaska Feb. 25, 2022). On March 8, 2022, Gil pled guilty to that misdemeanor charge and admitted he shot a harbor seal (*Phoca vitulina*) in Prince William Sound in October 2017 without authorization. Under the terms of his plea agreement, Gil agreed to recommend two years’ federal probation, complete 100 hours of community service related to marine conservation, forego seeking any hunting licenses, permits, tags, or harvest tickets from the State of Alaska while on probation, abandon his interest in the AR15-style firearm he used to kill the seal, and pay a \$1,500 fine.

ALJ Decision

AK1802015; F/V Alaskan Lady – In an Initial Decision issued March 7, 2022, Administrative Law Judge Susan Biro found crewman Eliman S. Bah liable, and imposed a civil penalty of \$20,000, for sexually harassing an observer in violation of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Judge Biro found that Bah harassed the observer both by conduct that had sexual connotations, as well as by otherwise creating an intimidating, hostile, or offensive environment. The Judge’s decision followed a two-day hearing that occurred on September 1-2, 2021.

Notices of Violation and Assessment

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

AK2100530; F/V Magnus Martens – Owner Magnus A. Martens, LLC and Operator Jeb Phillips were charged jointly and severally under the Magnuson-Stevens Act with operating a vessel in the Bering Sea Pacific cod pot fishery without carrying an operable NMFS-approved vessel monitoring system (VMS) and without complying with VMS requirements. A \$36,000 NOVA was issued.

NOVA Cases Settled

NOAA GCES entered into settlement agreements in the following civil administrative cases:

AK1701779; F/V Seafisher – Crewman Iakopo Jake Vae was charged under the Magnuson-Stevens Act with forcibly assaulting and sexually harassing a fisheries observer on board the vessel. A \$24,000 superseding NOVA was issued, and the case settled for \$4,000.

AK2001863; F/V Gold Rush – Owner Golden Tide, Inc. and Operator Dale Eggers were charged jointly and severally under the Magnuson-Stevens Act with exceeding the maximum retainable amounts for Pacific cod and/or skate in the Gulf of Alaska. A \$15,422.67 NOVA was issued, and the case settled for \$13,880.40.

AK2006001; F/V Cape Kiwanda – Owner B&N Fisheries Company and Operators Ronald Weyburn Naughton and Cory Dehning were charged jointly and severally under Magnuson-Stevens Act with exceeding the Rockfish Program maximum retainable amount (MRA) for pollock in the Gulf of Alaska. In Count 1, a \$1,099.58 penalty was assessed against B&N Fisheries Company and Operator Ronald Weyburn Naughton for exceeding the MRA by 15,815

pounds (a 2,869% overage), worth \$1,099.58. In Count 2, \$6,502.86 penalty was assessed against B&N Fisheries Company and Operator Cory Dehning for exceeding the MRA by 43,746 pounds (a 729.1% overage), worth \$3,502.86. A \$7,602.44 NOVA was issued, and the case settled for \$6,842.20.

AK1807085; F/V Nite Lite – Owner Lavrentii Reutov, Operator Konstantin Reutov, and Crewmember Grant P. L. Arseneau were charged jointly and severally under the Magnuson-Stevens Act with failing to maintain safe conditions on the vessel for the protection of an observer including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel. A \$4,000 NOVA was issued, and the case settled for \$3,600.

AK2002103; F/V Silver Lady – Vessel co-owners Hammer & Son L.L.C. and Lonnie R. Chestnut and Operator/IFQ Permit Holder William R. Hammer, Jr. were charged jointly and severally under the Magnuson-Stevens Act with unlawfully discarding at least 990 sablefish. A \$14,000 NOVA was issued, and the case settled for \$12,600.

Default

The NOVAs in the following civil administrative cases became final agency action via default:

AK1708652; F/V Vaerdal – Crewman Justin A. Williams was charged under the Magnuson-Stevens Act with harassing a female fisheries observer. A \$24,000 NOVA was issued. The NOVA became a final administrative decision due to default.

AK2100328; George C. Woodin – A charter vessel angler was charged under the Northern Pacific Halibut Act with exceeding the International Pacific Halibut Commission 2019 annual limit of four Pacific halibut in Area 3A by two fish. A \$400 NOVA was issued. The NOVA became a final administrative decision due to default.

AK2005521; F/V Legacy – Crewman Tusi Tausaga was charged under the Magnuson-Stevens Act with observer assault. A \$72,000 NOVA was issued. The NOVA became a final administrative decision due to default.

AK2101775; F/V Sentinel – Owner/Operator Arseny Polushkin was charged under the Magnuson-Stevens Act with interfering with and harassing authorized officers during the lawful discharge of their duties. An \$8,500 NOVA was issued. The NOVA became a final administrative decision due to default.

4. Incident and Summary Settlement Information

From October 1, 2021, to March 31, 2022, NOAA officers and agents opened 597 incidents including 475 “Magnuson Stevens Act,” 28 “Northern Pacific Halibut Act,” 18 “Marine Mammal

Protection Act,” 26 “Endangered Species Act,” 30 “Other Federal Law/ Regulations,” and 20 regarding “Other” acts/regulations (High Seas Fisheries Compliance Act, International Trade Program, Lacey Act, North Pacific Fisheries Act, and AK State Law/Regulations). (Figure 4.1)

The majority of incidents were closed or completed: of 451 closed incidents, 266 required no enforcement action, no recorded violation, or minor/mitigated violation(s). 97 incidents remained under investigation (status “ONGOING”). (Figures 4.2 and 4.3)

Figure 4.1. Incidents by percent from **October 1, 2021, to March 31, 2022**, categorized by primary law, program, or regulation type.

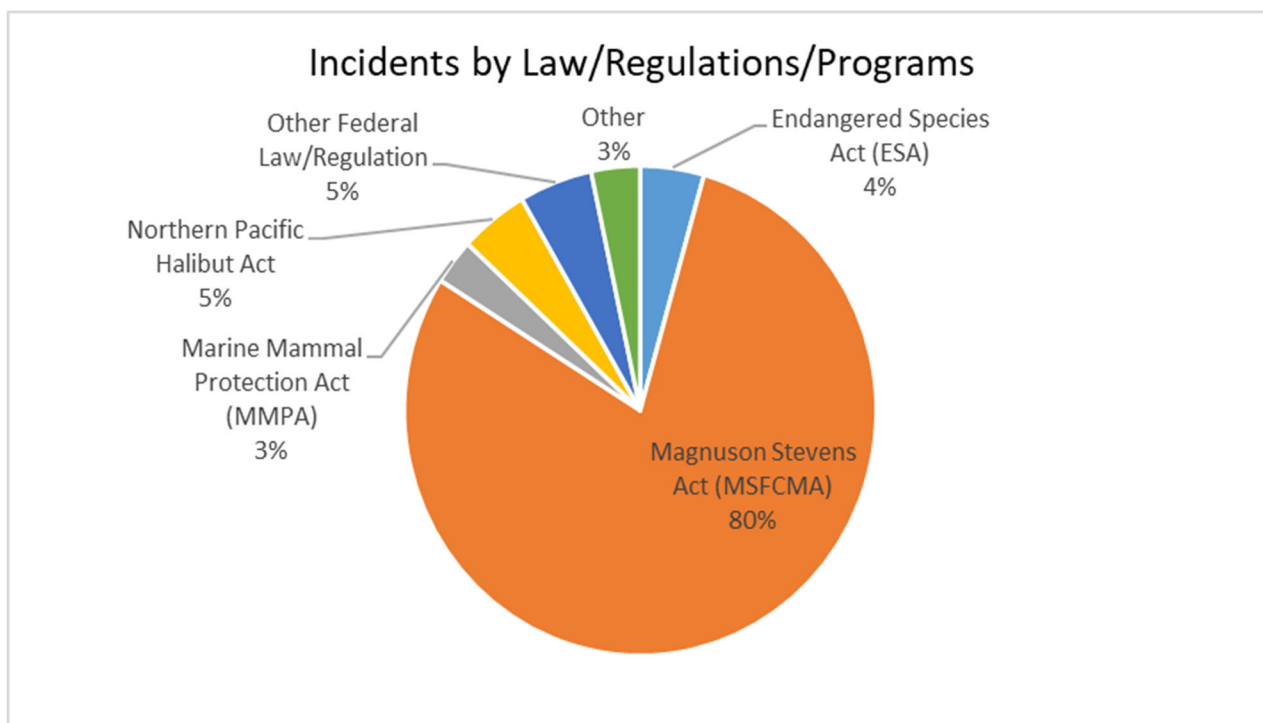


Figure 4.2. Incident dispositions for incidents created October 1, 2021, to March 31, 2022

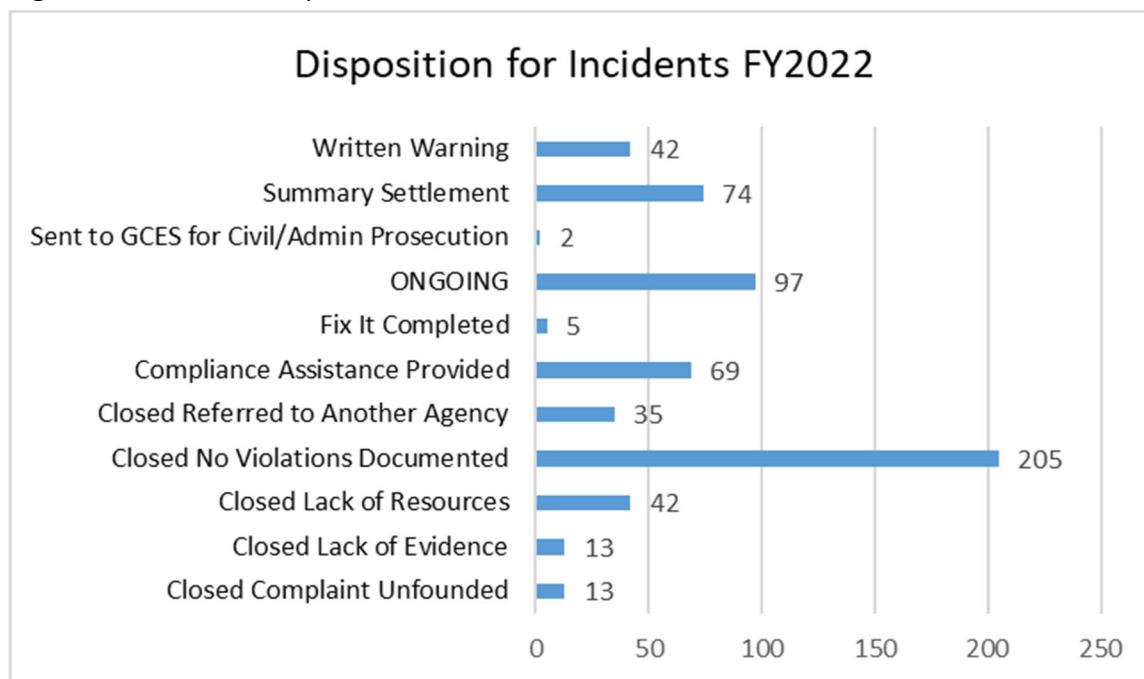
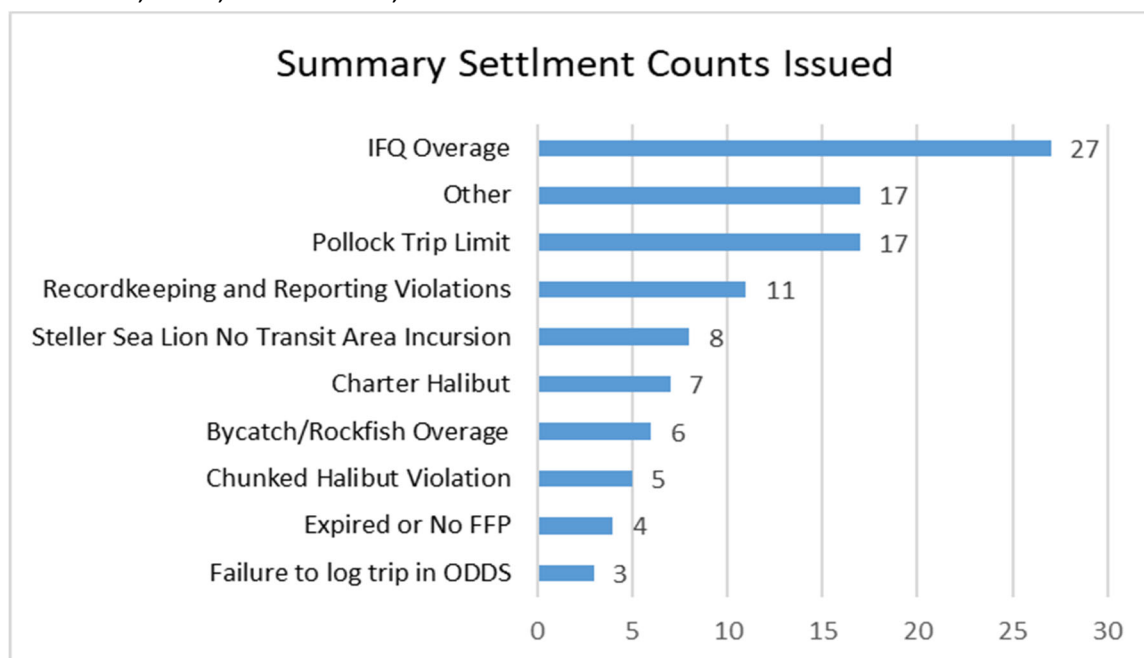


Figure 4.3. Summary Settlement Counts Issued (many incidents include multiple counts) October 1, 2021, to March 31, 2022



* Others include 1 to two violations relating to Approaching within 100 yards of Marine Mammal, Discarding salmon prior to data collection, Failure to follow VMP, Failure to operate VMS, Failure to present IFQ and hired master permit, Failure to retain (required species), Failure to submit hard drive for EMP, Feeding of marine mammal, Fishing in a closed area, Halibut mishandling, Landing without PNOL, Recreational halibut, and Salmon passing sorting.

5. Self-Reporting

In 2021, OLE initiated a new process for industry to self-report potential violations. This mechanism is entirely voluntary (not mandated) for industry to use. Since that time, industry (vessel/plant owners/operators and personnel) have been employing this process with increasing frequency. In the first half of FY22 (10/1/2021-03/31/2022), OLE received 25 such self-reports. Self-reports have included **potential**: Halibut Deck Sorting issues; Disruptive/Bothersome Behavior-Conflict Resolved; Amendment 80 issues (generally electronic monitoring (EM)-related); Failure to Notify (of fish being brought aboard); Reasonable Assistance (failure to provide to observers); Harassment-Sexual; Recordkeeping and Reporting; and Prohibited Species-Mishandling.

Self-reporting of potential violations is viewed positively by both the industry and the Agency; it allows industry to provide a documented record of their perspective of the incident/s, explain what actions they have taken to mitigate issue/s, and OLE often receives these in near real-time. These reports can also later be cross-referenced to observer statements (if reporting vessels fall in the observer coverage sectors).

We continue to encourage ALL members of the industry who are interested in learning about the self-reporting processes to reach out to Compliance Analyst Alex Perry (contact info provided in Section 3).

6. Observer Declare and Deploy System Potential Violation Analysis

In 2022, OLE conducted an analysis of the Observer Declare and Deploy System (ODDS) potential violations since the Partial Coverage (PC) restructuring of the North Pacific Observer Program (NPOP) in 2013. ODDS is an online database used by the partial coverage fleets to log their trips for randomly selected observer or Electronic Monitoring (EM) coverage. The analysis sought to highlight trends in compliance and to determine whether enforcement actions by OLE are effective at preventing repeated noncompliance.

From 2013 to 2021, OLE opened 357 incidents involving ODDS violations. Three specific dispositions were identified as enforcement actions that may prevent and deter noncompliance behavior. These three are (in order of ascending severity) Compliance Assistance, Written Warnings, and Summary Settlements (i.e. monetary penalties).

Table 6.1 depicts the various potential violations that are associated with ODDS, and the corresponding dispositions of incident investigations throughout the nine years examined.

Table 6.1: Number of Enforcement Actions related to ODDS violation Types					
Violations	Compliance Assistance Provided	ONGOING	Summary Settlement	Written Warning	Grand Total
EM Camera Not Turned On				1	1
EM Trip Not Logged	5			4	9
Fished on a Canceled Trip	5		2	9	16
Incorrect Gear Type	15		1	1	17
Incorrect Tender	13				13
Leave without observer	1		1		2
ODDS Outreach	1				1
Tender trip definition	1			1	2
Trip close issue	1				1
Trip not logged	87	1	41	60	189
Using full coverage observer	2				2
Grand Total	131	1	45	76	253

** "ODDS outreach" and "Using full coverage observer" are not violations; they are included because Compliance Assistance was provided.*

Of 200 vessels with violations that required enforcement action, 160 had only one, while 31 vessels averaged two violations, and only nine vessels required three or more Enforcement Actions for violations. In reviewing the data for effectiveness of actions, individual vessels with repeat violations were also examined by initial action. Repeat vessel-specific violations following issuance of an initial Compliance Assistance comprised 19 occurrences. When the initial action was a Written Warning, there were 10 vessels with follow-on actions taken. Likewise, when Summary Settlements were issued as the first action, 10 vessels exhibited repeat noncompliance. This demonstrates that Summary Settlements and Written Warnings have a stronger deterrent effect against repeat violations than does Compliance Assistance.

Figure 6.1 depicts the number of violation types per year. Note that this excludes investigations that were closed due to no violation.

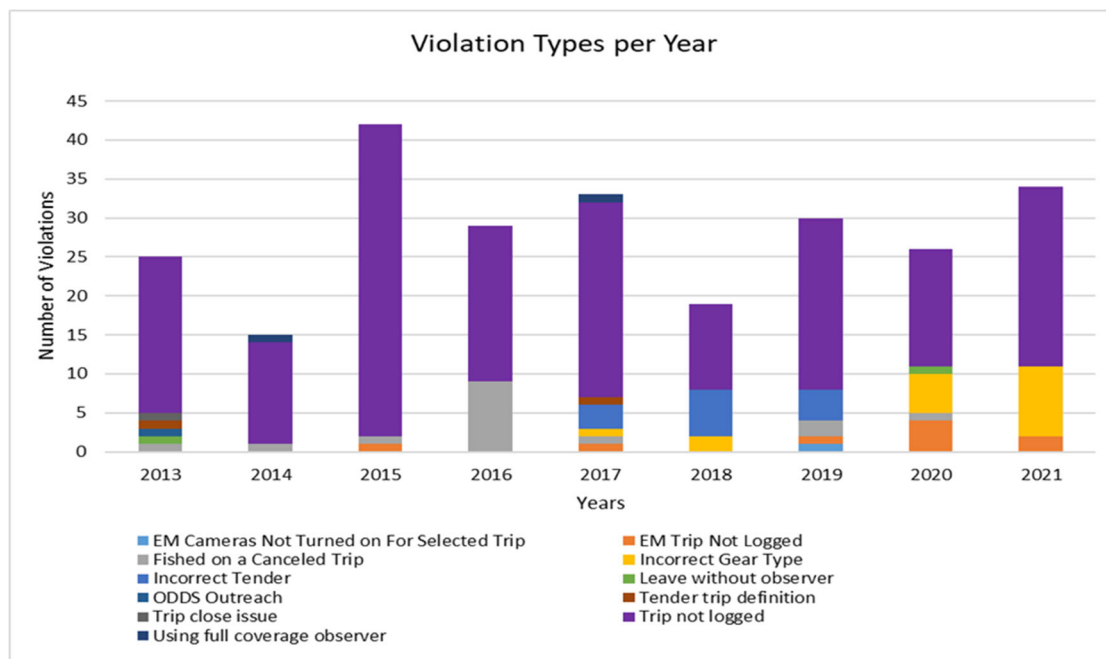
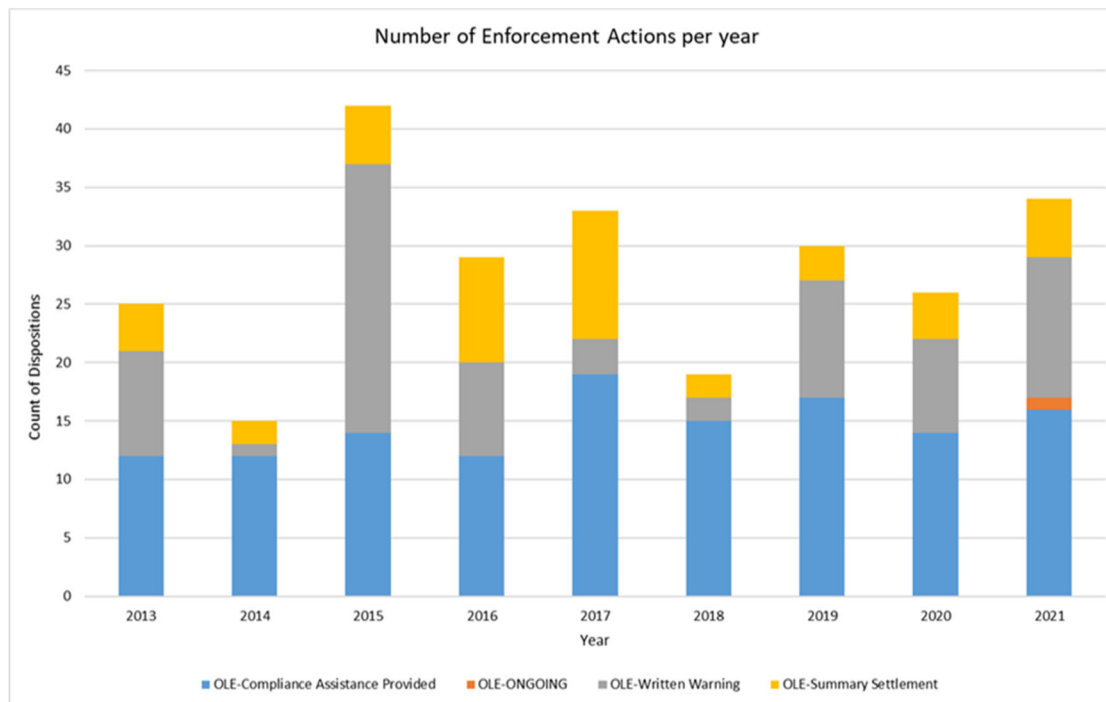


Figure 6.2 depicts the number of enforcement actions taken by AKD per year.

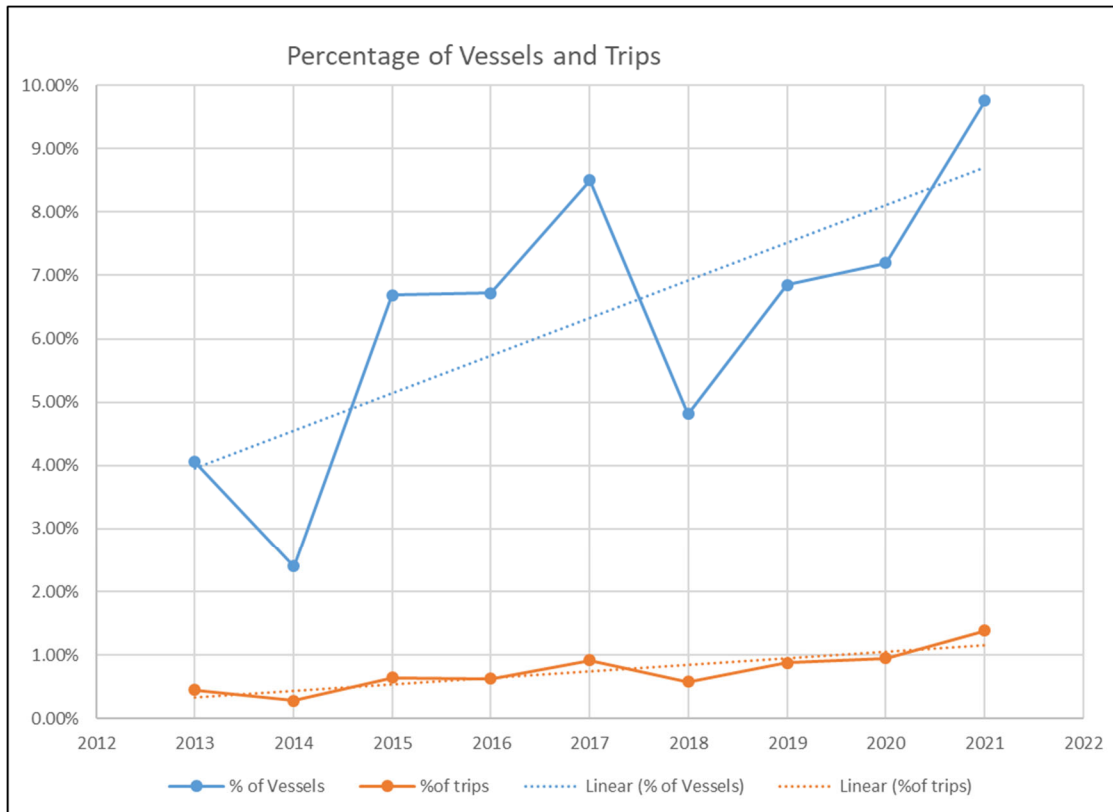


* Dispositions "Closed-No Violations Documented" and "Closed-Referred to Another Agency" are not considered actions and are not charted.

The above charts indicate that following years of more enforcement action and greater numbers of violations, there is a reactive dip in following years. This indicates a deterrent effect of enforcement action across the fleet. Gleaning data reported in the Observer Program Annual Reports for all years, OLE also examined the total number of vessels participating in the PC

(ODDS) stratum per year and the total number of trips to generate *rates* of exhibited noncompliance.

Figure 6.3 demonstrates the percentage of vessels and the percentage of trips with potential violations.



The chart above indicates the percentage of trips exhibiting noncompliance with ODDS is typically below one percent, demonstrating good fleet wide compliance. However, there is an increase trend in noncompliance driven by a small number of vessels (<10%).

In conclusion, OLE finds that overall compliance with ODDS has been good, comprising only two percent of all incidents created during the timeframe examined. However, when violations are viewed by the percentage of vessels participating by year (Figure 6.3) and by the percentage of trips within a year across the PC fleet, OLE finds compliance rates are trending downward driven by a growing, yet small, portion of the fleet. OLE has identified the need to apply additional resources to ODDS enforcement and limit the number of Compliance Assistance outcomes in favor of Written Warnings and Summary Settlements.

7. Observer Program

OLE collaborated with other agency offices in production of the 2021 Observer Program Annual Report, which will be presented at the June 2022 Council meeting. Chapter 4 of the report, *Compliance and Enforcement*, presents a rate-based analysis of statements provided to OLE by the North Pacific Observer Program (NPOP). Please reference the *Observer Program Annual Report* and presentations for further details regarding OLE’s efforts in Calendar Year 2021.

This report therefore provides a brief summary of statements (Tables 7.1 and 7.2) provided to OLE by the NPOP since our December 2021 Report to Council. During the first half of Fiscal Year 2021, OLE was provided 262 observer statements detailing 1365 occurrences of potential violations. From these, 130 incidents were initiated. To date, four incidents resulted in issuance of Written Warnings: one for Amendment 91 salmon and Failure to notify, two for inadequate accommodations, and one for interference/sample biasing. One resulted in a Summary Settlement for Safety-NMFS. 61 incidents are under investigation (ongoing); this often indicates more complex and/or recent cases.

Table 7.1. Statements, Incidents, and Investigation Status. ‘No OLE Action’ includes incidents determined not to be a violation after an investigation, incidents lacking adequate evidence or an unfounded complaint, incidents that were closed due to a lack of personnel to conduct an investigation, and cases referred to another agency.

Statements	Incidents	Investigation Statuses
262 statements received and reviewed in the first half of FY22; 29 did not document an actual violation (no incident created)	233 statements forwarded to agents and officers; 129 unique incidents	61 Ongoing (114 statements)
		1 Forwarded for prosecution (1 statement)
		3 Written Warnings issued (5 statements)
		2 Summary Settlements paid (4 statements)
		25 Compliance Assistance Provided (52 statements)
		37 Closed - No OLE Action (57 statements)

Table 7.2. Statement types, numbers, and occurrences. For more detailed information regarding 2021 rates by sea days, incidents per deployment, and fishery-specific incidents, please refer to the 2021 Observer Program Annual Report.

Statement Type	Number statements	Occurrences
OLE Priority		
Harassment - Sexual	5	6
Interference/Sample Biasing	13	29
Intimidation; coercion; hostile work environment	13	31
Reasonable Assistance	15	168
Safety-NMFS	28	97
	74	331
Limited Access Programs		
AFA	5	5
A80	20	39
CP LL	1	2
Rockfish Program	1	1
IFQ Retention	15	103
	42	150
Protected Species		
Gulf of Alaska Salmon	7	57
A91	9	31
Halibut Deck Sorting	7	55
Prohibited Species - Mishandling	7	61
Marine Mammal-Feeding	1	1
Marine Mammal-Harassment	1	2
Seabird-Avoidance Measures	2	30
Seabird-Harassment	1	1
	35	238
Other		
Disruptive/Bothersome Behavior - Conflict		
Resolved	20	35
IR/IU	2	20
Record Keeping and Reporting	47	458
Restricted Access	5	39
Failure to notify	11	34
Inadequate Accommodations	10	22
Contractor problems	8	12
Miscellaneous Violations	8	26
	111	646