

NOAA Office of Law Enforcement Alaska Enforcement Division

June Report
To
North Pacific Fisheries Management Council



October 2019 to March 2020

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

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

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1. Enforcement Operational Highlights

From October 1, 2019 to March 31, 2020, 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 provides the benefits of diverse enforcement opportunities and outreach.

An enforcement officer teamed with Kotzebue Air Patrol for Marine Mammal Stranding and NPS to conduct surveillance on the ongoing mortality of Ice Seals. Unfortunately, high winds and low visibility prevented the planned aerial surveys of recent standings. However, two land patrols were completed along the Baldwin Peninsula with no stranding's of marine mammals or birds found.

An enforcement officer participated in a 20-day patrol on the AWT Patrol Vessel (PV) Stimson in January. Port visits included Dutch Harbor, Akutan, Lost Harbor, False Pass, King Cove, and Sand Point. 35 vessels were boarded and three processors inspected. Multiple observers were contacted and eight observer complaints investigated. Enforcement actions were issued for failing to transmit VMS, failure to have an FFP as required, and logbook record keeping issues.



In January an AKD special agent along with other agents and officers from OLE conducted the first-ever Port State Measures Agreement (PSMA) Inspector Workshop in South America. This workshop became the main story on the "Network of Exchange of information and experiences among countries of Latin America and the Caribbean to Prevent, Discourage, and Eliminate IUU Fishing" website. OLE trained 21 Peruvian and two Ecuadorian fisheries inspectors on conducting PSMA inspections.

Three special agents and two enforcement officers participated in the Annual Observer Pulse Operation in Dutch Harbor. 35 individual vessels were contacted and multiple cases were furthered or resolved. 19 of 22 halibut deck sorting vessels were boarded to review inspection



reports, videos, and discuss new regulatory requirements. 230 individual observer complaints were addressed during the operation.

Following the Annual Observer Operation, an enforcement officer conducted a 19-day patrol onboard the PV Stimson from Kodiak, AK to Adak, AK. The processing plant in Adak was inspected. 17 vessels were boarded, resulting in

two federal fisheries violations, and one state fishery violation. Additionally, over 100 P-cod pots were checked resulting in 10 state gear violations.

2. Outreach and Education

The NOAA OLE outreach and education efforts facilitate responsible and sustainable use of marine resources. NOAA agents and officers visit 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 October 1, 2019 to March 31, 2020.



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

Date	Location	Description
9/28-10/1/2019	Kotzebue, AK	An enforcement officer met with Kotzebue environment protection staff to discuss the seal die off, common stranding's periods, and outreach to local hunters to avoid disturbing seal activities.

9/29-10/3/2019	Reno, NV	A special agent, enforcement officer and observer liaison contractor participated in the American Fisheries Society conference. SA Smith chaired a symposium titled: Collaboration to Ensure a Safe and Secure Work Environment for Observers. They gave four presentations titled: <i>The Frequency of Safety and Harassment Type Violations, and Factors that Impede Disclosure; The Three-Legged Stool of Risk Reduction: A Multidimensional and Collaborative Approach to Educating Suitable Targets, Involving Capable Guardians, and Deterring Likely Offenders; Improving Safety for Observers in the Port of Dutch Harbor, Alaska;</i> and <i>The Effect of Perceptual Biases on Fishery Observers.</i>
10/13/2019	Dutch Harbor, AK	Enforcement officers attended the 2019 Bering Sea Crabbers Association meeting held at the Grand Aleutian Hotel. Questions were answered concerning regulatory guidance from vessel captains participating in the upcoming Red King Crab season.
10/28-10/30/2019	Anchorage, AK	A special agent attended the Alaska Eskimo Whaling Commission meeting in Anchorage. The agent answered questions and discussed AKD's position and standard operating procedures regarding whale takes in accordance with the recently amended co-management agreement
10/31-11/03/2019	Sitka, AK	Two enforcement officers and a special agent set up an information booth at the annual Sitka Whale Fest to inform the public about the various roles of OLE in regards to whales and other marine mammals as well as the federal regulations OLE enforces. Approximately 300 persons visited the OLE booth.
11/20-11/24/2019	Seattle, WA	Enforcement officers participated in Marine Expo and provided outreach and education materials to participants.
2/03-2/07/2020	Anchorage, AK	Enforcement officers and agents participated in the International Pacific Halibut Commission (IPHC) meeting.

2/20-2/23/2020	Anchorage, AK	Two enforcement officers attended the Anchorage Boat Show and operated the NOAA OLE booth with visits from 300 + participants.
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3. Case Updates

Notices of Violation and Assessment

The NOAA Office of General Counsel, 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 at which the government must prove liability by a preponderance of the evidence.

AK1708987 – Bradley Stewart Haynes (vessel owner/vessel operator/IFQ permit holder) and Gregory Beam (IFQ permit holder) were charged under the Northern Pacific Halibut Act and the Magnuson-Stevens Act with IFQ two-area violations and for making false statements. A \$195,555.34 NOVA was issued.

AK1805495 – Michael Sharrah (vessel owner/operator) and Kyla Young (IFQ permit holder) were charged under the Northern Pacific Halibut Act with taking and possessing at least sixteen undersized Pacific halibut. A \$6,000 NOVA was issued.

AK1606346 – Afanasy Basargin was charged under the Northern Pacific Halibut Act for unlawfully selling 150 pounds of subsistence-caught, sport-caught, or commercially-caught Pacific halibut to undercover officers. A \$5,900 NOVA was issued.

AK1806496A – Bristol Leader Fisheries, LLC and Alaskan Leader Fisheries, LLC (vessel owners) and Curtis Foster (chief engineer) were charged under the Magnuson-Stevens Act with eight counts of unlawfully making adjustments to the vessel’s flow scale. A \$191,773 NOVA was issued.

AK1806496B – Bristol Leader Fisheries, LLC and Alaskan Leader Fisheries, LLC (vessel owners) and Baz Lloyd (vessel operator) were charged under the Magnuson-Stevens Act with failing to sign the at-sea scale test report form. A \$5,750 NOVA was issued.

AK1806859 – Todd Monson (charter guide), Baranof Fishing Excursions, LLC (charter business owner), and Slagle, LLC (vessel owner) were charged under the Northern Pacific Halibut Act for

exceeding the angler limit on a charter halibut permit on one occasion. Respondent Monson failed to respond to a summary settlement offer. A \$1,500 NOVA was issued.

AK1900767 – Courtney Noral Fisheries, LLC (vessel owner) and Duke My Ogata (vessel operator) were charged under the Magnuson-Stevens Act with five maximum retainable amount (MRA) violations. A \$14,710.66 NOVA was issued.

AK1803714 – Nazary Basargin (vessel owner) and Vonifonti Basargin (vessel operator/IFQ permit holder) were charged under the Northern Pacific Halibut Act for landing one undersized halibut. Respondents failed to respond to summary settlement offers. A \$500 NOVA was issued.

Cases Settled

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

AK1802383A – A \$5,750 Magnuson-Stevens Act NOVA was settled for \$5,175. The NOVA charged William Wahl (vessel operator) and Wahl Fisheries, LLC (vessel owner) with retaining 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.

AK1802383B – A \$5,750 Magnuson-Stevens Act NOVA was settled for \$5,175. The NOVA charged Stephen Rhoads (IFQ permit holder) with failing to be onboard the vessel for the entire fishing trip.

AK1804443 – A \$2,200 Northern Pacific Halibut Act NOVA was settled for \$1,980. The NOVA charged Jon Greenway (IFQ permit holder) and Hat, LLC (vessel owner) for failing to maintain an accurate log of IFQ halibut fishing operations.

AK1805495 – A \$6,000 Northern Pacific Halibut Act NOVA was settled for \$5,400. The NOVA charged Michael Sharrah (vessel owner/operator) and Kyla Young (IFQ permit holder) with taking and possessing at least sixteen undersized Pacific halibut.

AK1806496A – A \$191,773 Magnuson-Stevens Act NOVA was settled for \$177,373. The NOVA charged Bristol Leader Fisheries, LLC and Alaskan Leader Fisheries, LLC (vessel owners) and Curtis Foster (chief engineer) with eight counts of unlawfully making adjustments to the vessel's flow scale.

AK1806496B – A \$5,750 Magnuson-Stevens Act NOVA was settled for \$5,175. The NOVA charged Bristol Leader Fisheries, LLC and Alaskan Leader Fisheries, LLC (vessel owners) and Baz Lloyd (vessel operator) with failing to sign the at-sea scale test report form.

AK1807535 – A \$7,000 Magnuson-Stevens Act NOVA settled for \$6,300. The NOVA charged John McCarthy (vessel operator) and Pacstar, Inc. (vessel owner) with an MRA violation.

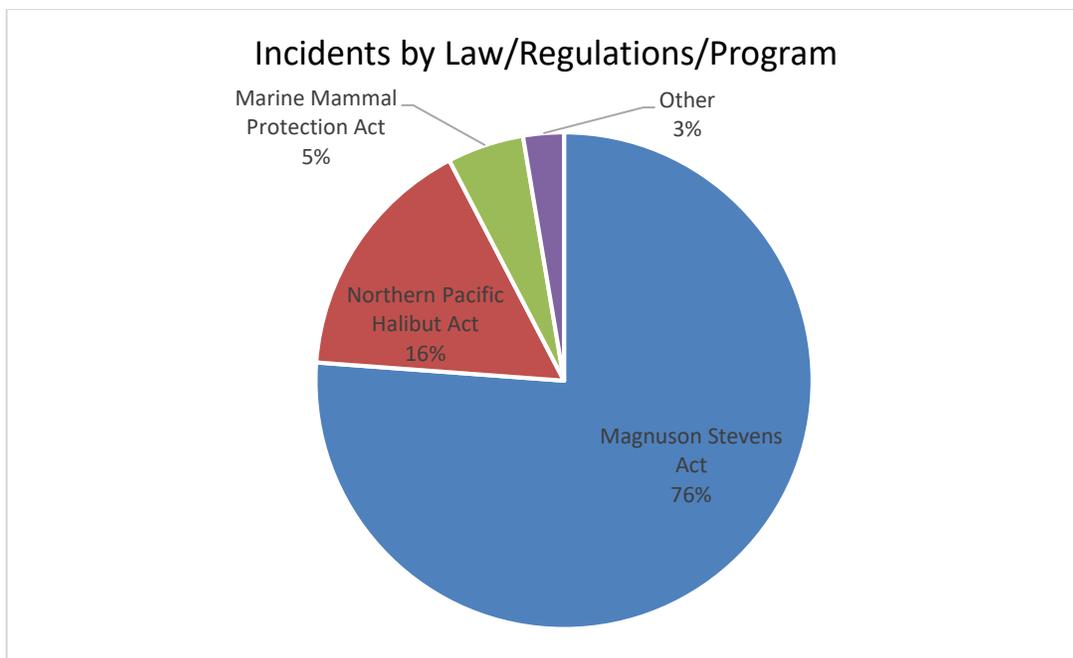
AK1902785 – A \$17,600 Northern Pacific Halibut Act NOVA settled for \$15,840. The NOVA charged Sylvia Ettefagh (vessel operator/IFQ permit holder) and Sylver Fishing Company (vessel owner) with failing to continuously and completely offload all halibut onboard at a single offload site and submitting an inaccurate statement regarding halibut retained for personal use

4. Incident and Summary Settlement Information

From October 1, 2019 to March, 31, 2020 NOAA officers and agents opened 980 incidents including 746 Magnuson Stevens Act, 159 Northern Pacific Halibut Act, 49 Marine Mammal Protection Act, and 26 regarding other acts/regulations (Endangered Species Act, Lacey Act, High Seas Fisheries Compliance Act, Whaling Convention Act, AK State Law/Regulations and Other Federal Law/Regulations). (Figure 4.1)

The majority of incidents were closed or completed- of 840 closed incidents, 270 recorded no violation or minor/mitigated violation(s). 105 incidents remained under investigation. (Figures 4.2 and 4.3)

Figure 4.1 – Incidents by percent **October 1, 2019 to March 31, 2020** categorized by primary law, program, or regulation type.



**Other includes Endangered Species Act, Lacey Act, High Seas Fisheries Compliance Act, Whaling Convention Act, State Law/Regulations, and Other Federal Law/Regulations*

Figure 4.2 – Incident dispositions for incidents created October 1, 2019 to March 31, 2020

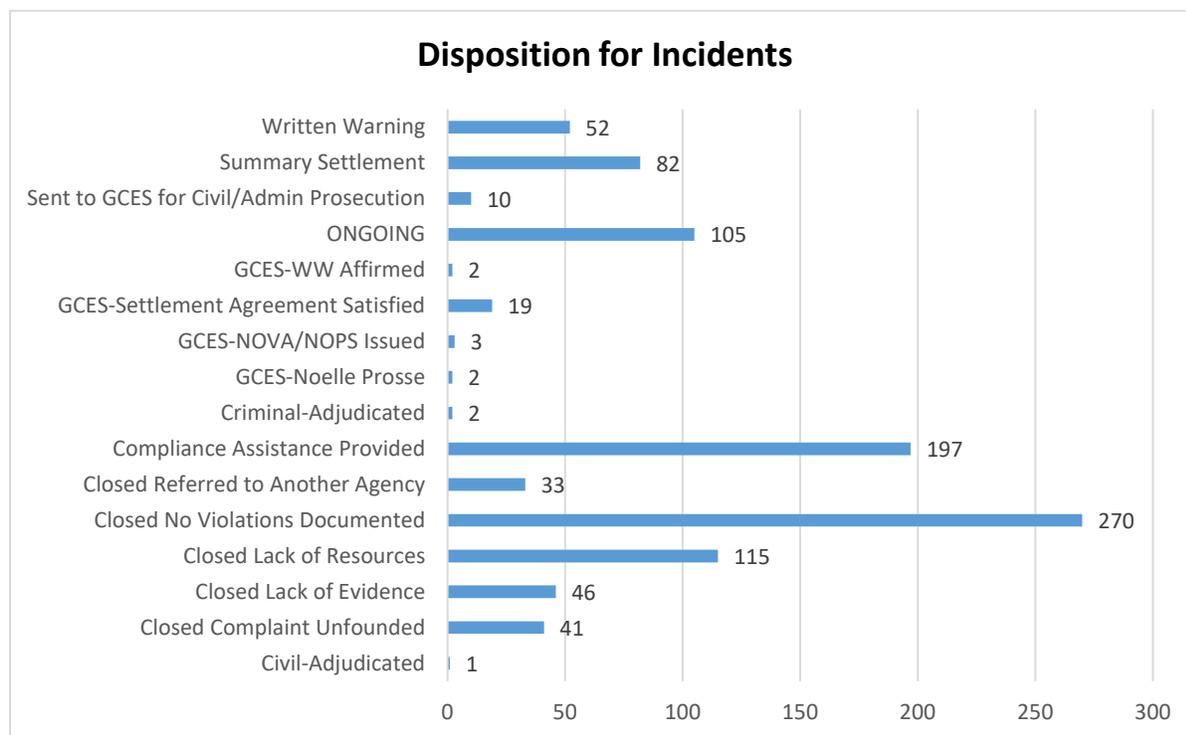
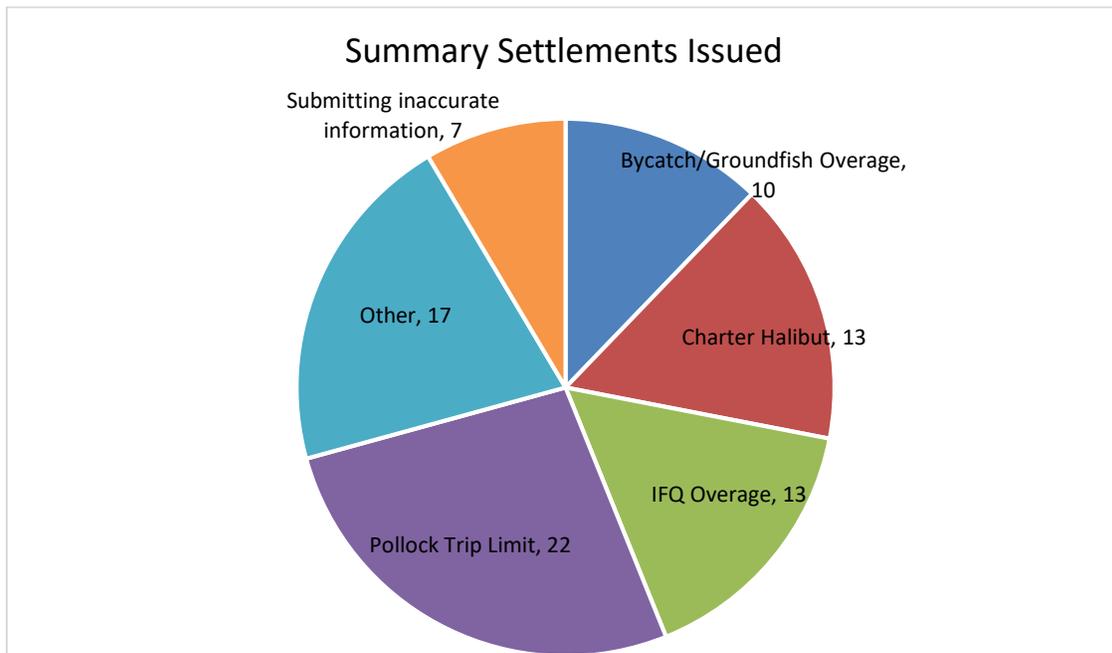


Figure 4.3 Summary Settlements Issued October 1, 2019 to March 31, 2020



** Other includes no FFP, Prohibited Species mishandling, Failure to operate VMS, Undersized halibut, Retained in closed season, and Failing to submit/submitted inaccurate information*

5. Sablefish landing report violations

During audits and interviews, enforcement officers and special agents noticed IFQ Sablefish landings had been submitted inaccurately by processors resulting in inaccurate landing reports. From 2009 and 2014 OLE provided outreach and education to industry, addressing these same issues with processors and fishermen. After 36 audits, over 300 landings were identified with under reported sablefish. Multiple enforcement actions were issued.

6. Observer Program

OLE resolved 13 cases consisting of 35 separate observer statements through the issuance of Written Warnings. Some of the violations include the mishandling of prohibited species, seabird harassment (the use of seal bombs to scare them), presorting of catch, catch running over the flowscale when the flowscale was not working properly, inadequate sample station, failure to notify the observer prior to bringing fish on board, and salmon passing the last point of sorting.

There were eight cases consisting of 13 statements resolved through the issuance of a summary settlement monetary penalties. Some of the violations include failure to place salmon into the approved salmon storage bin, mishandling of prohibited species, inadequate sample stations, and inadequate accommodation. Multiple Summary Settlements were also issued for safety complaints such as failure to conduct a proper lookout/wheel watch.

Two cases were forwarded to the GCES for prosecution. One of these cases involved the intentional discard of salmon by an AFA catcher vessel. The other case involved an A80 vessel failing to conduct flowscale tests properly on multiple occasions, failure to notify the observer of haulback, and multiple instances of prohibited species mishandling. More information can be found in Chapter 5 of the Observer Annual Report.

Table 6.1 Status of Statements and Incidents - The table below records statements and incidents. ‘Ongoing’ typically involves complex investigations. ‘No OLE Action’ includes incidents forwarded to another agency, incidents determined not to be a violation after an investigation, incidents that were closed due to a lack of personnel to conduct an investigation, and incidents closed as ‘info only’. Many info only incidents involved observer and operator communication resulting in voluntary compliance at sea.

Statements	Incidents	Statuses
906 Statements received and reviewed in 2019 79 statements did not document an actual violation 827 statements were forwarded to agents and officers	384 new incidents created (750 statements) 77 statements were added to 14 open incidents	58 Ongoing (149 statements)
		2 Forwarded for prosecution (6 statements)
		13 Written Warnings issued (35 statements)
		8 Summary Settlements issued (13 statements)
		122 Compliance assistance provided (329 statements)
		200 Closed - No OLE Action (295 statements)
<i>Excludes 121 Observer Coverage potential violations reported by Agency Staff.</i>	<i>Multiple statements are often combined into a single incident if the same vessel, operator, or company is involved.</i>	

*As of 08 April 2020