

National Marine Fisheries Service  
Alaska Enforcement Division

**ENFORCEMENT REPORT**



January 01, 2003 – June 04, 2003

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/Alaska/>

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



## **FOR THE PERIOD 01/01/2003 THROUGH 6/4/2003**

### **National Marine Fisheries Service Alaska Enforcement Division**

#### **INTRODUCTION:**

This report covers the first half of 2003, and highlights six of our seven priorities as well as significant case resolutions. To date, the Alaskan Enforcement Division (AED) has opened 393 new cases for a total of 479 open cases at this time.

We have made considerable progress in recruiting with four new officers and three special agents selected since January 1. We have two officer candidates under going background clearances and one vacancy created when an officer transferred to the Southwest Division in February. Training will be a significant focus during the next half of the year.

#### **VESSEL MONITORING SYSTEMS (VMS):**

VMS remains a key component to monitoring fishing restrictions in Steller sea lion protection and forage areas. The number of vessels in the program continues to grow. Since January 1, 2003 there have been 110 new vessel unit activations for a total of 466 activations to date. There have been 22 cases initiated from VMS data, 11 of those for No-Transit area incursions. Of these 11, one was closed with no violation, one remains under investigation, eight were issued summary settlements, and one went to General Counsel, which resulted in a three count NOVA. Six of the eight summary settlement cases paid \$2,500 fines; two are pending. The NOVA case settled for \$6,650.

Nine cases have been opened for failure to comply with VMS requirements. One was closed due to lack of evidence; four are pending General Counsel review while four are on going investigations.

The International Pacific Halibut Commission (IPHC) has required vessel clearances since the 1960's to discourage illegal fishing and false reporting of catch harvested in IPHC Area 4. Recently, ruling has gone into effect that any vessel that carries a transmitting VMS transmitter while fishing for halibut in Area 4A, 4B, 4C, or 4D, and until all halibut caught in any of these areas is landed, is exempt from the IPHC Area 4 vessel clearance requirements, provided that the vessel operator properly registers the VMS transmitter with OLE.

INMARSAT C based Thrane & Thrane 3022D units, while not yet type approved in the Federal Register, are now being allowed. Four units are in service. This technology has

the ability to provide two-way communications, enhancing our enforcement effort as well as enhancing vessel communications with shoreside owners and managers.

## **HIGHLIGHTS OF PRIORITY ISSUES:**

### ***Illegal Crab Seizures***

In late January, cases were initiated against five U.S. crab vessels for fishing in Russian waters. The illegal crab was seized and each received a NOVA for violation of the Magnuson-Stevenson Act. The seized crab was sold for more than \$348, 000.

Tentative settlements have been reached in 4 of the 5 Russian crab cases and include penalties and forfeiture of proceeds from the sale of the illegal crab:

In the fifth case, General Counsel has issued a NOVA to the F/V *Pacific Star* for \$12,500 in penalties and forfeiture of \$126,101 in proceeds.

### **1. OBSERVER-RELATED OFFENSES**

NOAA Office of General Counsel in Juneau fined the operator of the F/V DONA MARTITA (Antonio A DoNovo) for sexual harassment of an observer under the Magnuson-Stevens Fisheries Conservation & Management Act. The settlement was \$40,000 and \$4,815 in restitution to the victim. The agreement also requires DoNovo to attend formal sexual harassment training.

NOAA Office of General Counsel issued a Notice of Violation and Assessment for \$136,000 to the owners and operator of the F/V ALASKAN LEADER for interfering with observers by creating and intimidating, hostile, or offensive work environment.

### **Enforcement Cases / Statistics:**

Observers have written 164 affidavits. This is nearly double the number of affidavits compared to the same time period last year. This increase is primarily due to enhanced regulatory awareness of Observer Program staff. The most significant increase has been in safety, marine pollution, and marine casualty affidavits (69 in 2002 versus 54 to date in 2003).

The following is a breakdown by the category of violations.

Failure to Provide Assistance	2
Contractor	5
Failure to Notify	18
Harassment-Interfere/Intimidate	11
Harassment-Other	1
Harassment-Sexual	1
Inadequate Accommodations	8
Improved Retention/Utilization	13
Marine Casualty	12
Marpol	21
Miscellaneous	5
Multi-Species CDQ	4
Prohibited Species Mishandling	15
Prohibited Species Retaining	2
Record keeping & Reporting	5
Safety	24
Sample Bias	17

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**Total 164**

The 164 affidavits resulted in 82 cases. In addition, 6 cases were opened against observers for use of illegal drugs while on contract. All six observers are suspended pending the final outcome of the investigation.

Special Agents working directly with the Observer Program continue to train new and returning observers in their compliance responsibilities. We addressed five three-week new observer classes and 10 four-day refresher classes. Staff continues to update and upgrade our training efforts to reflect regulatory changes.

AED has been working with the Observer Program to implement changes to the Observer Program's NORPAC Database and access for AED Agents and Officers. Requested changes to NORPAC have been accomplished and are in the testing phase with implementation anticipated this summer. These changes should eliminate the need for enforcement to maintain a separate database to track affidavits and create reports and promote efficiency.

## **2. COOK INLET BELUGAS**

The 2003 Cook Inlet Beluga Whale Enforcement Plan was completed and efforts began during April. We put in more than 26 hours of outreach and education and made more than 3,700 contacts to increase the public and governmental agency awareness for the Protection of Cook Inlet Beluga Whales. More than 33 patrol hours via land, sea, and air were dedicated to investigate reports or prevent occurrences of harassment or unlawful

take of the Cook Inlet Belugas. Currently no unauthorized takes of beluga whales have been documented.

### 3. STELLER SEA LION PROTECTION MEASURES

AED's efforts to protect Steller Sea lions have been mainly VMS monitoring. Our Kodiak office utilized approximately 2 hrs weekly to conduct routine inquiries using the VMS database, looking at fishing activities in or near Western District SSL directed fishing closure areas.

In addition to VMS efforts, 10 cases were opened involving the harassment and unlawful feeding of Steller sea lions. Of these, four are still under investigation. Three cases of illegal sea lion takes in southeast Alaska were closed for lack of evidence. One Summary Settlement and one verbal warning were issued in Kodiak.

Kodiak personnel conducted 8 hours of surface patrols in conjunction with the state and 12 hours of aerial patrols with the US Coast Guard. Dutch Harbor personnel performed extensive briefings to plant personnel and management concerning Steller sea lion protection regulations and prohibitions.

#### ***SSL Rookery Incursions***

The F/V *Tracey Anne* incursion into the SSL rookery at Petrel Point was resolved via NOVA and payment of a \$6,650 fine. The fishing vessels *Poseidon*, *Pacific Ram*, *Icy Mist* and *Exceller* encroached into Akun Island, *Nordic Fury* into the SSL rookery at Akutan Island and *Northwest Explorer* into Kasatochi SSL Rookery. Each resulted in \$2,500.00 Summary Settlement payments.

### 4. SEABIRD AVOIDANCE

There have been three cases opened involving seabird avoidance issues. Two have been dismissed with no violations and the third, injury of a seabird, is currently under investigation.

### 5. RECORD KEEPING AND REPORTING VIOLATIONS

In late 2002, the owner/operator of the F/V *Rebecca Irene* was issued a NOVA and Notice of Permit Sanction for directing the crew of the vessel to interfere with observer sampling procedures by removing halibut from the deck prior to observer sampling. The hearing date has been moved from July to November.

## ***Offload Audits***

AED Enforcement Officers and Special Agents conducted 138 vessel boardings and 13 plant inspections in 6 ports in Alaska. Overall, vessels had a 72% compliance rate. This number includes minor violations resulting in Fix-it-Notices and both verbal and written warnings. There was an overall 69% compliance rate for plant inspections.

In March, a team of 10 agents and officers conducted offload audits of Pollock catcher processors in Dutch Harbor. Complete accounting of three large offloads was completed. These are the first full audits in more than two years. Each offload can take more than 24 hours and involves thousands of boxes of fish. Each vessel had numerous discrepancies to be investigated and resolved. Two cases were opened immediately. The first resulted in three warnings and two summary settlements totaling \$450.00. The second case has gone on to General Counsel for NOVA, while a third investigation is pending.

## **6. IFQ SPECIFIC VIOLATIONS**

In southeast Alaska, an employee of a registered buyer was cited for submitting fraudulent IFQ landing reports (benefiting the employee) on two occasions in 2002. Another investigation documenting an individual submitting false information to obtain an IFQ transfer eligibility certificate was completed. Both cases have been submitted to NOAA General Counsel.

### ***IFQ regulations***

Juneau Special Agents met with our USCG partners and local processors early in the fishing season to improve the understanding of regulations regarding trucking IFQ fish away from the landing site and to gain better compliance. Enforcement of this regulation has been a problem in the past. As a result of these efforts, industry relations, understanding of the regulations, and compliance are expected to improve significantly in 2003.

### ***IFQ reporting errors***

As a result of an investigation into IFQ reporting errors, Westward Seafoods was fined \$8,000 for 13 infractions.

## **7. MARITIME BOUNDARY FOREIGN FISHING VESSEL SEIZURES**

No foreign fishing vessels have been seized in 2003.

## **COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)**

### ***Outreach and Education efforts***

#### ***COMFISH***

COMFISH is the largest commercial fishing event in Alaska. AED completed several broad based outreach efforts during this 3-day event. Both officers and agents of Kodiak field office staffed a booth. VMS, flatfish IR/IU, bird avoidance and permitting issues were the primary topics of interest.

#### ***Anchorage Boat Show***

The ten-day Anchorage Boat Show attracts boaters from all over Alaska. AED manned a booth focusing on our efforts on beluga whales, legal and illegal baleen from bowhead whales and registration of marine mammal parts. More than 700 contacts were made.

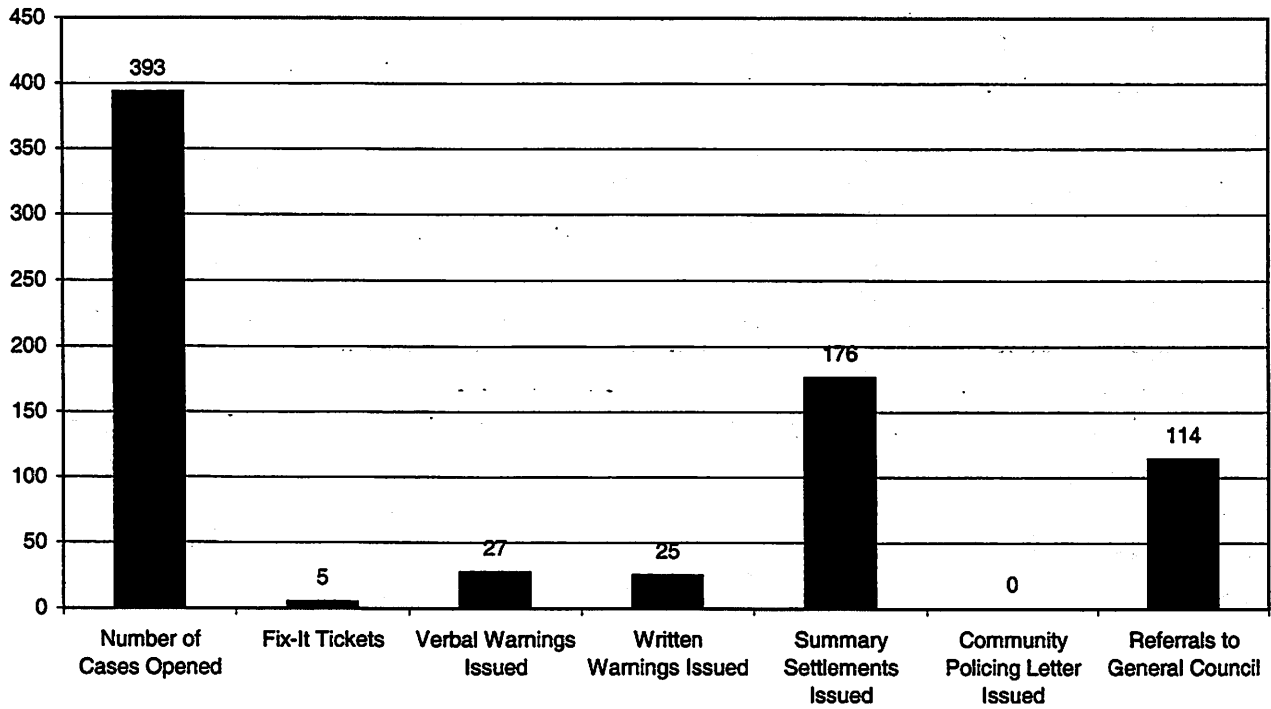
#### ***Great Alaskan Sportsman Show***

We made more than 3000 contacts during this very large show. We addressed Beluga whale conservation, marine mammal issues and answered a number of questions about halibut sport fishing.

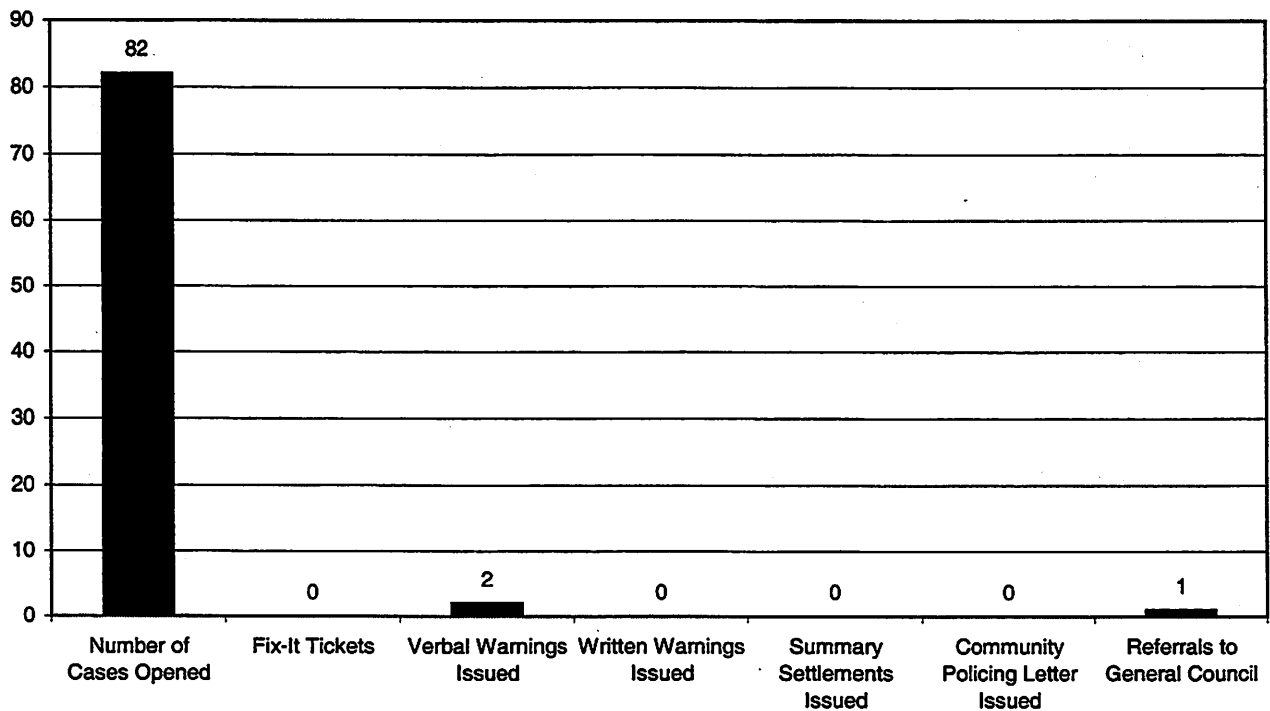
Kodiak staff logged many COPPS hours during this period. They addressed the annual meeting of Alaska Driggers Association, discussing applicable fishing regulations and changes for 2003. They participated in WhaleFest 2003 in Kodiak. Marine mammal approach, stranding and hard-part collection regulations were the primary focus. They attended the annual meeting of the NSEDC CDQ group, in Nome Alaska where they addressed corporate officers, permit holders, and plant personnel regarding CDQ fishing regulations.

AED staff accompanied a state of AK patrol vessel and teamed with state officers in presenting a program to over 200 elementary school children in 5 Kodiak Island villages. The program focused on the agencies roles in fisheries management and enforcement.

**Alaska Region Case Actions for All Cases  
January 01, 2003 - June 04, 2003**

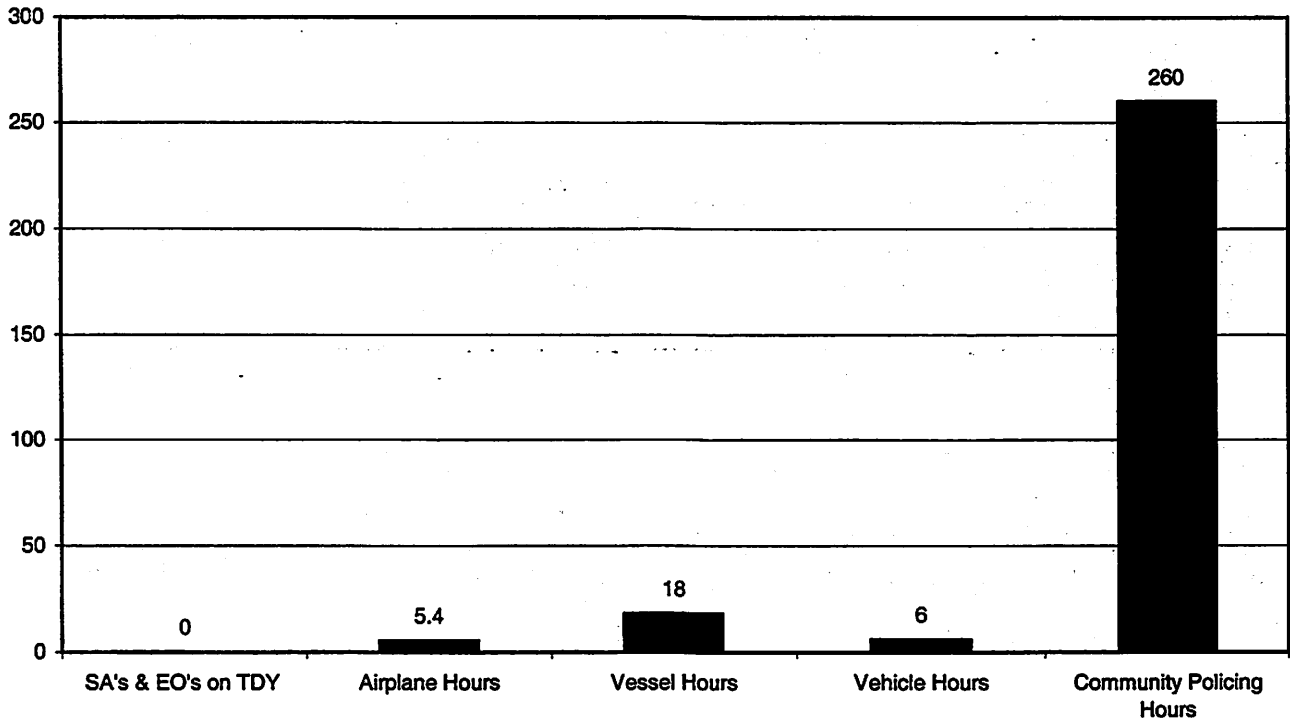


**Alaska Region Case Actions for Observer Cases  
January 01, 2003 - June 04, 2003**

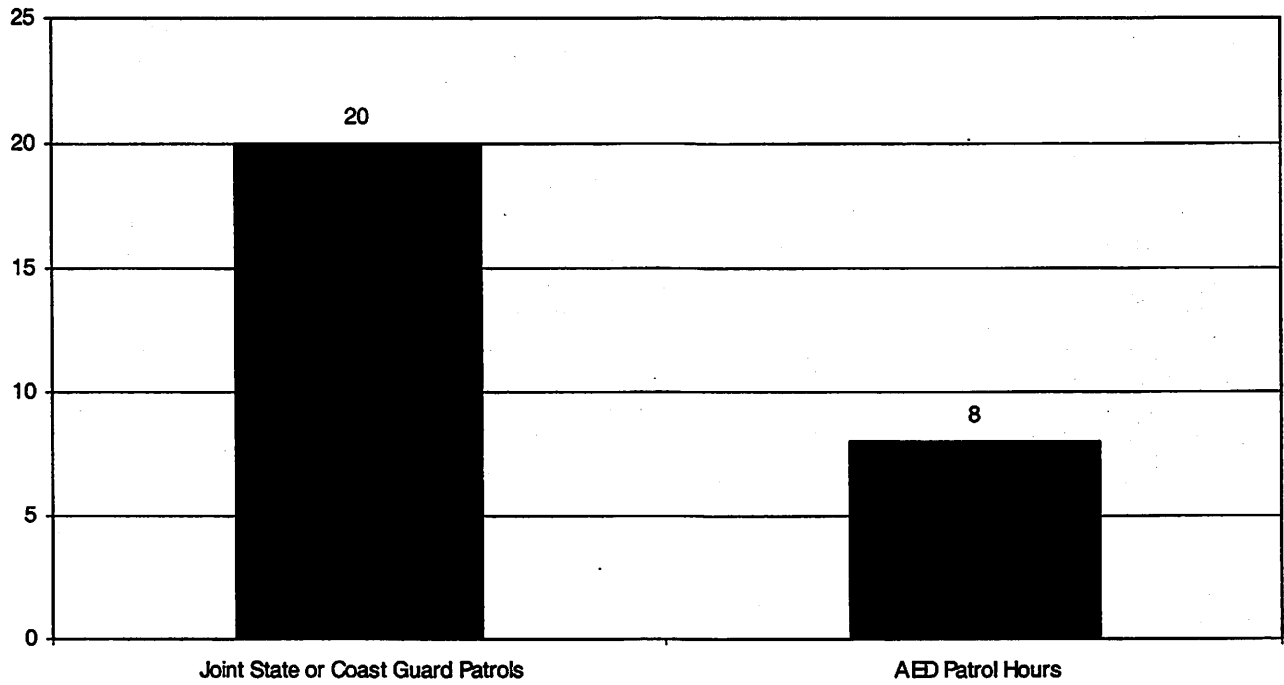




**Enforcement Effort for Beluga Patrols  
January 01, 2003 - June 04, 2003**



**Enforcement Effort for Stellar Sea Lions  
January 01, 2003 - June 04, 2003**





## ENFORCEMENT COMMITTEE REPORT

June 10, 2003

The Council's Enforcement Committee met on Tuesday night and discussed enforcement aspects of two issues: commercial sale of subsistence caught halibut, and monitoring and enforcement of a proposed minimum groundfish retention standard (GRS). Committee members in attendance were Roy Hyder (Chair), Rich Preston (USCG), Gary Galbraith/Kenneth Hansen (NMFS Enforcement), Sue Salvesson (NMFS Fisheries Management), Loren Smoker (NOAA GC), and Jim Cockrell (State FWP). Also attending were Jim Balsiger, Chris Oliver, Jeff Hartman, Jay Ginter, Marcus Hartley, Dave Wood, Bob Mikol, Bob Vence, and Al McCabe.

### Halibut Subsistence

The Committee reviewed the issue recently highlighted in the Kodiak area of the sale of subsistence caught halibut, and heard from NMFS Enforcement that such sales are essentially allowed, up to the \$400 customary limit approved by the Council (even though such sale may have been implied by the Council's decision, it was clear that the Council intent was not to create a new commercial fishery). In this instance, not only is the public sale of halibut deemed problematic, the \$400 limit is likewise deemed to be not permissible. It is debatable whether the current regulations clearly prohibit advertising and solicitation for commercial sale.

Bottom line is that the Council has to either accept that such sale of halibut will occur (recognizing the difficulties associated with enforcing the \$400 limit), or amend the program in some fashion, possibly prohibiting cash transactions with respect to subsistence caught halibut. The extent to which this may be a problem (incentives for increased overall catch and/or localized depletion) remains to be seen, and a report is expected next year through the subsistence harvest survey.

An additional issue was raised with respect to disposition of groundfish bycatch in the halibut subsistence fishery, and whether retention is allowed, in state and in federal waters. State and federal subsistence regulations are inconsistent in this regard, but neither technically allow such retention. Numerous inquiries are being fielded by state and federal enforcement officers. The Committee believes that resolution of this issue is necessary, as subsistence halibut harvesters need to know whether and under what conditions such bycatch may be retained. This issue may require a regulatory amendment and could be the subject of further discussion by the Enforcement Committee, as well as the Joint Protocol Committee and/or the Council's Subsistence Committee.

### Groundfish Retention Standard

The Committee reviewed several issues associated with the proposed GRS under IR/IU Amendment C, which are summarized in the June 10 memo from NMFS Enforcement (Ken Hansen). The Committee recommends that the Council seriously consider the complexities associated with enforcement of this program, including the limitations, caveats, and requirements outlined in that memo, when they take action on Amendment C, noting that NMFS Management and the Observer Program will need more time to resolve the data issues associated with implementation of such a program, depending on the Council's choices with regard to the options outlined in the analysis and in the June 10 memo.