

National Marine Fisheries Service
Office for Law Enforcement

ALASKA ENFORCEMENT DIVISION

**SEMI-ANNUAL REPORT
TO
NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL**



FY2017
October 2016- March 2017

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

http://www.nmfs.noaa.gov/ole/ak_alaska.html

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1. Enforcement Operational Highlights

From October 1, 2016 to March 31, 2017 the Alaska Enforcement Division (AKD) conducted several organized multi-day patrols. Two patrols were to St. Paul Island. On the first trip, two enforcement officers patrolled marine mammal rookies and boarded and inspected IFQ and CDQ vessels. Two verbal warnings were issued. On a second trip, two enforcement officers boarded fourteen catcher vessels targeting crab. Minor recordkeeping and reporting violations were noted and written warnings were issued. A state violation was found and transferred to the Alaska Wildlife Troopers.

AKD conducted two observer focused patrols in February. The first took place in Dutch Harbor and Akutan assisted by the U.S. Coast Guard (USCG), Unalaska Police Department, and U.S. Customs and Border Protection (CBP). One special agent and five enforcement officers addressed approximately 97 separate observer incidents, involving 90 different vessels. Approximately 50 incidents were resolved through compliance assistance or enforcement action. The remaining investigations are still ongoing. Several investigations involved alleged sexual harassment and/or hostile work environment. The second observer focused patrol was with Alaska Wildlife Troopers (AWT) onboard the P/V Stimson (pictured below). An officer and trooper inspected three processing facilities and boarded 23 vessels between Dutch Harbor and Kodiak. Officers issued 1 summary settlement, 5 written warnings, and 11 compliance assistance enforcement actions.

Four additional joint patrols were completed with AWT. The first was aboard the P/V Stimson. The crew boarded and inspected gear and records on eight commercial fishing vessels. Two enforcement actions were issued; one compliance assistance and one summary settlement.

In March, an enforcement officer participated in a 20-day, at-sea patrol with the Alaska Wildlife Troopers along the Aleutian Island chain. This patrol covered 2,744 nautical miles during extreme arctic weather. Enforcement conducted 5 seafood plant inspections, 12 at-sea boardings, 7 tramper inspections, 16 rookery patrols, and 49 state cod pot inspections. These efforts resulted



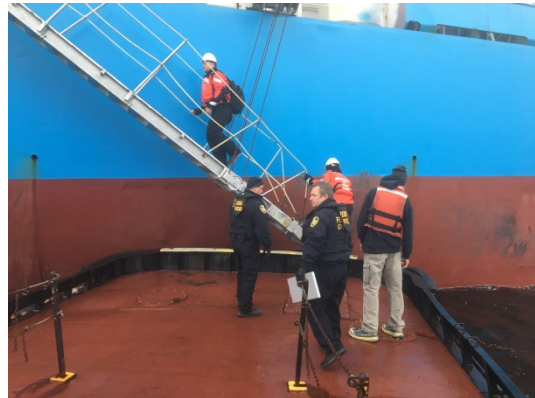
in 4 intelligence updates, 1 plant inspection violation, and multiple state violations. (Pictured below)



Left: EO conducting a trampo inspection **Center** Sea ice covering the P/V STIMSON and its Patrol Skiff, **Right:** fighting through 30 foot seas

The most recent joint patrols with AWT were onboard the P/V Courage beginning in Ketchikan and the P/V Moen out of Petersburg. The Ketchikan patrol focused on the Southeast Alaska dive fisheries. The Petersburg patrol focused on the state and federal commercial fishery enforcement. No notable violations were found.

Additional patrols involved USCG and CBP partners. An enforcement officer accompanied the cutter MORGENTHAU on a 9-day patrol in the Bering Sea. The team conducted nine domestic vessel boardings and a search and rescue for a crab vessel. Another multi-agency operation involved the boarding of a foreign transshipment vessel in Dutch Harbor by OLE officers, CBP, and USCG partners supported by the cutter MELLON (pictured right). The team conducted inspections of vessel cargo and records. The foreign transshipment vessel was found in possession of small amounts of undeclared product.



2. Charter Halibut Enforcement Update

OLE conducted an audit of Charter Halibut Logbook data submitted to the State of Alaska for the period of January 1, 2016 to July 31, 2016. This enforcement effort was a repeat of the same audit conducted in 2015. OLE issued the following enforcement actions based on the 2016 audit: 1 NOVA case referral, 31 summary settlements (compared with 250 in 2015), 18 written warnings, 7 compliance assistance, 1 fix-it ticket. Approximately 31 cases were under

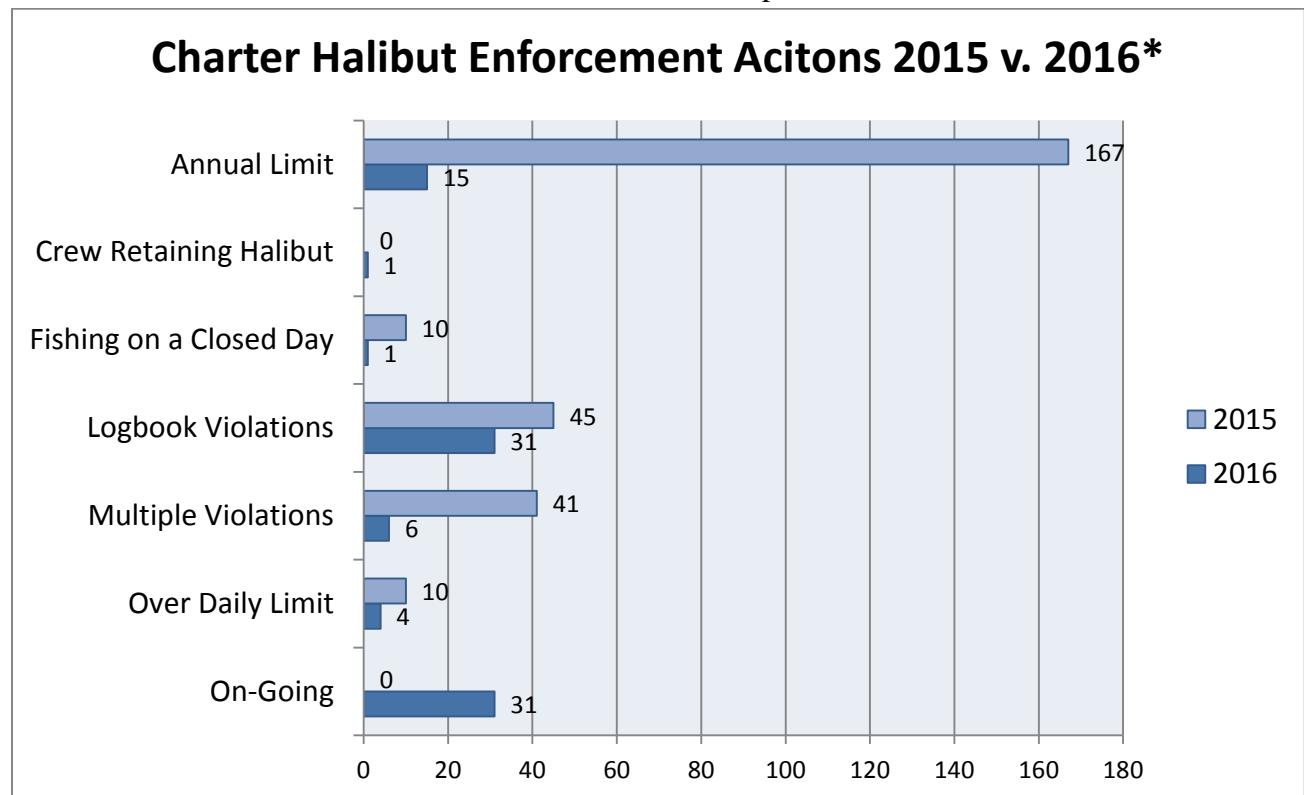
investigation at the time of the writing (See Table 2.1 - Charter Halibut Enforcement Actions 2015 v. 2016).

Offenses for 2016 audit cases included:

- Retaining over the annual or daily limit (21)
- Charter Halibut Guide logbook (31)
- Crew retaining halibut (1)
- Fishing on a closed day (1)
- Charters with multiple violations (4)

OLE has continued outreach efforts to the charter industry. Formal outreach was done at the Great Alaska Sportsman's Show, and the Kenai Peninsula Sport, Rec and Trade Show, and several other meetings in communities in South Central and Southeast Alaska. Outreach meetings were geared toward charter halibut operators, lodges, and guides to provide information and compliance assistance to participants. Officers also provided extensive compliance assistance and outreach during boardings, patrols, site visits, and other routine contacts.

Table 2.1 Charter Halibut Enforcement Actions 2015 compared with 2016 charter halibut cases.



*Enforcement Actions include NOVA, Summary Settlement, Warning, and Compliance assistance

3. Incidents and Summary Settlement Information

From October 1, 2016 to March 31, 2016 NOAA officers and agents opened 1885 incidents; 1468 incidents were related to the Magnuson Stevens Act; 286 Northern Pacific Halibut Act; and 131 Endangered Species Act, Marine Mammal Protection Act, the Lacey Act, and other federal laws combined (See Table 3.1). Of the 1885 incidents created, 1680 incidents were closed and 205 are under investigation. A total of 238 summary settlements were issued (see Table 3.2 and 3.3, respectively).

Table 3.1 – Incidents created between October 1, 2016 and March 31, 2017 categorized by primary Law, Program, or Regulation type.

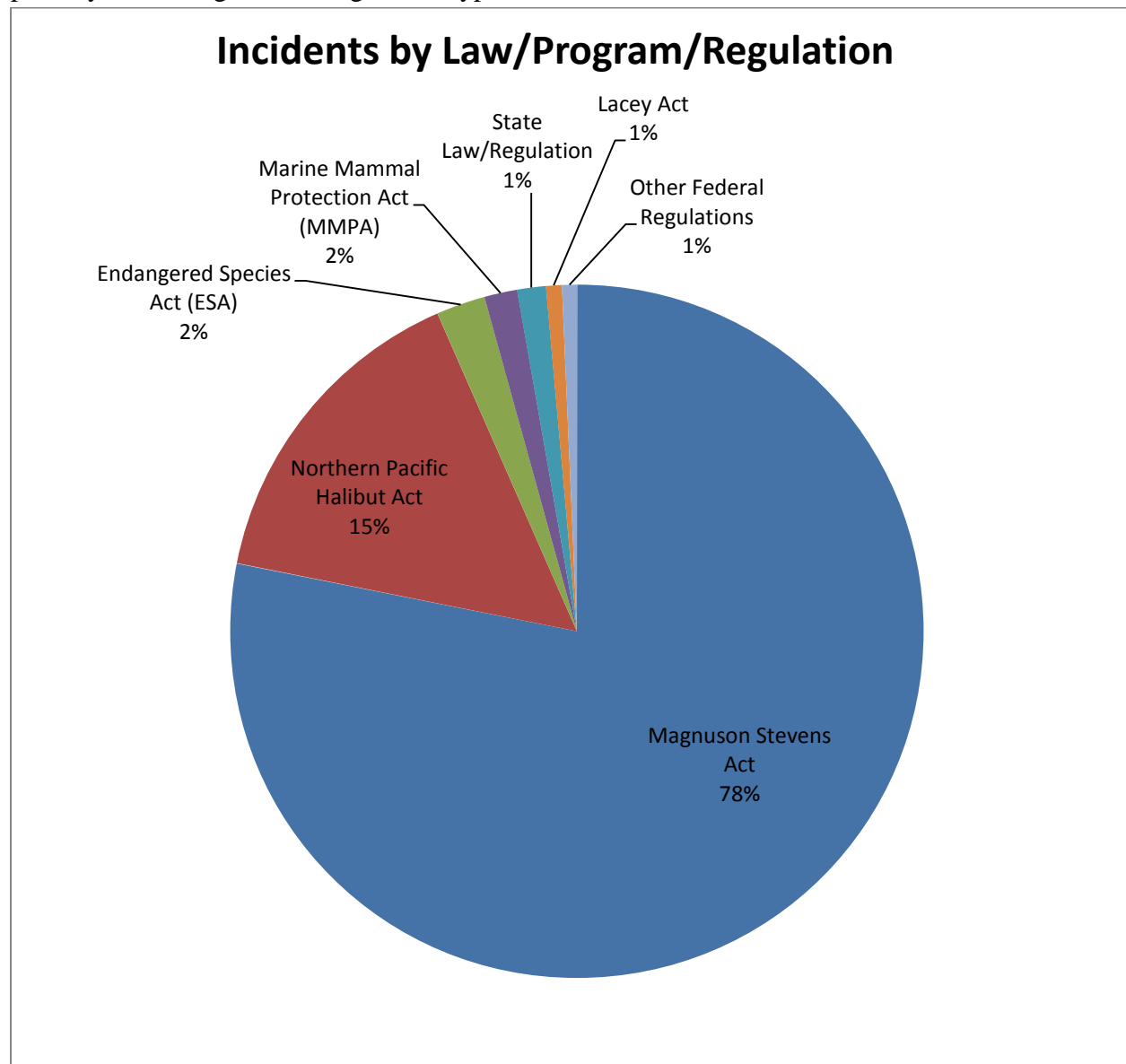
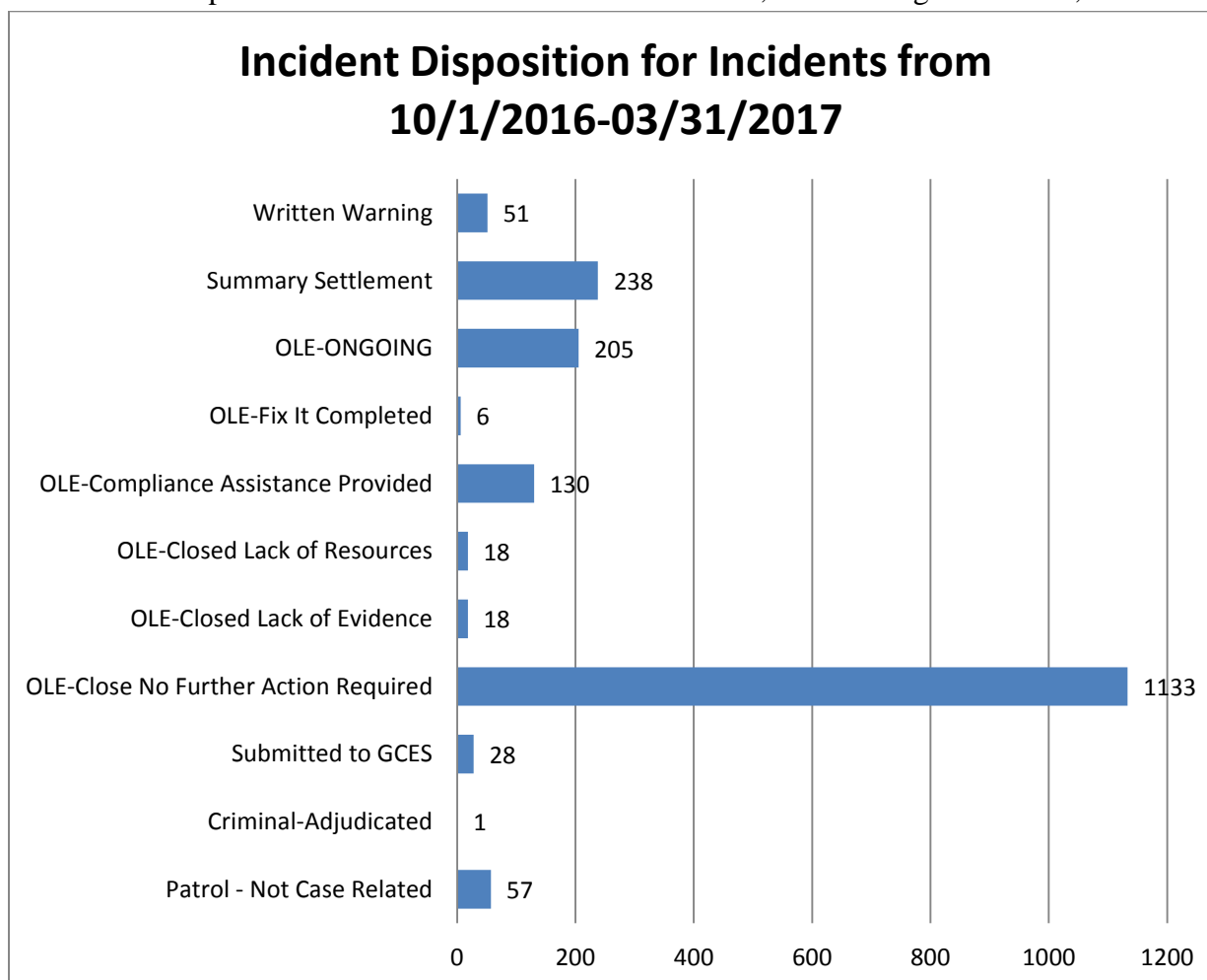
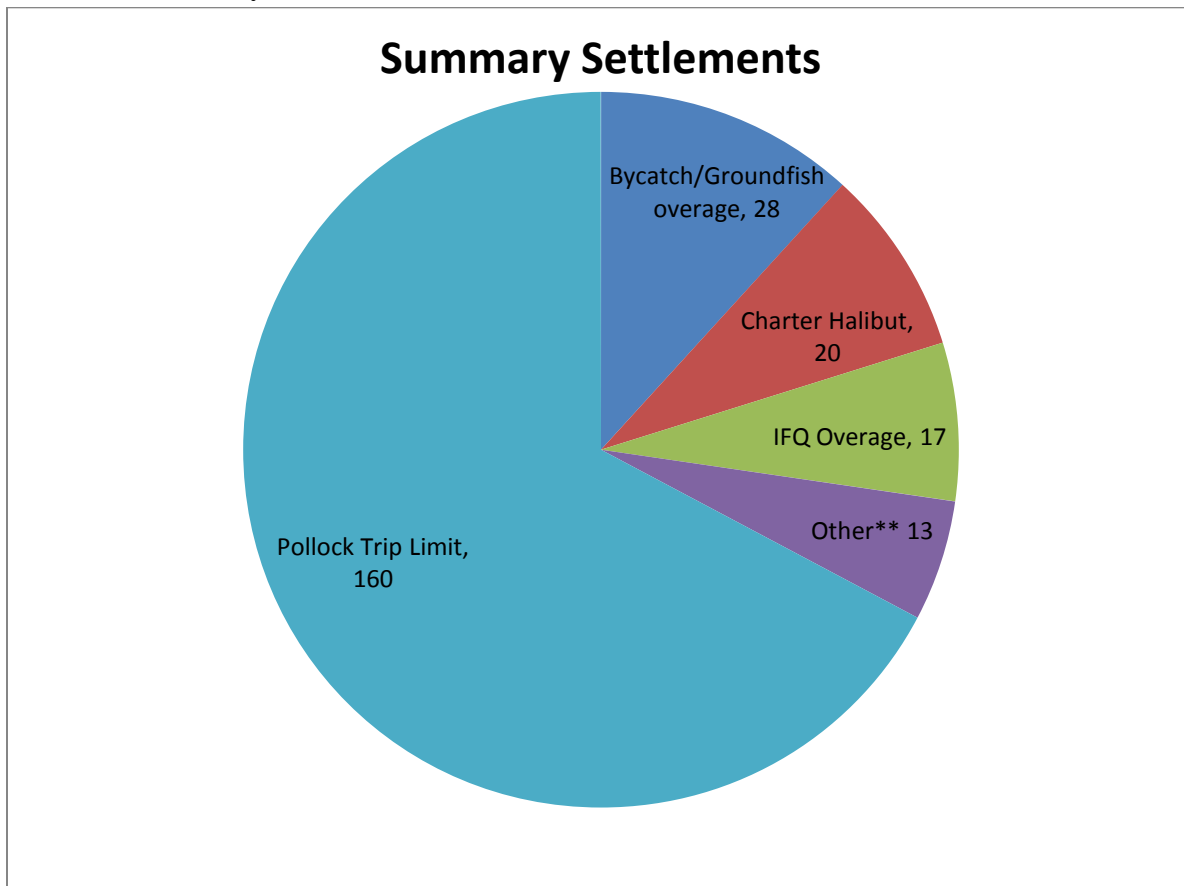


Table 3.2 – Dispositions for all incidents created October 1, 2016 through March 31, 2017



**No Further Action Required* includes compliance assistance (no violation), outreach, training, and individual contacts

Table 3.3 Summary Settlement breakout October 1, 2016 to March 31, 2017



**Other includes fish sale, incursion, permit, marine mammal feeding, ODDS, record keeping and reporting, and observer safety violations.

4. Observer Program Partnership Activities

AKD works closely with the U.S. Coast Guard, Alaska Wildlife Troopers, fishing industry, Observer Program and observer providers to address incidents that affect observers and observer work environments, safety, and sampling. Outreach interactions with observers are encouraged to allow reporting opportunities and to develop trust relationships with the observers. The addition of AKD field officers over the last two years (currently 14 total), will continue to improve AKD response and provide greater law enforcement visibility.

The Observer Program forwards statements of potential violations, and AKD evaluates and prioritizes. Most are forwarded for investigation or review by an AKD supervisor. Reports of assault, sexual harassment, interference/sample bias, intimidation, coercion, hostile work environment, and safety are among the highest OLE investigative priorities. AKD officers and agents investigate the most egregious complaints to identify if violation(s) occurred and to

determine the appropriate level of enforcement action. Many first offenses and low level infractions are handled by compliance assistance or issuance of a warning. AKD also utilizes observer statements to track compliance trends in order to help focus and prioritize enforcement efforts, outreach, training, and compliance assistance. See the 2016 Observer Program Annual Report for details.

As demonstrated in the table 4.1, there was a general increase of reports in each statement type. This does not indicate that there is an increase of potential violations occurring within the fleet; rather it indicates observers are reporting suspected violations more often. This may be due to observers being more aware of what is occurring around them and more cognizant of the regulatory requirements. It also may indicate an increase in violations occurring.

One notable increase that needs to be discussed is the increase of reports of sexual harassment. Statements involving sexual harassment more than doubled in 2016 (6 in 2015 compared to 14 in 2016). Incidents involving sexual harassment tend to be underreported as those affected by it experience trauma and overwhelming emotions that impede their ability to disclose. The increase in number of reports may not indicate an actual increase in occurrences, rather it may indicate an increased trust observers have in AKD's officers and agents. Through training, frequent interactions, and an open door policy, AKD has increased rapport with individual observers and earned their trust to ensure observers feel comfortable coming forward and reporting incidents of sexual harassment. Sexual harassment is absolutely unacceptable, and AKD and their partners will continue to prioritize these types of complaints.

Another increase in Statement Types is "Interference/Sample Biasing" and "Intimidation/Coercion/Hostile Work Environment". These two categories were previously combined as "Harassment - Intimidate/Interfere/Hostile Work Environment", which had 62 reports in 2015. Together, "Interference/Sample Biasing" and "Intimidation/Coercion/Hostile Work Environment" totals to 94 reports in 2016, suggesting another significant increase. Industry must take proactive steps to provide observers safe and hostile free work environments. We encourage industry to collaborate with the Observer Program, Observer Providers, and AKD to ensure observers are able to complete duties free of harassment or interference.

STATEMENT TYPE	FULL COVERAGE		PARTIAL COVERAGE		TOTAL		
	2015	2016	2015	2016	2015	2016	Trend
OLE Priority							
Harassment - Assault	0	0	0	1	0	1	Increase
Harassment - Sexual	6	12	0	2	6	14	Increase
Harassment - Other	7	*	0	*	7	*	N/A
Harassment - Intimidate/Interfere/Hostile Work Environment	49	*	13	*	62	*	N/A
Interference/Sample Bias	*	30	*	12	*	42	N/A
Intimidation/Coercion/Hostile Work Environment	*	41	*	11	*	52	N/A
Disruptive/Bothersome Behavior - Conflict Resolved	*	31	*	8	*	39	N/A
Safety – NMFS	29	44	11	12	40	56	Increase
TOTAL OLE Priority	91	158	24	46	115	204	Increase
Limited Access Programs							
AFA	19	21	0	0	19	21	Increase
Amendment 80	47	67	0	0	47	67	Increase
Catcher Processor Longline	22	46	0	0	22	46	Increase
Rockfish Program	4	3	0	0	4	3	Decrease
IFQ Retention	3	6	24	31	27	37	Increase
TOTAL Limited Access Programs	95	143	25	31	119	174	Increase

Statement TYPE	FULL COVERAGE		PARTIAL COVERAGE		TOTAL		
	2015	2016	2015	2016	2015	2016	
Protected Resources and Prohibited Species							
Gulf of Alaska Salmon Bycatch	0	0	24	46	24	46	Increase
Bering Sea Pollock Salmon Bycatch	60	100	0	0	60	100	Increase
Marine Mammal	0	0	0	1	0	1	Increase
Seabird (majority is gear related)	6	13	24	22	30	35	Increase

Prohibited Species – Mishandling and Retention	61	76	28	18	89	94	Increase
TOTAL Protected Resources and Prohibited Species	127	189	76	87	203	276	Increase
All Other Statement Types							
Contractor Problems	5	7	0	0	5	7	Increase
Failure to Notify	35	49	17	20	52	69	Increase
Inadequate Accommodations	7	11	3	2	10	13	Increase
IR/IU	25	18	25	42	50	60	Increase
Miscellaneous Violations	10	9	3	10	13	19	Increase
Reasonable Assistance	28	30	17	19	45	49	Increase
Record Keeping and Reporting	140	154	129	317	269	471	Increase
Restrict Access	3	2	6	1	9	3	Decrease
Observer Coverage	0	0	139	88	139	88	Decrease
TOTAL All Other Statement Types	253	280	399	499	592	774	Increase
GRAND TOTAL	566	769	463	663	1029	1427	Increase

Table 5-1. Observer Program complaints received by AKD by coverage sector and subject matter in 2015 compared to 2016. Cells with an asterisk (*) indicate that the complaint type was not tracked in that year.

5. Case Updates

1. AK1503159; F/V Navigator -- Owner/operator and permit holder were charged in two counts under the Magnuson-Stevens Act for retaining IFQ sablefish on the vessel in Regulatory Area Central Gulf (CG), where the vessel was deploying fixed gear, in excess of the total amount of unharvested IFQ for Regulatory Area CG that was currently held by all IFQ permit holders aboard the vessel. Owner/operator was charged under the Magnuson-Stevens Act for not carrying onboard the vessel an operable NMFS approved Vessel Monitoring System. An \$11,000 NOVA was issued.

2. AK1504084. -- Company was charged under the Magnuson-Stevens Act for processing at its facility Eastern and Western Bering Sea tanner crab, in excess of the Individual Processor Quota (IPQ) use-cap. A written warning was issued.

3. AK1600531 -- Individual was charged under the Halibut Act for exceeding the annual harvest limit for sport-caught halibut in Regulatory Area 3A. A written warning was issued.

4. AK1601010 -- Individual was charged under the Halibut Act for exceeding the annual harvest limit for sport-caught halibut in Regulatory Area 3A. A written warning was issued.
5. AK1601067 -- Companies were charged under the Magnuson-Stevens Act for processing at their facilities Eastern Bering Sea tanner crab, in excess of the IPQ use-cap. A written warning was issued.
6. AK1602045; F/V Dues Payer II -- Owner/operator was charged under the Halibut Act for retaining 21 undersized halibut. A \$7,500 NOVA was issued. The case settled for \$4200.
7. AK1602109; F/V Alaskan Legacy -- Owner and operator were charged under the Magnuson-Stevens Act for failing to submit information on a fish ticket report. Owner and operator were charged under the Halibut Act for failing to maintain an accurate logbook of fishing operations. A \$5,000 NOVA was issued. Case settled for \$4,500.
8. AK1602549 -- Individual was charged under the Halibut Act for filleting, mutilating, or otherwise disfiguring halibut. A written warning was issued.
9. AK1202525; F/V Arcturus - Individual was charged under the Magnuson-Stevens Act for harassing an observer by conduct that had sexual connotations, had the purpose or effect of interfering with the observer's work performance, or otherwise created an intimidating, hostile, or offensive environment. A \$17,500 NOVA was issued. Respondent requested an administrative hearing, which resulted in a finding of no violation by the administrative law judge. NOAA General Counsel, Enforcement Section, appealed that decision to the NOAA Administrator, who found that the ALJ had applied an incorrect legal standard in support of her finding of no harassment. The Administrator's order requested additional briefing from GCES and Respondent regarding both liability and the potential civil penalty if liability is established. The Agency has filed its opening brief, and Respondent's brief is due May 19.
10. AK1605973 -- A processing plant was charged under the Magnuson-Stevens Act with interfering with or biasing the sampling procedures of observers and impeding observers from otherwise performing their duties. The evidence showed that trawl vessel operators delivering to the processor altered behavior to lower salmon bycatch count estimates. After fishing was completed, if there were no salmon encountered at sea, the plant would direct vessels to deliver to a tender vessel, thereby ensuring that the delivery could not be monitored by the observer and a zero bycatch rate would be applied in bycatch estimation. If however, the observer did encounter a salmon in at-sea samples, then the vessel would deliver dockside so that the a dockside monitoring 'census' value would be used in estimation, under the assumption that this value would be lower than a bycatch rate applied to the total weight of the delivery using normal

extrapolation estimates. This resulted in lower salmon bycatch reporting to NMFS. A written warning was issued.

11. AK1601680, F/V Pelican – Owner/operator charged under the Halibut Act for fishing for IFQ halibut in violation of the Sitka Sound Local Area Management Plan. A \$5,000 NOVA was issued. The case settled for \$4,500.

12. AK1606335; F/V Miss Behavin - Owner/operator charged under the Halibut Act for fishing for IFQ halibut in violation of the Sitka Sound Local Area Management Plan. A \$5,000 NOVA was issued.

13. AK1503246, F/V Lorna Dee – Individual was charged under the Magnuson-Stevens Act for fishing for groundfish without an FFP. A \$1,000 NOVA was issued.

14. AK1600962, F/V Cerulean – Owner and operator were charged under the Magnuson-Stevens Act for retaining IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory areas in which the vessel is deploying fixed gear, and that is currently held by all permit holders aboard the vessel. A \$5,000 NOVA was issued. The case settled for \$4,500.

15. AK1602582, F/V Alaska Victory – Owner, vessel manager, and operator were charged under the Magnuson-Stevens Act for failing to take actions as necessary to facilitate a safe boarding by the Coast Guard. An \$8,000 NOVA was issued. The case settled for \$7,200.

6. Outreach and Education

Outreach and education help to improve compliance with regulations and empower resource user to become partners in resource responsibility and sustainably. OLE agents and officers provide information and updates about regulations through multiple venues. The table below outlines some of the organized AKD outreach efforts from October 1, 2016 to March 31, 2017. The formal outreach and education events below do not capture the daily outreach and education routinely conducted during investigations, boarding, and contacts.



Table 6.1 – NOAA Office of Law Enforcement Outreach and Education Efforts

Date	Location	Description
October 17 - October 21	Juneau, AK	National Observer Program Advisory Team Meeting: A special agent gave presentations on the National Observer Program
November 2016	Sitka, AK	Sitka Whale Fest: An enforcement officer staffed an OLE booth and provided the public with information about MMPA and ESA regulations
November 17 – November 19	Seattle, WA	Pacific Marine Expo: A supervisory enforcement officer and the Observer program Liaison staffed a booth
December 2016	N/A	New Signs for South Central Alaska: An enforcement officer and NOAA Protected Resources Division purchased new beluga signs for Seward, Homer, and Anchorage.
January 15, 2017	Anchorage, AK	Cook Inlet/Kodiak Unusual Mortality Event Response Planning Workshop: an enforcement officer gave training on evidence collection
January 26, 2017	Kodiak, AK	Kodiak Trawlers Pre-Season Meeting: A supervisory enforcement officer discussed topics including Pollock trip limits, responding to the USCG, observer safety, and other relevant topics.
January 23 - January 27	Anchorage, AK	The Alaska Marine Science Symposium : An enforcement officer gave a presentation about gathering evidence during a stranding response
February 13, 2017	St Paul Island, Alaska	St Paul Ecosystem Conservation Office Meeting: An enforcement officer met with the St Paul Ecosystem Conservation office to discuss dog prohibition, cooperative enforcement and training support
March 16, 2017	N/A	Pamphlet disbursal: A special agent provided an informational pamphlet to ADF&G to distribute to Canadian tender vessels participating in the Sitka Sound Herring Sac Roe fishery
March 19 - March 27	Accra, Ghana	Obangame Express sponsored by AFRICOM: An OLE special agent joined in international training event, targeting increased maritime enforcement capabilities.
March 23, 2017	Juneau, Alaska	Juneau Yacht Club Meeting: A supervisory enforcement officer attended a public discussion on Sport Halibut, Charter Halibut, MMPA, and ESA regulations.
March 27 - March 31	Santa Barbara, CA	National Observer Program Advisory Team Meeting: A special agent gave presentations on the National Observer Program

