

National Marine Fisheries Service
Alaska Enforcement Division

ENFORCEMENT REPORT



January 01 – December 31, 2001

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.**



**ENFORCEMENT REPORT
FOR THE PERIOD 01/01/2001 THROUGH 12/31/2001**

National Marine Fisheries Service
Alaska Enforcement Division

INTRODUCTION:

We had a very interesting year. We entered 2001 investigating incursions into critical habitat areas and low compliance with observer coverage in the 30% fleet. We moved into IFQ season and patrols for Cook Inlet Belugas. After September 11, we deployed Special Agents to temporary assignments as Federal Air Marshals. Other details are documented below.

The Alaska Enforcement Division opened 1201 new cases in 2001. We currently have 469 open cases. The cases have been a mix between observer coverage, IFQ, and record keeping and reporting violations.

INVESTIGATIVE HIGHLIGHTS:

REWARDS – A \$5,000 reward was given to an individual for information that led to a conviction in an Endangered Species case.

1. OBSERVER-RELATED OFFENSES

We initiated a case for physical sexual harassment of an observer by a vessel operator. The case was accepted by the U.S. Attorney's Office for criminal prosecution. This is an important case because of the level of harassment and because we believe it to be the first sexual harassment case to be criminally prosecuted under the Magnuson Act.

An observer contractor was involved in three separate cases. Two of the cases involve observers not being reported as being harassed by vessel crewmembers. The third involves multiple violations of deploying observers for more than 90 days during a contract, and failure to provide observers as requested. To date, two NOVA's have been issued.

During early 2001, the Alaska Enforcement Division completed a study of compliance with observer coverage requirements by operators of groundfish vessels between 60 and 125 feet LOA. Vessels in this size category are required to carry a certified observer for a minimum of 30% of groundfish fishing days per calendar quarter. Study results revealed that for 1999 and 2000, approximately one-third of the vessels subject to 30% observer coverage failed to meet required coverage levels. Of this group, approximately half the violations were minor, involving only one or two days. The remaining violations consisted of significant shortages, or failure to obtain any required coverage. By late 2001, approximately 40 investigations had been conducted and the most egregious forwarded to NOAA Office of General Counsel for prosecution.

In an observer harassment case an \$8000 NOVA has been issued and AED personnel are currently looking for the defendant to serve him.

2. COOK INLET BELUGAS

Following our Operations Plan, Beluga outreach and protection efforts for 2001 ran from March to September. More than 1800 hours were devoted to this program. Efforts included patrol by vehicle, airplane, and boat. No unlawful takes were documented. We monitored the authorized hunt by the village of Tyonek that took place in July. One animal was taken.

3. STELLER SEA LION PROTECTION MEASURES

In late 2000, we investigated 43 vessels for fishing in critical habitat. By early 2001, 25 cases had been documented and referred for prosecution. At year's end, three are under consideration by the U.S. Attorney and the others are being reviewed by GCEL.

In April 2001, the U.S. District Court sentenced commercial fisherman Stanley Roy Pedersen, a resident of Chignik Lagoon, Alaska, to 46 months in jail. Pedersen was convicted of shooting, and shooting at, endangered Steller sea lions. He was also convicted of two counts of unlawful possession of a firearm.

4. SEABIRD AVOIDANCE

No significant enforcement actions occurred.

5. RECORD KEEPING AND REPORTING VIOLATIONS

In June 2001, International Seafoods of Alaska, Inc. (ISA), plead guilty to a felony false-reporting charge in United States District Court. ISA completed and submitted fraudulent ADF&G fish tickets and related Federal reports to conceal unlawful groundfish overages and Pollock trip limits by delivering vessels. ISA was sentenced to corporate probation for five years, fined \$150,000.00, assessed an additional \$46,000.00 (for the value of the illegally obtained seafood product), and ordered to run a public announcement in National Fisherman for three consecutive months.

In July 2001, Gerald ENSLEY (ISA plant Manager) pled guilty to one count of Aiding and Abetting Acquisition and Purchase of Unlawfully Taken Fish, a class A misdemeanor. ENSLEY was sentenced to one-year probation with the first six months as home confinement. ENSLEY was also fined \$2,525.

We are proceeding with a case involving several individuals who conspired to violate the Magnuson Act by pre-sorting large amounts of prohibited species (halibut) from observed hauls. The case has been accepted by the U.S. Attorney's office for criminal prosecution. A similar case is being developed against a different vessel.

As a result of a hearing held in December 2000, the ALJ adjudged a total penalty of \$100,000 against four FCA vessels for illegal high seas offloading of fishery products.

6. IFQ SPECIFIC VIOLATIONS

In March of 2001, the owners of Kenai Custom Seafoods were sentenced for criminal violations of the Lacey Act and False Statements. James Hill, Sr. was sentenced to 15 months in jail and an \$8,000 fine. James Hill, Jr. was sentenced to 15 months in jail and a \$4,000 fine. The two had purchased illegal halibut from a fisherman, with an estimated value of \$120,000.00, and covered the purchase by writing checks to the fisherman for services not rendered.

7. MARITIME BOUNDARY FOREIGN FISHING VESSEL SEIZURES

In July, the Russian FFV PETROPAVLOVSK was seized by the United States Coast Guard for fishing more than five miles inside the United States EEZ in the Bering Sea. The trawler was actively fishing for Pollock in an area north of the Donut Hole. Custody was transferred to OLE in Dutch Harbor, Alaska. The case was settled in September with payment of a \$320,000 fine. While the seizure action was straightforward, a suit filed on behalf of a purported second owner complicated a settlement. We were able to settle the U.S. government claim and allow the ownership matter to proceed separately.

In November, the United States Coast Guard seized the FV No. 7 MAN JEOK, a Korean trawler for actively fishing approximately 400 yards inside the U.S. EEZ. AED assumed custody in Dutch Harbor. The case was straightforward and settled in late November for \$250,000.

The case against the Chinese FFV MING CHANG appears headed for trial. MING CHANG was seized in August 2000 for trawling in the U.S. EEZ. Further investigation revealed an additional incursion may have occurred in July of the same year. The Chinese owner posted a bond of \$1.5 million to release the vessel. Depositions are being taken and a trial date set.

COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)

Throughout the year we continued our Community Policing and Problem Solving approach. AED discovered that thirty-three (33) individuals may have fished their "D" class quota on vessels more than 35 feet in length last year. This is a violation of the IFQ regulations. The AED COPPS Officer mailed letters to all, informing them that we had information that they may have violated the regulations. They were encouraged to look into the matter. Many cardholders discovered the vessel length in the IFQ database was wrong and were told how to correct the problem.

In March, AED manned a booth at Comfish in Kodiak, Alaska to promote awareness and compliance. AED also had a strong presence at Fish Expo in Seattle.

In July, regulations were implemented that prohibit vessels from approaching humpback whales within 100 yards. In anticipation of these regulations, we had prepared an educational video [The Right Approach - Humpback Whale Watching in Alaska](#). It was aired on the statewide PBS

station by the NOAA-sponsored program Alaska Weather. Copies of this video were sent to all the AED field offices, the major cruise ship companies, and charter boat associations.

The Alaska Enforcement Division and the U.S. Fish & Wildlife Service completed an educational display for the new International Terminal of the Anchorage International Airport. The display focuses on ESA and MMPA restrictions on import and export of listed species.

We worked closely with the Fish and Wildlife Service to get the Seward City Manager and Harbor Master to install covered fish bins at their four fish-cleaning stations. There have been many complaints from members of the public of dead seagulls and illegal feeding of sea otters and Steller sea lions at these locations.

Officers in Homer continued efforts to deal with aggressive Steller sea lions in the Homer Harbor. They worked with the Harbor Master and made strong efforts to reduce feeding or any activities that are an attractant. We have posted anti-feeding signs and conducted patrols to meet incoming charter vessels.

A site visit to St. Paul, Alaska to meet with local fish processing plant representatives, local fishermen, and the native community was very productive. Our visit was very well received and set the stage for increased compliance in St. Paul. Much time was spent explaining new regulations.

Throughout the Division, we received numerous walk-ins and calls about the new IFQ fee program. Many calls were from fishermen who were getting ready to pay their bills and wanted to make sure they were filling out the forms correctly. They were also interested in learning the fee process. Very few enforcement actions were necessary from non-payment of fees.

In March, we conducted training for buyers and management personnel of Coastal Villages CDQ halibut group. The meeting was in response to the disproportionately high violation rate exhibited by this group. The language barrier was identified as part of the problem to submission of the prior notice of landing. As a result of the meeting, an alternative method for giving a prior notice of landing was implemented.

An Enforcement Officer spent three days in Sand Point, AK. He made contacts with the local police department, local hotels, the Harbor Master's office, multiple vessels and fishermen, Trident Seafoods plant personnel, and the plant observer.

ENFORCEMENT AND OBSERVER AFFIDAVITS

The following is an overview of the activities and issues that relate to observer investigations and AED/OPO liaison for calendar year 2001.

Enforcement Cases / Statistics:

There continued to be a steady flow of observer reported violations in 2001, with an overall decrease in the number of affidavits written. This decrease is largely attributed to capturing IR/IU violation information via NORPAC's vessel survey instead of having observers write

affidavits. Throughout the year, we received one hundred eighty-seven (187) observer affidavits alleging various violations witnessed by observers. Compared with 2000, we saw a decrease in the number of affidavits generated for seabird harassment and MS-CDQ scale problems while affidavits for mishandling of prohibited species and sample bias remained virtually unchanged. The following is a breakdown of the alleged violations reported in these affidavits:

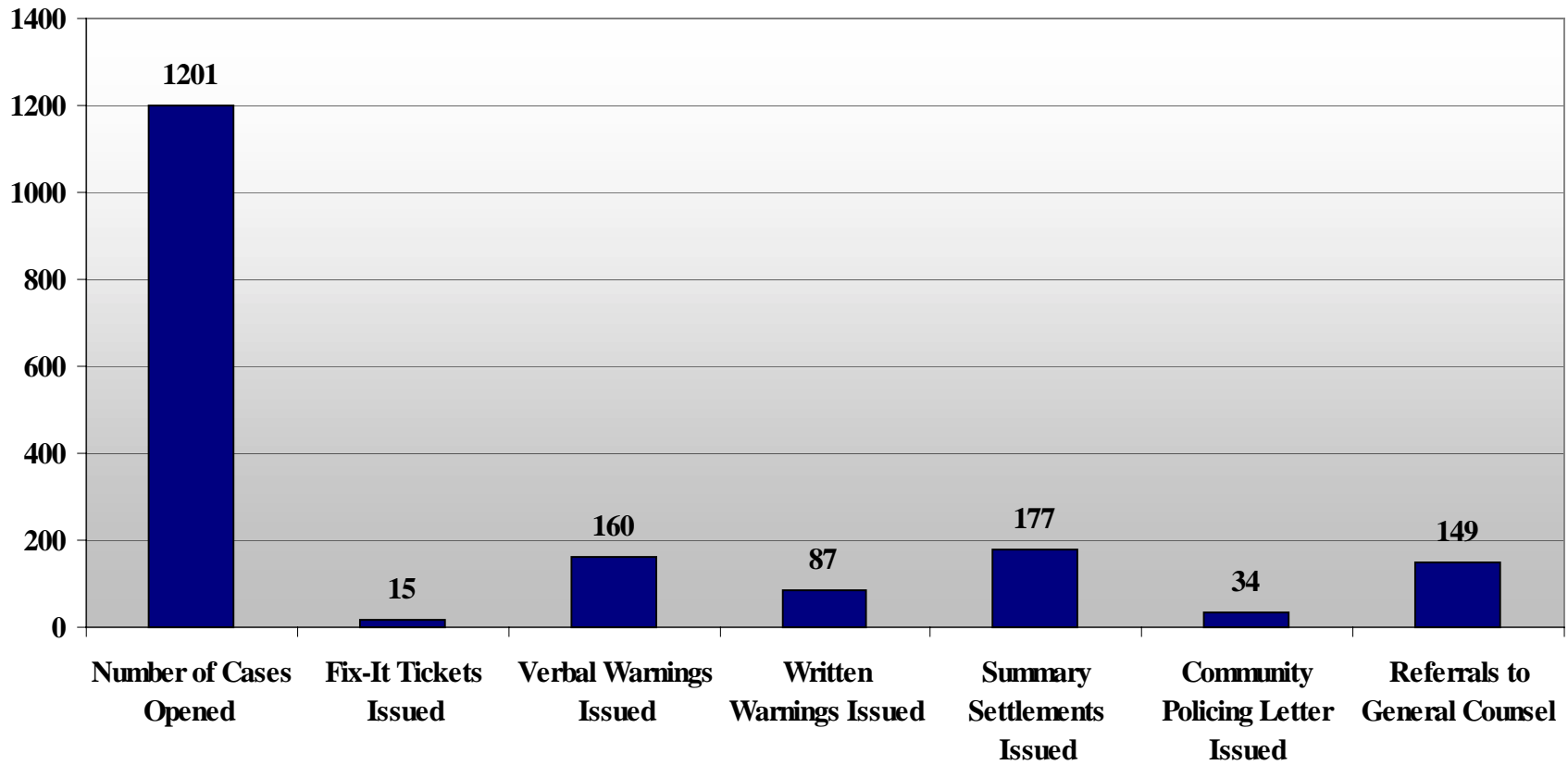
Prohibited species (Retaining or mishandling)	37
Harassment	27
Sample Bias	22
Failure to notify observer of delivery or haul back	22
MARPOL	19 (all were forwarded to the USCG)
Miscellaneous	11
IR/IU	07
Record keeping and Reporting	07
Observer safety	07 (all were forwarded to the USCG)
MS-CDQ	06
Marine Mammal	05
Inadequate accommodations	05
Access to equipment	05
Bird avoidance or bird harassment	03 (2 were forwarded to USFWS)
Trawl performance standards	03
IFQ	01
Total	187

All of the affidavits were reviewed, prioritized, and Complaint Action Reports were completed. Throughout the year our priorities remained the same with all cases of harassment, interference, or observer safety being investigated. All other cases were evaluated and prioritized. Unlike previous years, many affidavits were forwarded to other AED field offices for follow-up investigation. Essentially, every agent and officer in the AED is currently working or has worked on observer related cases during 2001. The NWED continued to provide excellent support to the program by conducting interviews as requested and by investigating observer affidavits forwarded to them by AED.

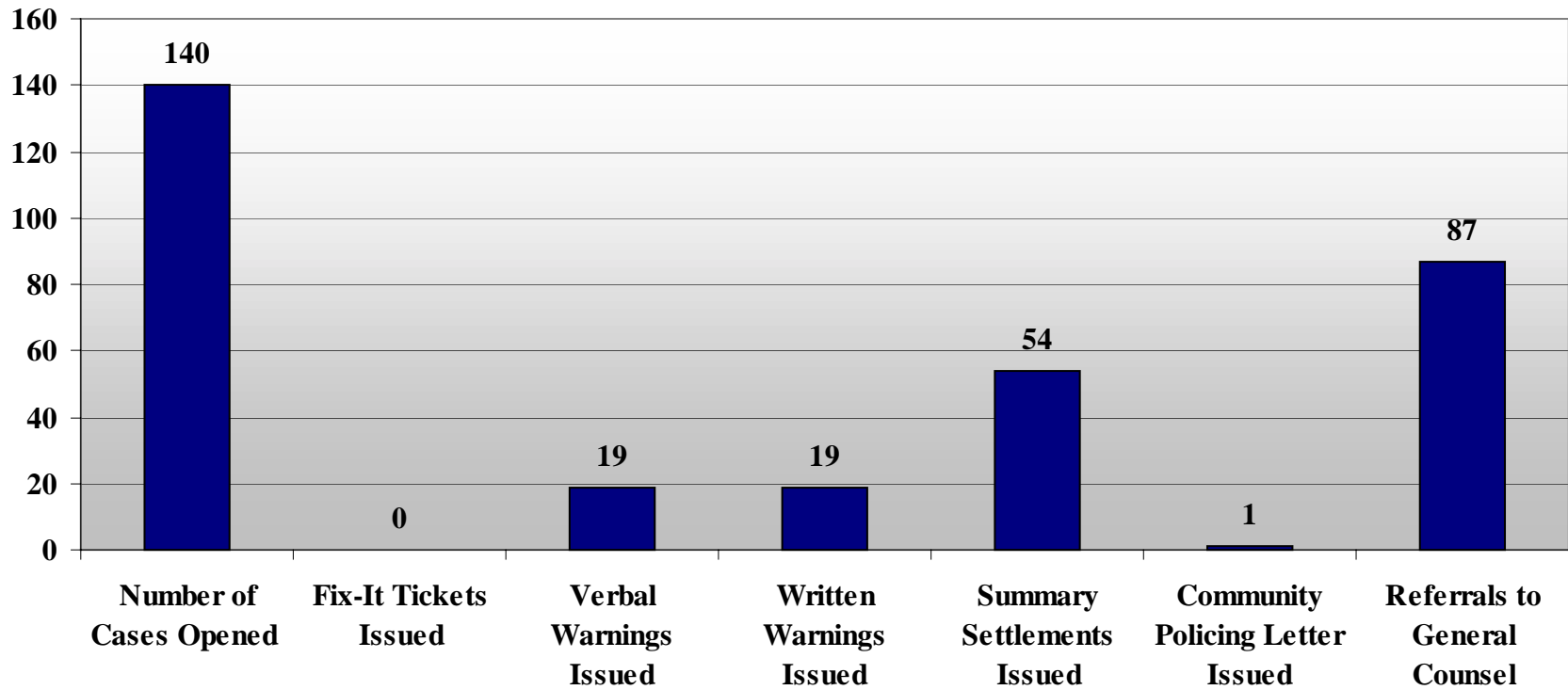
One hundred eighty-seven (187) affidavits resulted in one hundred thirty-two (132) enforcement cases being initiated. When appropriate, affidavits were combined and investigated under one case number, while others were merged with existing cases. The cases were handled in the following way:

Open for investigation by AED agents/officers	64
Closed due to Lack of Resources	34
Closed due to Lack of Evidence	10
No Violation	01
Forwarded to other agencies (USCG, FWP, USFWS)	23
Total	132

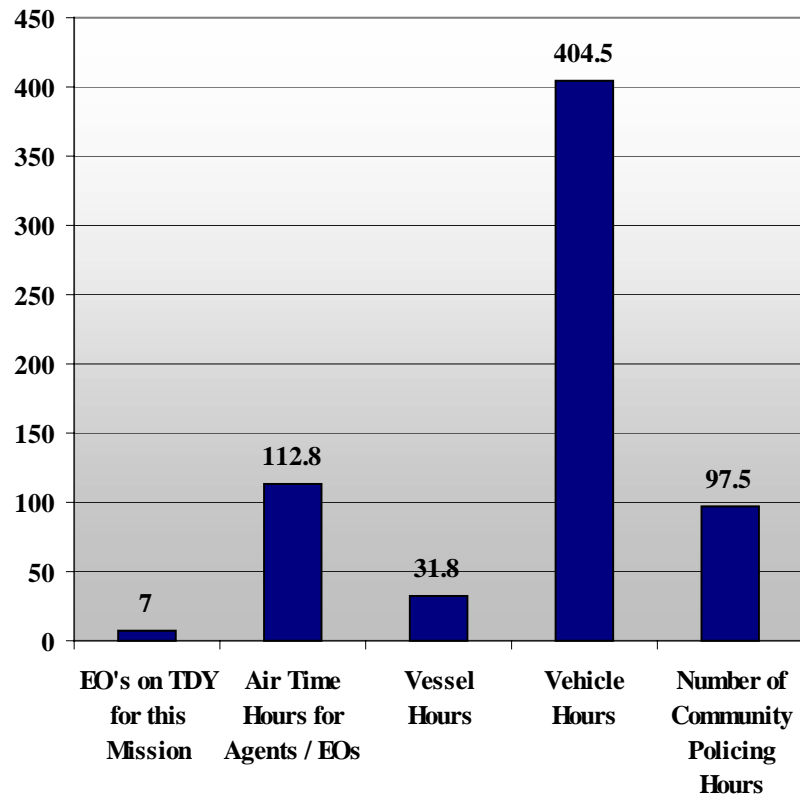
**Alaska Region Case Actions for All Cases
January 01 - December 31, 2001**



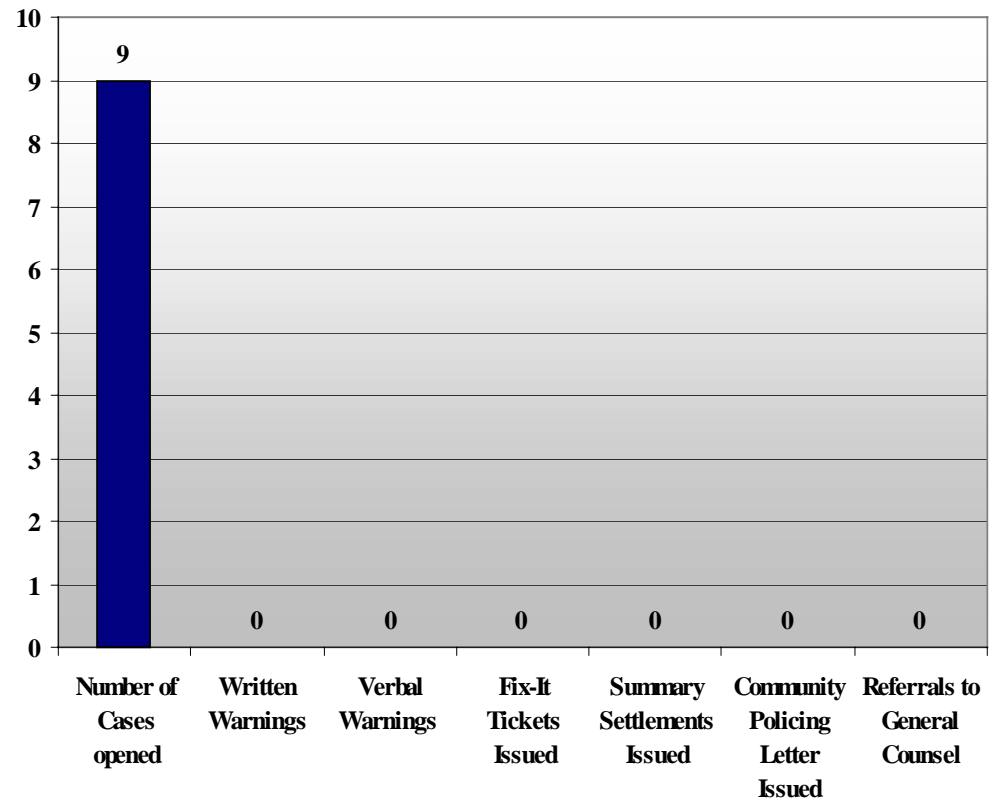
**Alaska Region Case Actions for Observer Cases
January 01 - December 31, 2001**



**Enforcement Effort for Beluga Patrols
January 01 - December 31, 2001**



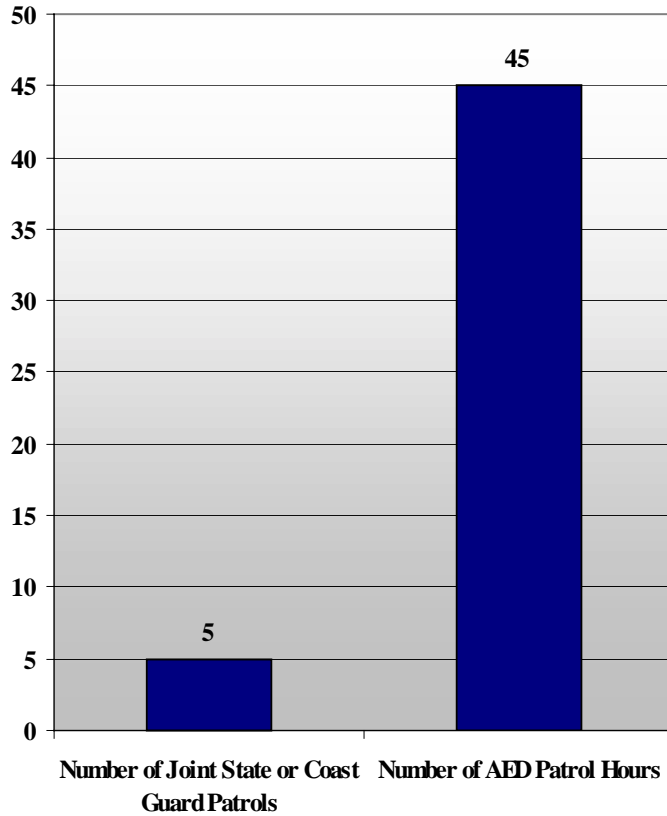
**Alaska Region Case Actions for Beluga Cases
January 01 - December 31, 2001**



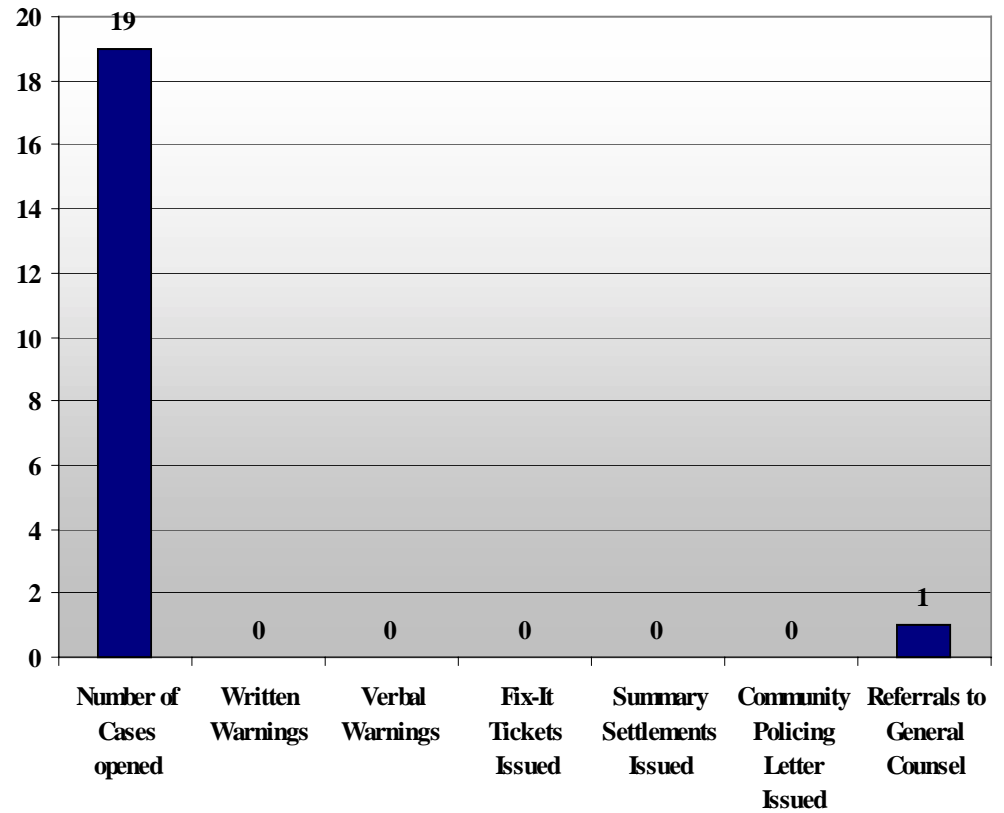
The above cases reflect the following violation description:

- Unlawful take/harassment of beluga whale(s)

**Enforcement Effort for Steller Sea Lions
January 01 - December 31, 2001**



**Alaska Region Case Actions for Steller Sea Lion Cases
January 01 - December 31, 2001**



The above cases reflect the following violation descriptions:

- Illegal fishing in critical habitat area
- Unlawful possession of sea lion part(s)
- Unlawful take of Steller sea lion
- Unlawful approach / transit of sea lion rookery
- Unlawful feeding of Steller sea lion

**Alaska Region Enforcement Patrol and Inspections
January 01 - December 31, 2001**

Boardings and Inspections	Total	Alitak	Anchorage	Craig	Dutch Harbor	Gustavus	Homer	Hoonah	Juneau	Ketchikan	Kodiak	Pelican	Petersburg	Sandpoint	Seward	Sitka	St. Paul	Whittier	Wrangell	Yakutat	At-Sea
No. of Boardings with Violations	178	0	0	1	6	1	44	0	9	2	37	0	10	0	57	2	1	0	0	1	7
Compliance Rate (excluding state violations)	71%		100%	67%	81%	50%	59%	100%	76%	88%	75%	100%	80%	100%	58%	88%	95%	100%	100%	80%	61%
No. of Plant Inspections by Port	19	1			4					1	11			1			2				
No. of Inspections with Violations	2	0								1	1			0			0				
Compliance Rate	89%	100%			100%					0%	91%			100%			100%				
No. of Community Policing Visits																					

Alaska Region Enforcement Effort with Patrol Vessels

Vessel Patrols

No. of Vessel Trips Taken	18																				
No. of Hours on the Water	74																				
No. of Boardings/Inspections	5																				
No. of Unmanned Ports Visited	3																				
No. of Violations Detected on Patrol	1																				
Compliance Rate	80%																				