

February 2017

NOAA Office of the General Counsel, Enforcement Section
Enforcement Actions
July 1, 2016, through December 31, 2016¹

Charged Cases²

During this reporting period, NOAA charged 34 civil administrative cases, as follows:³

ALASKA

1. AK1402606; F/V Sierra Mar -- Owners and operator/permit holder were charged under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) for retaining Individual Fishing Quota (IFQ) sablefish in excess of the total amount of unharvested IFQ sablefish applicable to the vessel category and Regulatory Area WY, in which the vessel deployed fixed gear and for which permits were held aboard the vessel. A \$15,000 Amended NOVA was issued. [See, Charged Cases, item 10, from September 2015 posting, for initial charging information.]
2. 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 National Marine Fisheries Service (NMFS)-approved Vessel Monitoring System. A \$50,117 NOVA was issued.
3. AK1504084; Unisea, Inc. -- 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.

¹ The next report is anticipated to be posted in August 2017, reporting on civil administrative cases charged and settled for the period January 1, 2017, through June 30, 2017. Earlier reports were posted on September 1, 2010; February 1, 2011; August 1, 2011; February 6, 2012; August 7, 2012; February 11, 2013; August 2, 2013; February 2014; August 2014; March 2015; September 2015; February 2016; and August 2016, reporting for the period March 18, 2010, through June 30, 2016. The reports are not considered to be publications. All data is provisional.

² Charged cases have had a NOVA and/or NOPS and/or written warning issued and served. NOVA stands for Notice of Violation and Assessment and NOPS stands for Notice of Permit Sanction. NOVAs, NOPSs, and written warnings contain the Agency's allegations of violations by the respondent(s). In response to receiving a NOVA, NOPS, or written warning, a respondent may challenge those allegations through means set forth in NOAA's civil procedure regulations, found at 15 C.F.R. Part 904.

³ These cases are listed by file number, separated by regions.

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4. AK1504123; F/V Endorfin; Royal Charters and Tours -- Owner/operator and company were charged under the Northern Pacific Halibut Act (Halibut Act) for failing to comply with the charter vessel logbook requirements, by entering inaccurate charter halibut permit information. A \$1,000 NOVA was issued. [See, Settled Cases, item 5, below, for resolution of this matter.]
5. 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.
6. AK1600562; F/V Arctic Warrior -- Individual was charged under the Halibut Act for having charter vessel anglers aboard the vessel who caught and retained halibut in excess of the annual catch limit in Regulatory Area 3A. A \$1,000 NOVA was issued. [See, Settled Cases, item 6, below, for resolution of this matter.]
7. 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.
8. AK1601067; Peter Pan Seafoods, Inc.; Westward Seafoods, Inc.; and Aleyska Seafoods, Inc. -- Companies were charged under the Magnuson-Stevens Act for processing at its facility Eastern Bering Sea tanner crab, in excess of the IPQ use-cap. A written warning was issued.
9. AK1602045; F/V Dues Payer II -- Owner/operator was charged under the Halibut Act for retaining undersized halibut. A \$7,500 NOVA was issued.
10. 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.
11. AK1602110; F/V Taurus -- Owners, operator, and permit holder were charged in two counts under the Magnuson-Stevens Act for submitting inaccurate information on landing reports; and for retaining sablefish caught with fixed gear from Regulatory Area WY without a valid IFQ permit for that area. A \$5,745.20 NOVA was issued. [See, Settled Cases, item 8, below, for resolution of this matter.]
12. AK1602549 -- Individual was charged under the Halibut Act for filleting, mutilating, or otherwise disfiguring halibut. A written warning was issued.
13. AK1602582; F/V Alaska Victory -- Owner, operator, and manager were charged under the Magnuson-Stevens Act for failing to take actions as necessary to facilitate boarding and ensure the safety of authorized officers and the boarding party. An \$8,000 NOVA was issued. [See, Settled Cases, item 9, below, for resolution of this matter.]

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14. NE1501540 -- Individual was charged under the Marine Mammal Protection Act (MMPA) for bringing pills containing oil made from a marine mammal -- seal -- into the United States from Canada. A \$5,500 NOVA was issued.
15. NE1503255; F/V Knot Right -- Owner/operator was charged under the Endangered Species Act (ESA) and the MMPA for striking an endangered species and marine mammal -- humpback whale -- with a vessel. A \$14,750 NOVA was issued.

NORTHWEST

16. NW1104390A -- Pierce County, in Washington state, and individuals were charged under the ESA for soliciting another to commit, or causing to be committed, a taking of a species of fish or wildlife listed as threatened -- Puget Sound steelhead. A written warning was issued.
17. NW1104390B -- Individuals were charged under the ESA for taking a species of fish or wildlife listed as threatened -- Puget Sound steelhead. A written warning was issued.
18. NW1503059; Orca Bay Seafoods, Inc. -- Company was charged under the MMPA for importing into the United States yellowfin tuna product subject to an embargo, because it was harvested in the Eastern Tropical Pacific Ocean by a purse seine vessel registered to a nation -- Venezuela -- for which an affirmative finding by NMFS is required, but no affirmative finding has been made. A written warning was issued.
19. NW1503614; Canon Fish Company, LLC -- Company was charged under the MMPA for importing into the United States yellowfin tuna product subject to an embargo, because it was harvested in the Eastern Tropical Pacific Ocean by a purse seine vessel registered to a nation -- Venezuela -- for which an affirmative finding by NMFS is required, but no affirmative finding has been made. A written warning was issued.

PACIFIC ISLANDS

20. PI1500330; F/V American Enterprise -- Owners, operator, and individual were charged under the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) for setting a purse seine around, near or in association with a fish aggregating device. Owners, operators, and individual were charged in five counts under the MMPA for taking a marine mammal on the high seas. A \$217,500 NOVA was issued. [See, Settled Cases, item 20, below, for resolution of this matter.]
21. PI1503531; F/V Saint Martin -- Owner and operator were charged under the Magnuson-Stevens Act for having, on board a vessel registered for use under a Hawaii longline access permit, float lines less than 20 meters long during a trip when they provided notification that deep-setting would be done. A \$17,500 NOVA was issued.

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22. PI1504295; F/V Seven Star -- Owner and operator were charged under the Magnuson-Stevens Act for engaging in longline fishing in the longline fishing prohibited area surrounding the Main Hawaiian Islands. A \$20,989.37 NOVA was issued.
23. PI1600245; F/V Second Andy -- Owner and operator were charged under the Magnuson-Stevens Act for assaulting or sexually harassing a NMFS-approved observer. An \$80,000 NOVA was issued and a 120 day NOPS was issued.
24. PI1601511; F/V Captain D -- Owner and operator were charged under the WCPFCIA for fishing in Tokelau's Exclusive Economic Zone (EEZ) without the permission of that nation. A \$1,000 NOVA was issued.
25. PI1602980; F/V Rising Phoenix II -- Owner and operator were charged under the WCPFCIA for fishing in Samoa's EEZ without the permission of that nation. A \$52,217.80 NOVA was issued.
26. PI1602981; F/V Holly -- Owner and operator were charged in two counts under the WCPFCIA for fishing in Samoa's EEZ without the permission of that nation. A \$172,270 NOVA was issued.

SOUTHEAST

27. SE1302747; F/V Top Dollar -- Owner/operator was charged under the ESA for not having compliant Turtle Excluder Devices installed in nets which were rigged for fishing. A \$2,000 NOVA was issued.
28. SE1501120; F/V Little Jo -- Owner and operator were charged in two counts under the Magnuson-Stevens Act for harvesting or possessing mutton snapper in excess of the seasonal harvest limitations and/or by possessing on board a vessel snowy grouper in excess of the commercial trip limits; and for harvesting or possessing prohibited species -- red snapper and/or speckled hind. A \$14,000 NOVA was issued. [See, Settled Cases, item 28, below, for resolution of this matter.]
29. SE1502495; F/V Miss Amanda -- Owner/operator was charged under the Magnuson-Stevens Act for engaging in an activity for which a Gulf reef fish charter vessel permit is required, without such permit. A \$4,000 NOVA was issued.
30. SE1503226 -- Individual was charged under the ESA for taking a listed species -- threatened green sea turtle -- with a spear gun. A \$1,000 NOVA was issued.
31. SE1504138; F/V Little Lloyd -- Owner and operator were charged under the ESA for not having compliant Turtle Excluder Devices installed in nets which were rigged for fishing. A \$1,250 NOVA was issued.
32. SE1601602; F/V Lilly Ann -- Owner/operator and co-owner were charged in two counts under the Magnuson-Stevens Act for fishing in violation of the prohibitions, restrictions, and requirements applicable to seasonal and/or area closures -- the Edges closed area; and for failing to have sufficient IFQ allocation at the time of the advance notice of landing in the IFQ vessel account or linked shareholder account at least equal to the pounds of Gulf groupers to be landed. A \$17,000

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Amended NOVA was issued. [See, Charged Cases, item 42, from August 2016 posting, for initial charging information. See, Settled Cases, item 29, below, for resolution of this matter.]

33. SE1602041; Florida state registered vessel -- Owner/operator and individual were charged under the Magnuson-Stevens Act for failing to maintain sharks with fins naturally attached. A \$10,000 NOVA was issued.
34. SE1602313; F/V Ursula -- Owner and operator were charged in four counts under the ESA for not having compliant Turtle Excluder Devices installed in nets which were rigged for fishing. A \$13,000 NOVA was issued. [See, Settled Cases, item 30, below, for resolution of this matter.]

SOUTHWEST

See, Settled Cases, below, for enforcement actions during this reporting period.

Settled Cases

During this reporting period, NOAA settled 32 civil administrative cases, as follows:

ALASKA

1. AK1300970; F/V Lone Fisherman -- Halibut Act and Magnuson-Stevens Act \$114,153 NOVA settled for \$80,000. [See, Charged Cases, item 2, from August 2016 posting, for initial charging information.]
2. AK1305027; F/V Aleutian Sable -- Magnuson-Stevens Act \$156,091 NOVA settled for \$78,045.50, based on an inability to pay, made in consideration of financial information submitted to the Agency. [See, Charged Cases, item 3, from August 2016 posting, for initial charging information.]
3. AK1502232; F/V Rascal -- Halibut Act \$8,584.30 NOVA settled for a two year probationary period, based on an inability to pay, made in consideration of financial information submitted to the Agency. [See, Charged Cases, item 9, from February 2016 posting, for initial charging information.]
4. AK1502657; F/V Peregrine -- Magnuson-Stevens Act \$9,472 NOVA settled for \$6,472. [See, Charged Cases, item 11, from August 2016 posting, for initial charging information.]
5. AK1504123; F/V Endorfin; Royal Charters and Tours -- Halibut Act \$1,000 NOVA settled for \$750. [See, Charged Cases, item 4, above, for initial charging information.]
6. AK1600562; F/V Arctic Warrior -- Halibut Act \$1,000 NOVA settled for \$900. [See, Charged Cases, item 6, above, for initial charging information.]
7. AK1600744; F/V Alaska Spirit and Catch-A-Lot Charters -- Halibut Act \$6,000 NOVA settled for \$6,000. [See, Charged Cases, item 13, from August 2016 posting, for initial charging information.]

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8. AK1602110; F/V Taurus -- Magnuson-Stevens Act \$5,745.20 NOVA settled for \$5,245.20. [See, Charged Cases, item 11, above, for initial charging information.]
9. AK1602582; F/V Alaska Victory -- Magnuson-Stevens Act \$8,000 NOVA settled for \$7,200. [See, Charged Cases, item 13, above, for initial charging information.]

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10. NE0800425; F/V Stormy Elizabeth -- Magnuson-Stevens Act \$55,000 NOVA and six month NOPS settled for \$18,500 and no permits suspension. Owner/operator was charged for deploying lobster gear in Restricted Gear Area II during a time when that area was closed to lobster fishing.
11. NE1202710; F/V Capt. Joe -- Magnuson-Stevens Act \$40,000 Administrative Law Judge assessment settled for \$40,000, while on appeal to the United States District Court for the District of Massachusetts. [See, Charged Cases, item 33, from August 2, 2013 posting, for initial charging information.] Additionally, NE1300388 and NE1305018 were included in the Settlement Agreement. See, Settled Cases, item 12 and item 13, below.
12. NE1300388; F/V Princess Laura -- Magnuson-Stevens Act \$20,000 Administrative Law Judge assessment settled for \$20,000, while on appeal to the United States District Court for the District of Massachusetts. [See, Charged Cases, item 34, from August 2, 2013 posting, for initial charging information. In an Amended NOVA, owner and operator were charged for fishing with trawl gear that contained a net liner. A \$30,000 Amended NOVA was issued.] Additionally, NE1202710 and NE1305018 were included in the Settlement Agreement. See, Settled Cases, item 11, above, and item 13, below.
13. NE1305018; F/V Capt. Joe -- Magnuson-Stevens Act \$62,200 Amended NOVA settled for \$40,000, based on an inability to pay, made in consideration of financial information submitted to the Agency. In the Amended NOVA, owner and operator were charged jointly and severally. [See, Charged Cases, item 17, from September 2015 posting, for initial charging information.] Additionally, NE1202710 and NE1300388 were included in the Settlement Agreement. See, Settled Cases, item 11 and item 12, above.
14. NE1502882; New York state registered vessel -- Magnuson-Stevens Act \$1,361.18 NOVA settled for \$1,261.18. [See, Charged Cases, item 25, from August 2016 posting, for initial charging information.]
15. NE1503109; F/V Stirs One -- Magnuson-Stevens Act \$8,556 NOVA settled for \$8,056. Owner was charged for failing to comply with Northeast multispecies fishery gear restrictions and possession limits that apply to vessels issued a Northeast multispecies permit.
16. NE1503270; F/V Sandi Lynn -- Magnuson-Stevens Act \$2,000 NOVA settled for \$1,800. [See, Charged Cases, item 26, from August 2016 posting, for initial charging information.]

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17. NW1403271; F/V C Robin -- Magnuson-Stevens Act \$12,424.75 NOVA settled for \$11,224.75. [See, Charged Cases, item 28, from August 2016 posting, for initial charging information.]
18. NW1504088; F/V Golden Chalice -- Magnuson-Stevens Act \$6,000 NOVA settled for \$5,400. [See, Charged Cases, item 29, from August 2016 posting, for initial charging information.]

PACIFIC ISLANDS

19. PI1101523; F/V Pacific Ranger -- MMPA and WCPFCIA \$127,000 Administrative Law Judge assessment settled for \$127,000, following a decision issued by the United States District Court for the District of Columbia. [See, Charged Cases, item 60, from February 11, 2013 posting, for initial charging information.]
20. PI1500330; F/V American Enterprise -- WCPFCIA and MMPA \$217,500 NOVA settled for \$203,745. [See, Charged Cases, item 20, above, for initial charging information.]
21. PI1502758; F/V Fetuolemoana -- Magnuson-Stevens Act \$49,012.59 NOVA settled for \$49,012.59, with \$22,512.59 suspended for three years, based on an inability to pay, made in consideration of financial information submitted to the Agency. [See, Charged Cases, item 31, from August 2016 posting, for initial charging information.]
22. PI1503479; F/V Ocean Galaxy -- WCPFCIA \$87,750 NOVA settled for \$80,750. [See, Charged Cases, item 32, from August 2016 posting, for initial charging information.]
23. PI1503930; F/V Ocean Encounter -- WCPFCIA \$225,000 NOVA settled for \$208,000. Owners, operators, and individual were charged in two counts for setting a purse seine around, near or in association with a fish aggregating device.
24. PI1504008; F/V Miss Jane -- Magnuson-Stevens Act \$16,418 NOVA settled for \$15,168.50. [See, Charged Cases, item 33, from August 2016 posting, for initial charging information.]

SOUTHEAST

25. SE1105096; F/V Sarah Brent -- Magnuson-Stevens Act \$23,366.27 NOVA settled for \$19,866.97. [See, Charged Cases, item 45, from August 2014 posting, for initial charging information.]
26. SE1404078; F/V Karen J. Belle -- Magnuson-Stevens Act \$7,000 NOVA settled for \$7,000, with \$7,000 suspended for one year, based on an inability to pay, made in consideration of financial information submitted to the Agency. [See, Charged Cases, item 36, from August 2016 posting, for initial charging information.]
27. SE1404282; F/V Little Dipper II -- Magnuson-Stevens Act \$5,000 NOVA settled for \$4,500. [See, Charged Cases, item 37, from August 2016 posting, for initial charging information.]

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28. SE1501120; F/V Little Jo -- Magnuson-Stevens Act \$14,000 NOVA settled for \$12,600. [See, Charged Cases, item 28, above, for initial charging information.]
29. SE1601602; F/V Lilly Anne -- Magnuson-Stevens Act \$17,000 Amended NOVA settled for \$17,000, with \$3,230 suspended for 18 months. [See, Charged Cases, item 32, above, for amended charging information.]
30. SE1602313; F/V Ursula -- ESA \$13,000 NOVA settled for \$11,700. [See, Charged Cases, item 34, above, for initial charging information.]
31. SE1602323; F/V Father & Son -- Magnuson-Stevens Act \$4,000 NOVA settled for \$3,600. [See, Charged Cases, item 43, from August 2016 posting, for initial charging information.]

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32. SW1401534; F/V Michele Ann -- Magnuson-Stevens Act \$10,000 NOVA settled for \$9,000. [See, Charged Cases, item 44, from August 2016 posting, for initial charging information.]