



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

**Via First Class Mail – Return Receipt Requested**

October 27, 2020

Grayum H. Norvell  
32936 Myrtle Wood Circle  
Seward, Alaska 99664  
[hill@fishwithhill.com](mailto:hill@fishwithhill.com)

Re: Case AK1807111, F/V 2 DAY; NORVELL  
Appeal of Written Warning

Dear Mr. Norvell:

Respondent, Grayum “Hill” Norvell, the owner and operator of Hill Norvell Alaskan Fishing Charters, has appealed a Written Warning issued on June 24, 2020 by Agency counsel in the Enforcement Section of NOAA’s Office of the General Counsel. The Written Warning assesses no penalty, but gives notice to Respondent that NOAA has documented his violation of the Northern Pacific Halibut Act (the Halibut Act), and it gives warning that a future offense may be dealt with more severely. Specifically, the Written Warning states that Respondent violated the Halibut Act by failing to ensure that all charter vessel anglers who retain halibut caught in International Pacific Halibut Commission (IPHC) Regulatory Area 3A acknowledge that their name, license number and the number of halibut retained or kept by the angler are recorded correctly on the charter logbook data sheet. As the charter guide, Respondent was responsible for meeting this requirement by ensuring each angler signed the data sheet on the line that corresponded to that angler’s information.

1. Legal Framework

The governments of Canada and the United States achieved an international milestone in March 1923 when they signed the “Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea.” It was the first international agreement developed for the purpose of conserving and rebuilding an ocean fishery. The Convention established the IPHC which is responsible for assessing the status of stocks and setting harvest strategies and catch limits in order to provide for optimum yield. Fishery regulations adopted annually by the IPHC are submitted to the governments of Canada and the United States for internal approval and implementation. In the United States, all recommendations made by IPHC must be approved by the U.S. Department of State.



At the same time, the Halibut Act provides the Secretary of Commerce with the authority and general responsibility for carrying out the purposes of the Convention on behalf of the United States and for adopting such regulations as may be necessary toward that end. The North Pacific Fishery Management Council, NOAA Fisheries, the Alaska Department of Fish and Game (ADFG), and IPHC cooperate in a joint process to use stakeholder input and agency expertise to develop recommendations for management measures to keep charter halibut harvests within their allocations in IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Southcentral Alaska). Section 7 of the Halibut Act makes it unlawful for any person subject to the jurisdiction of the United States to “violate any provision of the Convention, this subchapter or any regulation adopted under this subchapter.” 16 U.S.C. §773e(1)(A).

The regulations that implement the Halibut Act and that are “intended to supplement, and not conflict with, the annual fishery management measures adopted by the International Pacific Halibut Commission under the Convention” are codified at 50 CFR Part 300, Subpart E. Section 300.65 of these regulations, which addresses “Catch sharing plan and domestic management measures in waters in and off Alaska,” includes recordkeeping and reporting requirements that apply to charter vessel operations within regulatory areas 2C and 3A. The regulation prescribes logbook reporting requirements, and specifically a “charter vessel angler signature requirement” which states:

Each charter vessel angler who retains halibut caught in Commission regulatory area 2C or 3A must acknowledge that his or her name, license number (if required), and number of halibut retained (kept) are recorded correctly by signing the Alaska Department of Fish and Game Saltwater Charter Logbook data sheet on the line that corresponds to the angler’s information.

50 C.F.R. § 300.65(d)(4)(ii)(A). The regulation further states that “[t]he charter vessel guide is responsible for ensuring that charter vessel anglers that retain halibut comply with the signature requirements at paragraph (d)(4)(ii)(A).” *Id.* at § 300.65(d)(4)(ii)(B)(10).<sup>1</sup> It is unlawful for any person to fail to comply with the requirements of section 300.65. 50 C.F.R. 300.66(p). These regulations were in place at the time the alleged violations occurred in 2017, and remain in effect today.

## 2. Background

Respondent, Grayum “Hill” Norvell, operates Hill Norvell Alaskan Fishing Charters under two charter halibut permits, one being an eight angler endorsed permit, and the other a six angler endorsed permit.

On October 23, 2018, NOAA Enforcement Officer, Kevin Clark began an investigation based on an ADFG 2017 end-of-season audit which indicated some irregularities with respect to the number of authorized anglers and the amount of retained catch. Officer Clark asked

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<sup>1</sup> The term “charter vessel guide” is defined as a person who holds an annual sport fishing guide license or registration issued by ADFG or a person who provides sport fishing guide services. 50 C.F.R. § 300.61.

Respondent to bring his logbooks to the Seward field office for inspection; Respondent complied. Investigation Report (Jan. 28, 2020) at 1-3.

Officer Clark discovered that the reason the ADFG audit flagged instances of Respondent exceeding his angler endorsement was simply because Respondent “filled out his logbooks in an unconventional manner.” However, Officer Clark also found that there were seven instances of anglers retaining halibut without meeting the “charter vessel angler signature requirement,” and one instance in which Respondent listed an invalid version of a charter halibut permit. *Id.* at 3-4.

Officer Clark requested the original logbook sheets from ADFG to determine if the original sheets might have been signed independently of the carbon copy that was retained by the Respondent. However, when Officer Clark compared the original logbook sheets with the retained carbon copy, he confirmed that several anglers had not signed the logbook data sheet. *Id.* at 5.

On April 11, 2019, Officer Clark issued a Summary Settlement offer to Respondent in the amount of \$500.00 for failing to ensure that charter anglers who had retained pacific halibut signed the ADFG Saltwater Charter Logbook. Novell did not respond to the offer and, on June 11, 2019, the summary settlement offer expired. Officer Clark was unable to reach Respondent by telephone and referred the matter to NOAA’s Office of the General Counsel for further processing. *Id.*

NOAA Enforcement Attorney, Andrea W. Hattan, reviewed the facts of the case and determined that a Written Warning, which carries no monetary penalty, was sufficient sanction for the violations. On June 24, 2020, counsel issued a Written Warning to Respondent documenting the fact that, on or about July 6, 2017, and on or about August 10 2017, Respondent failed to ensure that his charter vessel anglers who retained halibut caught in IPHC Regulatory Area 3A complied with the signature requirements of 50 C.F.R §300.65(d)(4)(ii)(A). Specifically, Respondent failed to ensure that each charter vessel angler who retained halibut had acknowledged that his or her name, license number, and the number of halibut retained were recorded correctly in the charter logbook by signing the logbook sheet on the line that corresponded to the angler’s information. The Written Warning that Ms. Hattan issued is the subject of this appeal. Written Warning issued to Grayum H. Norvell, Case AK 1807111, FV 2 Day, NORVELL (June 24, 2020).

### 3. Procedural Framework

Under 15 C.F.R. § 904.403(b), a respondent has 60 days from receipt of a Written Warning issued or affirmed by Agency counsel to appeal that Written Warning to the NOAA Deputy General Counsel. 15 C.F.R. § 904.403(b). The NOAA Deputy General Counsel may then, in his or her discretion, affirm, vacate, or modify the Written Warning. *Id.* at § 904.403(c). That decision constitutes final agency action for judicial review purposes. *Id.*

### 4. Discussion

According to Respondent, he appealed the Written Warning in accordance with the requirements of 5 C.F.R. § 904.403. However, the Agency never received Respondent’s appeal because of mail complications related to the COVID-19 pandemic. On September 4, 2020, Respondent followed up by emailing the substance of his appeal as follows: “As a charter boat captain I instruct all clients to sign the logbook before departing my vessel. I had a .002% failure rate of grown adults not doing as instructed to

do. I have never knowingly allowed anyone to not sign the logbook. Unfortunately, a few refused to sign and departed the vessel without the Captains consent.” Respondent asked that the “accusation” against him be dropped because “this process has not been fast or speedy.” Email, Capt. Hill, (Hill Norvell Alaska Fishing) to Whom it May Concern, Sept. 4, 2020.

The relevant requirements of the regulations governing the Pacific Halibut Fisheries (50 C.F.R. Part 300, Subpart E) are clear. Each angler who retains halibut caught in Commission Area 2C or 3A must confirm that his or her name, license number and the number of halibut retained by him or her are recorded correctly in the charter logbook. He or she must confirm this by signing the logbook data sheet on the line that corresponds to the angler’s information. 50 C.F.R. at § 300.65(d)(4)(ii)(A). The regulation makes it entirely the responsibility of the charter vessel guide to ensure that this requirement is met. *Id.* §300.65(d)(4)(ii)(B)(10). The charter guide must ensure that no angler in possession of halibut leaves the vessel until he or she has confirmed by signature that the information officially recorded for him or her is accurate and complete. Officer Clark thoroughly reviewed the original logbook sheets submitted to ADFG, as well as the carbon copies retained by Respondent, and confirmed that the anglers’ signatures were missing on both copies.

#### 5. Conclusion

For the reasons set forth above, I hereby affirm the Written Warning.

Sincerely,

Kristen L. Gustafson

Cc: Andrea W. Hattan, Regional Enforcement Attorney  
NOAA Office of General Counsel, Alaska Region