

CANADIAN REPORT
TO THE
INTERNATIONAL PACIFIC HALIBUT COMMISSION
ON
2016 HALIBUT FISHERY ENFORCEMENT ACTIVITIES

COMPLIANCE ISSUES AND STRATEGIES


Overview

Fisheries and Oceans Canada (DFO) is a natural resource management organization with an infrastructure necessary to support professional law enforcement activities. The enforcement policies and activities of the Department of Fisheries and Oceans (DFO), with respect to regulatory compliance of commercial fisheries, are the responsibility of the Conservation and Protection (C&P) Sector. The program is delivered through balanced regulatory management and a three pillar enforcement approach including:

- Promotion of compliance through education and shared stewardship;
- Monitoring, control and surveillance activities; and,
- Management of major cases/special investigations in relation to complex compliance issues.

The Conservation and Protection Sector, in DFO's Pacific Region, promotes and maintains compliance with legislation, regulations, and management measures implemented to achieve the conservation and sustainable use of Canada's aquatic resources, and the protection of species at risk, fish habitat and oceans.

There are approximately 156 DFO Fishery Officers in the Pacific Region, which encompasses the Province of British Columbia and the Yukon Territory, the majority of which are located in four distinct operational Areas and the Aquaculture Enforcement unit. These areas/units are supported by a Regional Investigations Service and a National Fisheries Intelligence Service. All Fishery



Officers are designated under section 5 of the *Fisheries Act* and have full enforcement powers and responsibilities as outlined in the *Fisheries Act*, the *Oceans Act*, the *Coastal Fisheries Protection Act*, the *Species at Risk Act* (SARA) and the *Criminal Code of Canada*.

Fishery Officers also utilise authority delegated by the Province of British Columbia when conducting inspections at secondary and tertiary fish processing or brokerage facilities and of fish sales at retail outlets and restaurants.

Conservation and Protection, Pacific Region, is responsible for providing monitoring, control and surveillance activity along a coastline of 27,000 kms within over 800 kms between the Strait of Juan de Fuca bordering the U.S.A. State of Washington and Hecate Strait bordering the U.S.A. State of Alaska.

Fishery Officers are tasked with the responsibility of responding coast-wide to calls from the general public, DFO staff, other agencies, at-sea and dockside observers, and other marine resource users who report occurrences which include those directly associated with commercial groundfish halibut fishing and landing activities. Fishery Officers inspect and investigate groundfish fishing vessels for compliance with the *Fisheries Act* and related Regulations, including Conditions of Licence, and Fishery Variation Orders.

Management of the groundfish fisheries off the west coast of Canada is described within the Groundfish Integrated Fishery Management Plan (IFMP). The IFMP is not enforceable; rather, Fishery Officers rely on conditions of licence, acts and regulations for enforcement purposes.

The program also works closely with the Fisheries and Aquaculture Management (FAM) Sector, the Royal Canadian Mounted Police (RCMP), and industry partners to ensure peaceful and orderly fisheries. C&P contributes to the Canadian Coast Guard to protect Canadian sovereignty and assists the Canadian Forces in the identification of potential marine security threats through its extensive marine surveillance activities.

More information about DFO Compliance and Enforcement is available at the following website: <http://www.dfo-mpo.gc.ca/fm-gp/enf-loi/index-eng.htm>



Sanctions and Deterrence


DFO's C&P Program pursues violations of fisheries law and regulations in three ways.

1. For violations that are considered minor, an officer may issue warning letters that will form part of the fisher's compliance history and will be considered when investigating future occurrences.
2. Restorative Justice (RJ), a community based approach, may be used as an alternative measure to the court process for people faced with fisheries offences and conflict in an inclusive and meaningful way. RJ practices provide voluntary opportunities for those who have been harmed and those who have caused harm to be active participants in their journey for justice, accountability, and reparation. DFO supports the advancement of RJ as it contributes to the C&P mandate and aids in developing collaborative partnerships, addressing conflict, and assisting offenders in the exploration of values and principles.
3. Finally, serious or repeat offenders are dealt with through the provincial and federal courts where sentencing can include significant fines (some recent examples have been in excess of \$50,000), licence suspensions, and in some cases jail time.

MONITORING, CONTROL AND SURVEILLANCE

National Aerial Surveillance Program in Pacific Region

Conservation and Protection operates a coastal air surveillance program utilising a specially configured Beechcraft Super King Air B200 aircraft with a flight crew of four, plus a Fishery Officer, aboard all flights. Close monitoring of the Groundfish fleet (for compliance with hail-outs, use of seabird avoidance gear, and area closures such as Rockfish Conservation Areas) is an integral element of all patrols. As well, patrol coverage is utilised to identify concentrations and the



general distribution of fishing vessels to allow for better coverage in large geographical areas. Air surveillance resources are utilized weekly throughout the year, with the aim of surveying the entire coast each week, subject to weather conditions and conflicting requirements.

Flight reports, photographs, videos, and other data collected from the over flights are readily available to departmental managers and fishery officers through an Internet-based flight information system. Digital images of vessels are collected and added to a data base, providing fishery officers ready access to recent photographs to assist in investigations.

Fisheries Patrol Vessels

Inshore and near shore patrols are conducted by Fishery Officers using program vessels, which are primarily rigid hull inflatable boats (RHIB's), mostly 7.33 and 9.2 metres in length.

Mid-Shore Patrol Vessel Program

Two Canadian Coast Guard (CCG) mid-shore patrol vessels, the CCGS M. Charles MB and the CCGS Captain Goddard MSM continued to operate in 2016. The two ships are dedicated to Conservation & Protection fisheries patrols, conducting 22 patrols each, resulting in between 286 to 309 operational days per year. The Canadian Coast Guard base for the vessels is at the Institute of Ocean Sciences in Patricia Bay, near Victoria, BC. During the operational season one is based in Prince Rupert, BC for the northern patrol area, and one is based out of Nanaimo, BC for the southern patrol area.

In order to achieve national consistency, the overall management, guidance and direction of the C&P Mid-Shore Patrol Vessel Program (MSVP), including the planning and deployment of the vessels, comes from the Pacific Region MSPV Joint Management Team. The deployment of the vessels and the C&P teams is based on regional priorities and is led by intelligence from a number of sources.

Subject to operational requirements, there will be a minimum of two C&P Fishery Officers working from the MSVP vessel per patrol, with the majority of the time, having three Fishery Officers being deployed. The vessels also assist land-based detachments with local Fishery Officers working on land and/or the MSVP vessel.



The National Aerial Surveillance Program and the MSVP is synchronized to ensure effective and efficient use of the assets.

Fisheries Observer Programs

Additionally, certified fisheries observers, both Dockside and At-Sea, are designated under Section 39. (1) of the *Fishery (General) Regulations*. Fisheries observers working under the At-Sea Observer Program perform duties related to monitoring of fishing activities, examination and measurement of fishing gear, collection of biological samples and the recording of scientific data.

Fisheries observers working under the Dockside Monitoring Program (DMP) monitor the landing of fish at all approved landing locations and verify the weight and species of fish caught and retained. Fisheries observers interview the harvester, assign catch to the appropriate stock area, spot-check harvest logs for consistency with verbal reports and following DFO defined reporting procedures document any occurrences observed during the interview, logbook review and offload process. Fisheries observers are the front line eyes and ears. They are not armed and do not have law enforcement authority but rather perform an observe, record and report function. In 2016, DMP fisheries observers attended 100% of all hailed-in commercial landings in the commercial halibut fishery.

TRANSFORMATION OF THE CONSERVATION AND PROTECTION PROGRAM

The Conservation and Protection program is in a state of transformation. A number of processes within the Government of Canada, such as Strategic Review, Strategic and Operating Review, amendments to the Fisheries Act and the arrival of the Mid-Shore-Patrol Vessels, have caused the program to review and prioritize delivery of C&P services in the future, with the objective to have a C&P Program which is fully integrated, risk-based, and intelligence-led.

National Fisheries Intelligence Service (NFIS) and Major Case Management

A current challenge facing the C&P Program is the gap between capacity (human, financial and material) and demands on the program. Like any other law enforcement agency, C&P cannot respond to every demand and it is not possible to address every compliance issue that arises. Over the past three



years the new NFIS program has been developed and aims to improve the prioritization of C&P activities, with a focus on those activities that are most harmful to fisheries and ocean resources. This will be achieved through a C&P program that is intelligence-led, fully integrated, with threat-risk based priority setting and decision making practices. NFIS's focus will be on building and strengthening internal C&P assets including people, sources, systems and knowledge.

For example, an intelligence-led program will aid the program in prioritizing resources towards determining if and where serious fraud and/or collusion is occurring in fisheries, which occurrences warrant further investigation, which fisheries and areas should be the focus of patrols, or which licence conditions need to be closely monitored and thoroughly enforced to meet the priorities of C&P and fisheries management. The new intelligence service is intended to become the foundation of all C&P program activities and the NFIS structure will be based on national priorities.

The NFIS will also aim to facilitate meaningful collaboration and information exchange throughout the C&P Program areas, as well as enable information sharing to enhance the outcomes that arise from our relationships with clients and partners. The NFIS practices will encourage effective and ongoing communication, as well as easy access to information. A NFIS management team was formed in 2015 and has taken responsibility for completing established project milestones. Currently all positions in the Western area of Canada which includes the Pacific Region are staffed. This includes a team of five (5) Intelligence Officers, three (3) Intelligence Analysts, one (1) Intelligence Data/Quality Assurance Officer, two (2) Supervisors, Intelligence and one (1) Chief, Intelligence.

Further development of C&P's ability to investigate "major fraud and collusion" in the fisheries has also been identified as a national priority, in recognition that non-compliance is not limited to individual fishers, but can also be an organized activity. The reference to 'major fraud and collusion' implies a sophistication that is highly organized, complex, complicated, and resource intensive to investigate. Documented evidence of systemic cheating is not overwhelming, but the application of Major Case Management principles and practices will enable the C&P Program to focus its resources to better scrutinize the value chain of



transactions (i.e., activities that a firm operating in a specific industry performs in order to deliver a valued product or service). Major case management activities, aided by future national intelligence capacity, will identify specific instances of major fraud and collusion for prosecution and sanctions.

This national initiative along with the MSPV program and the National Aerial Surveillance program will round out the C&P Program's commitment to compliance as described in the DFO Compliance Framework.

HALIBUT ENFORCEMENT ISSUES

Fisheries observers and electronic monitoring (EM) both perform a key role in observing and documenting fishing-related occurrences. Fishery Officers have access to electronic monitoring and observer data for enforcement purposes.

Fishery Officers conduct inspections both dockside and at sea for compliance with licence conditions. Due to the complexity of transferable Individual Vessel Quotas (IVQ) and the related licence amendment system, tracking of catch quantities under the IVQ system is performed administratively under the dockside monitoring program in conjunction with the Groundfish Management Unit of DFO.

Fishery Officers attend halibut landings, inspect fish plants, processors, buyers, and brokers (including seafood restaurants and retail outlets) and conduct transportation corridor checkpoint inspections. Directed enforcement effort on the Halibut fishery is dependent on the work load and priorities identified by the respective Area Chiefs of Conservation & Protection.

Evidence on Compliance

Due to the fact that the Halibut fishery is extensively monitored through the use of sophisticated GPS and video imagery and the significant penalties which can be sanctioned by the court system, the compliance rate, in general, for this fishery remains high. This allows enforcement staff to focus resources on individuals and vessels that are flagged in the monitoring process.

Licence Categories



A Commercial Halibut category 'L' or Communal Commercial Halibut category 'FL' licence eligibility is required to participate in the directed commercial Pacific Halibut fishery.

Category 'L' Halibut eligibilities are limited entry and vessel-based. Category 'FL' eligibilities are party-based; a First Nations group is the licence eligibility holder and the eligibility must be designated to a commercially registered fishing vessel.

Vessels are permitted to conduct combined Halibut 'L' / 'FL' and Sablefish 'K' / 'FK' trips. These vessels are required to identify their intentions at the time of hail-out.

HALIBUT COMPLIANCE AND ENFORCEMENT SUMMARY

COMMERCIAL HALIBUT 2016

2016 Halibut Fishery

The 2016 commercial Halibut fishery commenced 12:00 hours local time, March 19, 2016 and closed at 12:00 hours local time, November 7, 2016.

Compliance and Enforcement Priorities - 2016

Groundfish, including commercial halibut, enforcement priorities for 2016 were identified in the Groundfish Integrated Fisheries Management Plan and remained the same as the 2015 fishery.

- Investigate all incidents of fishing in Closed Areas such as Rockfish Conservation Areas (RCAs), sponge reef protection areas, and other Closed Areas;
- Continue to enforce compliance with hail-out, hail-in and other elements of the Dockside Monitoring Program (DMP) and At-Sea Observer program;
- Conduct investigations and enforcement actions in response to the retention of groundfish caught, retained or possessed without licence authority. Priority will be placed on occurrences where retention for the purpose of sale is indicated;



- Investigate incidents of unauthorized dual fishing; and
- Increased monitoring efforts for compliance with Electronic Monitoring (EM) Licence Conditions, especially when Time Gaps are reported.

Commercial Halibut fishing in British Columbia is monitored through the electronic monitoring (EM) and dockside monitoring programs (DMP). Vessels fishing halibut in the Pacific Region have an option to carry either a certified and designated on-board fishery observer or an electronic monitoring (EM) system. Each of these systems generates occurrence reports for DFO based on a pre-established criteria and reporting protocol which are maintained in an exclusive database by the industry contracted monitoring service provider. DFO Fishery Officers access occurrence reports through the service provider database in order to conduct investigations, but Officers also create occurrence reports from other EM and Observer data, as well as other sources. C&P maintains a database, the Departmental Violations System (DVS), for managing occurrences, violations and all case files (investigations). It combines Fishery Officer created occurrences with occurrences reported by the monitoring service provider that are under investigation.

HALIBUT COMPLIANCE AND ENFORCEMENT - OCCURRENCE SUMMARY 2016

Occurrences

Occurrences are reported or observed incidents which are potential violations of any Act or Regulation which falls under the mandate of a Canadian Fishery Officer.

Table 1: Commercial Halibut Fishery Occurrences - January 1, 2016 to December 31, 2016¹

Occurrence Type (not all are found to be violations)	Number of Occurrences
Dual fishing	42

¹ Source: DFO Departmental Violations System (DVS) and Archipelago Marine Research Ltd. Portal for Clients
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Area/Time (closed area)	2
Gear Illegal/Used Illegally	10
EM System	1
Registration / Licence	1
Marine Mammal	1
Release Rockfish	78
Prohibited Species	1
Piece Counts	2
Molest/Harm Fish	3
Total	141

Table 2: Recreational Halibut Fishery Occurrences - January 1, 2016 to December 31, 2016²

Occurrence Type	Number of Occurrences
Reporting	30
Quota/Bag Limits	12
Gear-Illegal/Used Illegally	1
Area/Time	4
Species/Size Limit	13
Registration/Licence	1

² Source: DFO Departmental Violations System (DVS)



Illegal Buy/Sell/Possess	1
Inspection	1
Total	63

Table 3: Aboriginal Halibut Fishery Occurrences - January 1, 2016 to December 31, 2016³

Occurrence Type	Number Of Occurrences
Illegal Buy/Sell/Possession	15
Habitat	1
Illegal Transportation	1
Gear-Illegal/Used Illegally	3
Area/Time	3
Total	23

HALIBUT COMPLIANCE AND ENFORCEMENT - FISHERY OFFICER ENFORCEMENT EFFORT SUMMARY 2014/2015/2016

Table 4: 2016, 2015, and 2014, C&P Fishery Officer groundfish enforcement hours for aboriginal, commercial, and recreational Halibut fisheries and recreational hours comparing halibut to finfish and salmon in tidal waters⁴,

³ Source: DFO Departmental Violations System (DVS)

⁴ Source: DFO Fisheries Enforcement Activity Tracking System (FEATS)



ENFORCEMENT ACTIVITY –2016, 2015 and 2014 Comparison (January 1, 2016 to December 31, 2016)							
HALIBUT DEDICATED HOURS [% of ENFORCEMENT EFFORT]							
	Fishery	2014	2014	2015	2015	2016	2016
		HOURS	% TOTAL ENF. EFFORT	HOURS	% TOTAL ENF. EFFORT	HOURS	% TOTAL ENF. EFFORT
	ABORIGINAL HALIBUT	1,565.25	2%	717.25	1%	481.25	1%
	COMMERCIAL HALIBUT	1,647.25	2%	1,845.00	2%	1297.5	1%
	REC. HALIBUT	914.5	1%	705.25	1%	445	0%
	TOTAL	4127.00	5%	3267.50	4%	2223.75	2%
RECREATIONAL HOURS [% of ENFORCEMENT EFFORT]							
	REC. HALIBUT	914.50	1%	705.25	1%	445	0%
	REC. FINFISH-TIDAL WATERS	1493.00	1%	1713.25	1%	1082.25	1%
	REC. SALMON-TIDAL WATERS	4,939.00	2%	6707.50	3%	5607.5	6%
	TOTAL	7346.5	5%	9126.00	5%	7134.75	7%

It is important to note that recreational patrols are typically conducted on a “multi species” or “multi fishery” basis with the predominant effort in Recreational Tidal directed toward salmon and other finfish as the primary purpose. Halibut checks are conducted on these multi-species trips so the effort identified as specific to Rec. Salmon Tidal and Rec. Finfish Tidal (typically Rockfish species) are



included as they are relevant to understand the totality of Fishery Officer enforcement efforts toward recreational halibut compliance.

HALIBUT COMPLIANCE AND ENFORCEMENT - AERIAL SURVEILLANCE PATROL SUMMARY 2014/2015

Table 5: 2016, 2015 and 2014, C&P Aerial Surveillance Patrols – number of missions, total hours spent flying, and number of halibut vessels viewed during missions⁵.

AERIAL SURVEILLANCE PROGRAM (ASP) ACTIVITY			
<i><u>Air Patrols</u></i>	<i><u>Missions</u></i>	<i><u>Hours</u></i>	<i><u>Total Halibut Vessels Recorded Per Year</u></i>
January 1, 2016 – December 15, 2016	154	876.04	Preliminary Results 126 (97 L, 29 FL) – Final results not available.
January 1 - December 15, 2015	160	973.56	417 (360 L, 15 L/K & 42 FL)
January 1 - December 15, 2014	183	1,085.86	467 (405 L, 14 L/K & 48 FL)

L = commercial halibut licence

FL= communal commercial halibut licence

L/K = Halibut/Sablefish

HALIBUT COMPLIANCE AND ENFORCEMENT – VIOLATION SUMMARY 2013/2014/2015

Table 6: 2013, 2014, 2015 and 2016 Violations for Aboriginal, Commercial and Recreational Halibut – Charges Laid, Charges Pending/Under Review, Charges

⁵ Source: Provincial Aerospace Limited - Surveillance Information System (SIS)



Not Approved, Alternative Measures, Native Protocol, Seizure(s)-Person(s)
Unknown, Ticket/Warning Issued ⁶.

Region	PACIFIC / PACIFIQUE				
VIOLATIONS	Column Labels				
Row Labels	2013	2014	2015	2016	Grand Total
ABORIGINAL GROUND FISH - HALIBUT	36	23	12	6	77
CHARGES LAID		1			1
CHARGES NOT APPROVED	2	2			4
CHARGES PENDING/UNDER REVIEW	11	8	5	4	28
DIVERTED (ALTERNATIVE MEASURES)		2			2
NATIVE PROTOCOL	12	2		1	15
SEIZURE(S) - PERSONS					
UNKNOWN	2		1	1	4
TICKET ISSUED	2		1		3
WARNING ISSUED	7	8	5		20
COMMERCIAL GROUND FISH - HALIBUT	20	38	44	27	129
CHARGES LAID	1	1		1	3
CHARGES NOT APPROVED			7		7
CHARGES PENDING/UNDER REVIEW					50
	10	15	14	11	549
VIOLATIONS Cont'd					
DIVERTED (ALTERNATIVE MEASURES)	1	11		2	14
NATIVE PROTOCOL			1		1
SEIZURE(S) - PERSONS					
UNKNOWN		1			1
TICKET ISSUED	1	1			2

⁶ Source: DFO Departmental Violations System (DVS)
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WARNING ISSUED	7	9	22	13	51
RECREATIONAL GROUND FISH - HALIBUT	66	103	78	51	298
CHARGES LAID	9	11	3	5	28
CHARGES NOT APPROVED		5			5
CHARGES PENDING/UNDER REVIEW	1	2	20	5	28
DIVERTED (ALTERNATIVE MEASURES)	1		1		2
SEIZURE(S) - PERSONS UNKNOWN	2	1			3
TICKET ISSUED	24	29	12	20	85
WARNING ISSUED	29	55	42	21	147
Grand Total	122	164	134	84	504

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