



NOAA FISHERIES

Office of Law Enforcement

1st Quarter Fiscal Year 2014 Northeast Enforcement Division

October 1, 2013 – December 31, 2013



Council Report

To report fisheries violations,
call our national hotline:
1-800-853-1964

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1st Quarter Enforcement and Compliance

Summary

In the first quarter, there were 247 documented patrols, allowing critical face-to-face interaction between our field staff and the industry; 78 documented instances of outreach (not an exhaustive list; includes phone calls with industry, dock visits, trade shows, presentations, etc); and 22 meetings. This list does not include the extensive outreach that the VMS team provides on a daily basis, nor can it fully capture the interaction our agents, officers, and support staff regularly have with industry.

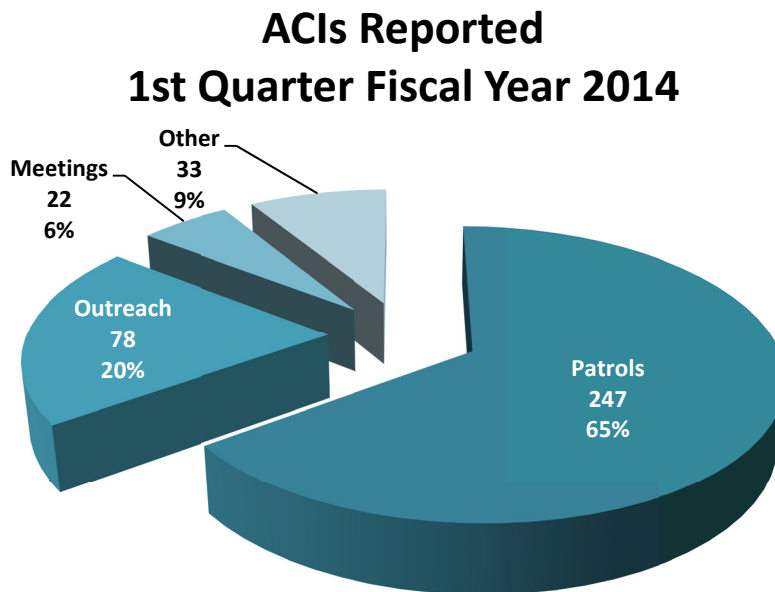


Figure 1: 380 ACIs reported from October 1, 2013 through December 31, 2013. The chart is broken down by patrols, outreach, other (collateral duties, homeland security, info gathering, MMPA) and meetings.

Incidents by Types 1st Quarter Fiscal Year 2014

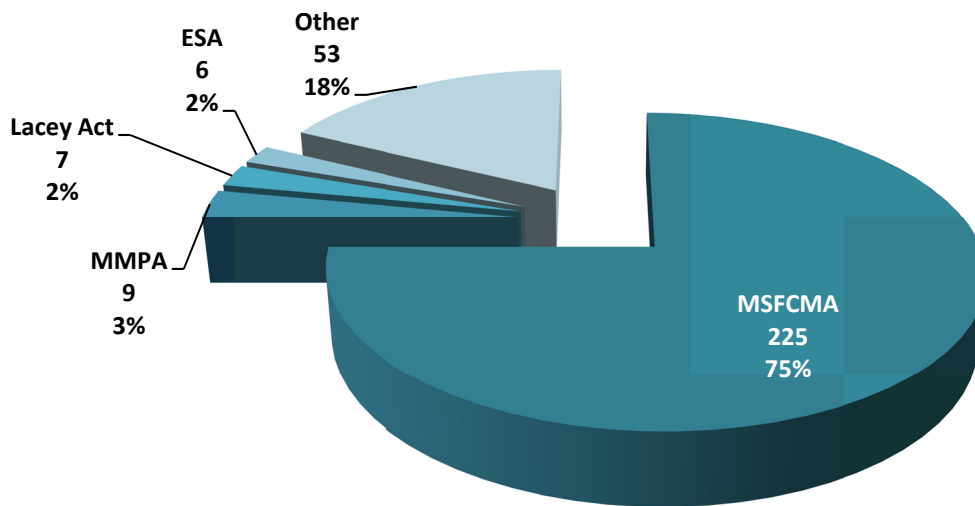


Figure 2: Incidents opened from October 1, 2013 through December 31, 2013. 300 incidents were opened. "Other" includes forty two ACFCMA, six Atlantic Tuna, one State Regulation – Fisheries, one Federal Regulation – Non-Fisheries, and three unknown.

1st Quarter, Fiscal Year 2014 Highlights

Lacey Act

An OLE agent and MEP are investigating a federally permitted seafood dealer, that purchased 600 pounds of tautog (blackfish) during a closed season. The commercial tautog season in Massachusetts closed in the end of September.

Nolan Agner and Agner, Inc. were sentenced in Norfolk Federal District Court. Both defendants plead guilty to Lacey Act trafficking for the possession of Atlantic striped bass in the Exclusive Economic Zone. Agner was sentenced to a \$3,500 fine, and was given three years probation; during which time any vessel which Nolan Agner operates and is involved in fishing must have a Vessel Monitoring System (VMS) on board. A Federal Fisheries permit must be maintained and all reporting must be current. Agner, Inc., was sentenced to three years probation and ordered to have a VMS unit on board any fishing vessel the corporation owns.

Marine Mammal Protection Act

NOVA's were issued to five foreign flagged vessels for violating the Ship Strike Reduction Rule component of the Endangered Species Act.

An OLE officer conducted an offshore patrol with a crew from USCG Station Pt. Allerton. The focus was checking gillnet gear for the presence of functioning pingers in accordance with the HPTRP.

Magnuson-Stevens Fishery Conservation and Management Act

Charles Wertz, Jr., a commercial fisherman from East Meadow, N.Y., was sentenced to serve one year and a day in prison to be followed by three years of supervised release, 100 hours of community service, a \$5,000 fine, \$99,800 in restitution and a \$300 special assessment. The fish dealer, C&C Ocean Fishery Ltd., was sentenced to pay a \$275,000 fine, \$99,800 in restitution, and a \$1,600 special assessment. The court also sentenced the defendants to comply with multiple sentence conditions, including relinquishment of federal fishing permits, a ban on participation in the Research Seat-Aside Program, divestiture of any interest in the *F/V Norseman*, and winding down and dissolving the company, C&C Ocean Fishery Ltd., within 90 days. On Aug. 15, 2013, Wertz pleaded guilty to one count of wire fraud and two counts of falsification of federal records for knowingly submitting 137 falsified dealer reports from May 2009 through December 2011, and 70 falsified fishing logs, known as fishing vessel trip reports (FVTRs), from May 2011 through December 2011, as part of a scheme to defraud the United States of overharvested and unreported fluke. C&C Ocean Fishery Ltd. pleaded guilty to one count of wire fraud and three counts of falsification of federal records for its participation in the scheme, which included aiding and abetting the submission of falsified dealer reports and FVTRs.

D.C. Air & Seafood Inc., a seafood wholesaler based in Winter Harbor, Maine, and one of its owners, Christopher Byers, 41, also of Winter Harbor, pleaded guilty to separate informations charging them with conspiring with each other and with six fishing vessel operators to prepare false reports in order to conceal the overharvesting of approximately 79,666 pounds Atlantic sea scallops. The six boat operators previously pleaded guilty and await sentencing.

An OLE officer issued Enforcement Action Reports (EARs) to two separate owners and operators of a Provincetown, MA, based scallopers for fishing in the EEZ without a federal permit.

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An OLE officer issued an Enforcement Action Report (EAR) to Jess's Market in Rockland, ME for possession of 11 whole live undersized American lobsters and 1 whole live berried American lobster.

An OLE officer issued a \$250.00 Summary Settlement to a dealer in Maine for possession of live undersized American lobsters

An OLE agent initiated an observer harassment investigation after receiving a complaint from an observer who had been deployed aboard a scallop vessel. The observer reported that a crew member attempted to engage her in unwanted sexual contact.

Compliance Assistance and Outreach

An OLE officer was contacted by a vessel owner who wanted to know if there were any NOAA regulations prohibiting one of his scallop vessels from discarding its chain bag at sea and transiting mid-Atlantic with only his dredge gear stowed in accordance with statute. The owner indicated that this had been done in the past, but there had been an issue during a recent USCG boarding of another vessel. The situation was discussed with SFD who determined there was no NOAA regulation prohibiting this practice, but the owner would need to verify the legitimacy of such action with USCG and EPA..

An OLE agent provided information to a vessel owner/representative concerning the required use of a turtle deflector dredge and chain mat in the Atlantic sea scallop fishery.

An OLE officer contacted the owner of a fishing vessel who was having electrical issues that prevented it from sending correct declaration codes on several trips. The officer confirmed, with the vessel operator, that the issue had been resolved and the VMS unit is now operating correctly.

Joint Enforcement Agreement (JEA)/Cooperative Enforcement

An OLE officer conducted an offshore patrol off southern New England waters aboard the USCGC Flying Fish. The focus of the patrol was locating a surf clam vessel with an expired federal permit and inactive VMS unit, reportedly fishing in the EEZ. OLE agents and officers also assisted searching for the vessel and it was eventually found in Wellfleet, MA. MEP boarded and contacted the captain in state waters and issued state fisheries violations.

An OLE officer received information from RI DEM about a vessel that landed scallop overages on an incidental permit and then tried to conceal it by selling the product on two different days.

An OLE agent responded to an inquiry from US Customs and Border Protection in Houlton, Maine seeking guidance on the admissibility of sea urchin roe being imported into Maine on a truck without a Maine Seafood License/Urchin Processor Endorsement. The truck was allowed to continue based on recent changes in Maine regulations.

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Northeast VMS Program

Northeast Active VMS Vessel Population: 985

Population Breakdown by (VMS) Permits held¹:

635 Surfclam/Ocean Quahog (Permit Category 1,6,7)
570 Scallop General Category (Cat. A,B,C)
445 Multispecies (Cat. A,D,F)
319 Scallop Limited Access (Cat. 2,3,5,6,7,8)
78 Herring (Cat. A,B,C)
43 Combination (Multispecies Cat. E)
14 Monkfish (Cat. F)

Note: There are 490 groundfish sector vessels and 113 common pool vessels registered to the NE VMS Program. There are 28 sector and common pool vessels on a NMFS-authorized power down Letter of Exemption.

Significant VMS Issues:

Last quarter's report stated that the next VMS software (e-forms) release, originally planned for November 1st, had been delayed. That release is now expected to occur by February 2014 and be timed with the effective date of Herring Amendment 5. Status updates will be posted to the NERO VMS Web page.

In November 2013, a report was provided to each groundfish sector manager on their vessels' compliance with the NMFS exemption from 'Powering VMS While at the Dock'.

In November 2013, a report was provided to NERO SFD on LAGC scallop vessel compliance with the VMS Pre-Landing Notification reporting requirement. NERO forwarded the report to NE Council staff on 19 November 2013.

¹ The total count below exceeds the VMS population count since most vessels hold multiple permits

Northeast Observer Program

During this quarter the observer program deployed on 918 trips for 2,306 sea days. Approximately 99.0% of all selected or observed trips were completed without a reported enforcement incident. There was a total of 11 reported violation reports received and acted upon this quarter.

The summary below details the status of observer related complaints during the 1st Quarter of 2014.

Table 1: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	None
Assault	None
Harassment/Intimidation	3 observer harassment/intimidation complaints: 1 closed due to lack of evidence 2 ongoing
Interference	3 observer interference complaints: 2 closed due to lack of evidence 1 ongoing
Vessel Safety	None
Observer Safety	1 observer safety complaints: 1 closed due to lack of evidence
Failure to provide reasonable assistance	None
Observer gear/sample tampering	2 observer gear/sample tampering complaints: 2 ongoing
Observer program notification	2 observer notification complaints: 2 closed by compliance assistance
Miscellaneous	1 training session covering observer enforcement issues was completed this quarter.

Incident and Case Information

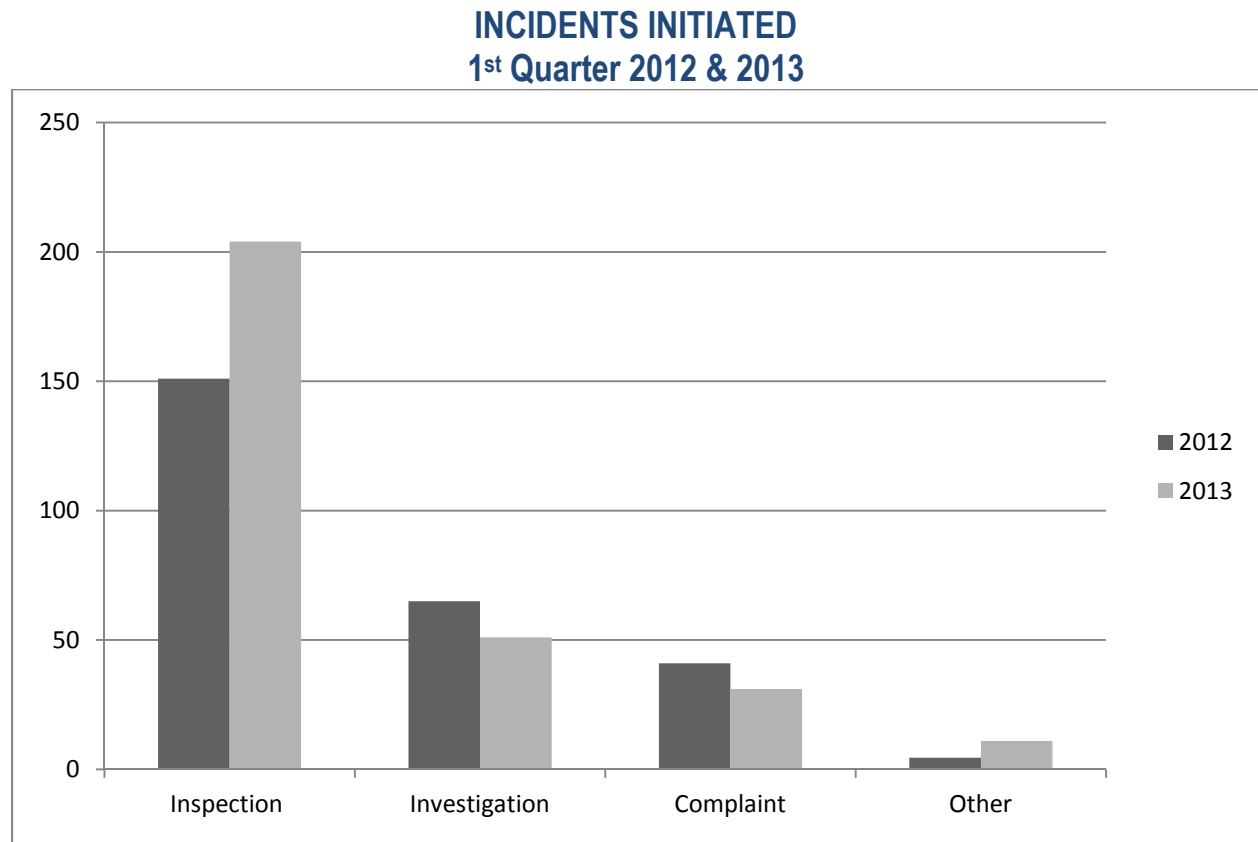


Figure 3. FY2014 1st quarter: 204 inspections, 51 investigations, 31 complaints, 11 other. **297 total**
FY2013 1st quarter: 151 inspections, 65 investigations, 41 complaints, 3 other. **260 total**

INCIDENTS DISPOSITIONS 1st Quarter 2012 & 2013

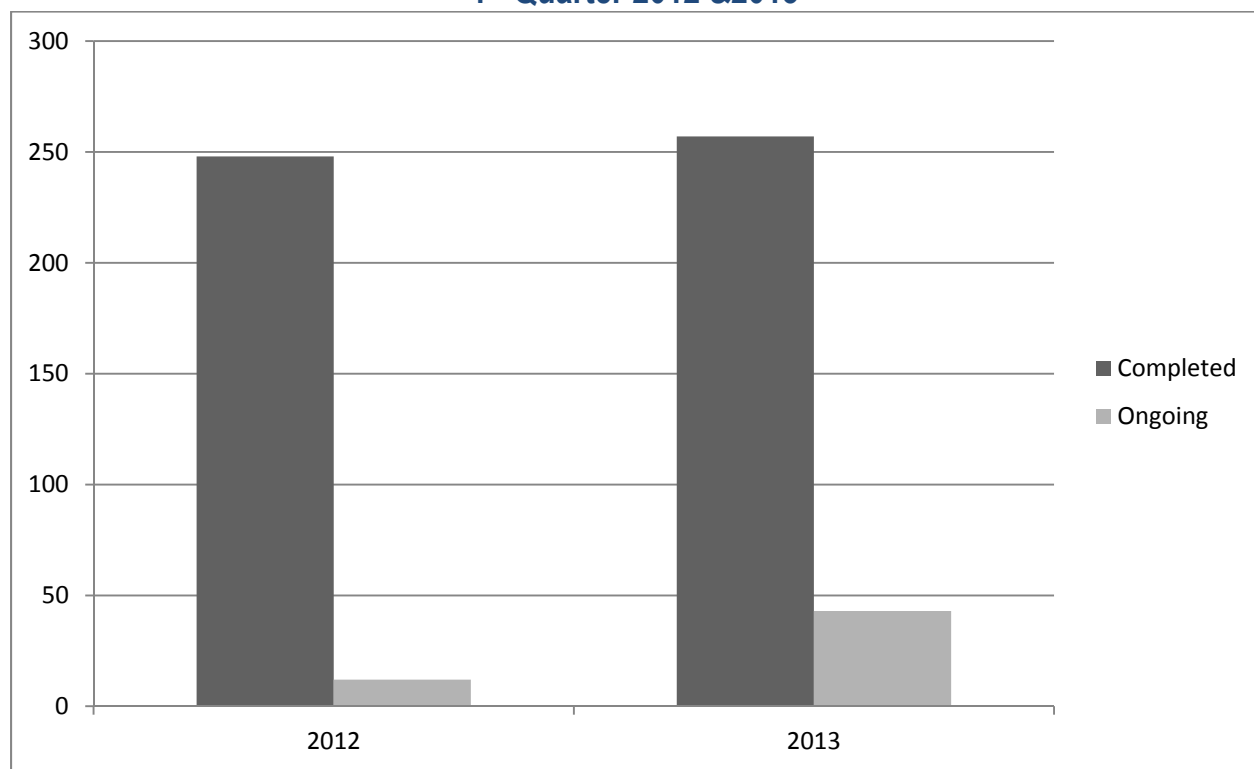


Figure 4. Status of incidents in the 1st quarter of FY2013 (248 completed, 12 ongoing) and 1st quarter FY2014 (257 completed, 43 ongoing).

Cases sent to NOAA General Counsel Enforcement Section (GCES)

- 32 cases opened
- 8 summary settlements issued
- 11 cases forwarded to GCES

Table 2. Cases sent to GCES

Program/Law	Violation
MSFCMA (9 cases)	Scallop overage
	Scallop overage
	Monkfish liver overage & Monkfish tail overage
	Scallop overage
	ASM refusal
	Scallop overage
	State permitted vessel fishing in the EEZ
	Improperly eviscerated albacore & yellowfin tuna; sold mahi mahi to dealer without dolphin/wahoo permit
	Fail to submit accurate fishing log report for each fishing trip
Lacey Act (1 cases)	Ship live undersized American lobsters & ship live berried American lobsters in violation of Lacey Act
MMPA (1 case)	Import marine mammal parts into the U.S.