



NOAA FISHERIES

#1

Council Report – 1st Quarter, FY 2022



Sept 21, 2021 – Nov 30, 2021

To Report a Violation Call
800-853-1964

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Introduction

NOAA Fisheries' Northeast Division (NED) of the Office of Law Enforcement (OLE) continued to conduct essential operations the fall and will continue those operations as we move into the winter months. NED strives daily to support our mission objectives. This includes our Enforcement Officers (EOs) and Special Agents (SAs) continuing investigations and maintaining a presence in our crucial fishing ports and our Administrative and Investigative Support Team (IST) staff working behind the scenes. While some in person activity is still on hold due to COVID-19, this report reveals the high quality, difficult, and important work our group conducts every day to protect marine wildlife and habitat. All of us at NED work hard every day to ensure not only our nation's precious marine resources, but our global Living Marine Resources are available for future generations.

Data included in Figures 1-5 and Tables 1-3, below, pick up where the last Council report left off in late September, 2021. We welcome feedback on any section of this report.

NED Enforcement Highlights

- The following is a summary of the more significant NED patrols since the last NEFMC OLE report:
 - Two patrols in late September focused on commercial lobster vessels. One was dockside and another, at sea, was conducted with Rhode Island Joint Enforcement Agreement partners.
 - Two patrols in early October focused on recreational and HMS compliance. One was conducted at a boat launch and the other was at sea.
 - An Enforcement Officer and Special Agent conducted a third Remotely Operated Vehicle (ROV) operation of the year last October, part of a week-long offshore patrol to the edge of the Northeast U.S. EEZ to inspect offshore Lobster Management Area (LMA) 3 lobster gear in the Gulf of Maine and Georges Bank fishing grounds for compliance with Atlantic Large Whale Take Reduction Plan (ALWTRP), Magnusson Stevens Act (MSA), and Atlantic States Conservation and Fishery Management Act (ASCFMA) regulations. The contracted survey vessel was equipped with a ROV and equipment to support detection and visual inspection of submerged lobster trap gear at depth. Suspected non-compliant gear was hauled and inspected on deck throughout the patrol. Multiple gear marking, configuration, and trap tagging violations were documented. Compliance assistance was provided to one vessel underway and additional investigations are ongoing. OLE's presence was observed by vessels active in the area and gear inspection activities were communicated over VHF when possible. LMA 3 fishing vessel activity trends were observed. Valuable intelligence was collected to enhance future operations.
 - An Enforcement Officer issued and served five Summary Settlement Offers following this operation, totaling \$4500, and a Written Warning to a LMA 3 permitted FV owner/operators. Violations documented during the LMA 3 gear inspection patrol involved ALWTRP and ASCFMA.
 - Regarding NED's newly purchased ROV acquired for inshore, fixed gear inspections and operations, an EO has been in contact with an ROV trainer and has initiated a training schedule for the near future.
 - Also in October, an Enforcement Officer conducted a joint patrol with USCG D1 aboard a NOAA patrol vessel focused on boarding HMS vessel and conducting USCG cold weather safety checks.

- Enforcement Officers conducted a mid-Atlantic vessel patrol aboard an OLE patrol vessel. Newly acquired speed radar devices were tested in preparation for an upcoming North Atlantic Right Whale (NARW) speed operation.
 - An Enforcement Officer and USCG D5 conducted a joint at sea boarding off of Virginia.
 - Enforcement Officers are coordinating with the USCG and Massachusetts JEA partners to patrol the Ipswich Bay area. These are in response to a complaint concerning potential gear conflicts between draggers and lobster vessels as well as general non-compliance with ALWTRP and MSA requirements in the fixed gear lobster fishery. No violations have been detected at this time.
 - Enforcement Officers and Special Agents conducted an operation in Chesapeake Bay at the start of December targeting vessels violating speed restrictions inside right whale Seasonal Management Areas (SMAs).
 - An Enforcement Officers conducted a land patrol of the NH/Maine coastline from Portland to Portsmouth to share information on the LMA 1 Restricted Gear Area closure and gathered information on activity in the closure area.
- Compliance letters for NARW speed rule violations were drafted and sent to 11 vessels prior to the start of the new season. These violations were identified through AIS data collected and analyzed by NOAA's Protected Resources Division staff. This will put these vessels on notice in an attempt to gain compliance this coming migration season.
 - A Special Agent completed the investigation of a Dutch flagged chemical tanker for two counts of violating the Right Whale Ship Strike Reduction Rule inside a New England-based Seasonal Management Area. On the same date and time of the violations, a right whale aerial survey was conducted and spotted approximately twenty-four (24) North Atlantic right whales in the vicinity of these violations.
 - Jeffrey Ray is the new Assistant Director for NED. ASAC Michael Henry continues as Acting DSAC for NED. The permanent NED DSAC backfill should be announced soon.

Enforcement and Compliance

Since the last Council meeting, there were approximately 11 documented patrols that included a mix of both land based and at sea patrols. There were 15 documented instances of dockside outreach and/or industry compliance assistance in the field, allowing critical face-to-face interaction between our field staff and the industry. There were also 16 instances of participation in various NOAA internal and external government partner meetings and events and 7 seaport container inspections to investigate Lacey Act and/or SIMP/Illegal Unreported and Unregulated fishing violations. NED EOs and SAs initiated at least 15 investigations based on previously conducted patrols and container inspections. Many of those investigations are ongoing.

While NED participation in trade show attendance, in person expert panel and school events participation, etc. in many cases are still on hold due to ongoing COVID-19 restrictions, we are beginning to return to pre-COVID 19 conditions. There is little or no impact due to COVID-19 restrictions on all other NED activities and operations.

The dockside outreach and/or industry compliance assistance listed in Figure 1, below, does not include the tremendous amount of industry and enforcement partner communication the Investigative Support staff in the VMS Program, the Compliance Liaison, and administrative staff

within NED conduct on a daily basis. In addition, this figure does not fully capture the regular interaction our agents, officers, and support staff have with industry. Specifically, patrols listed in Figure 1 are an estimate and multiple vessels may be boarded and multiple docks may be visited across multiple days on a single patrol. Land based patrols may involve dealer and vehicle inspections.

Enforcement Field Work and Outreach Effort Summary

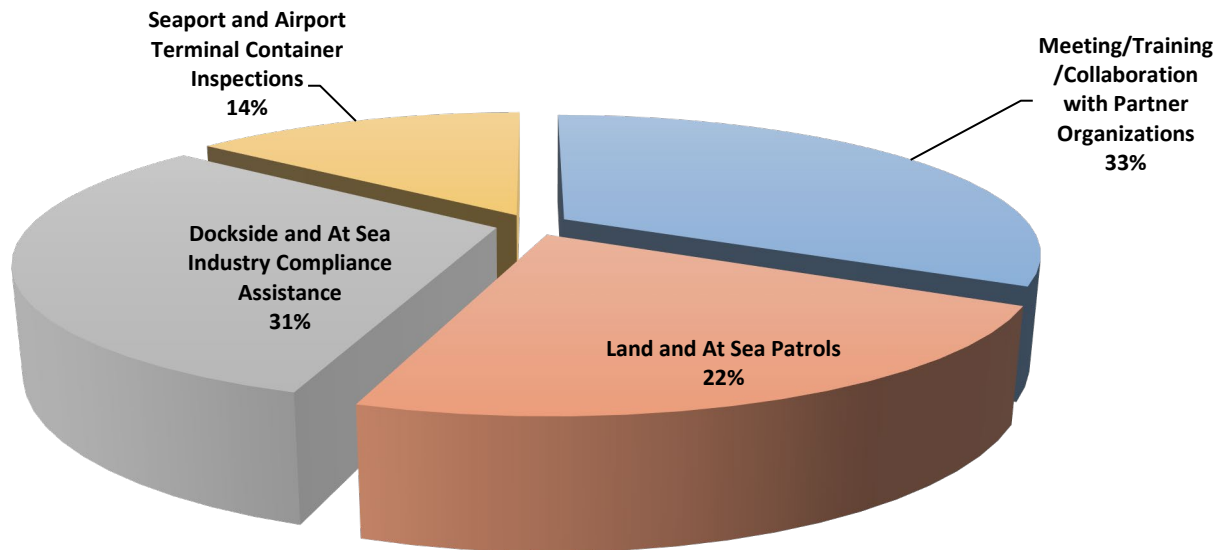


Figure 1: Roughly 49 events took place between September 21st, 2021 and December 2nd, 2021. The figure is broken down by land and at sea patrols, internal government meetings, training events, and collaborative efforts with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport and Airport Terminal Container Inspections.

1st Quarter, FY 2022 Incident Information

Incidents listed in this section come directly from Trident, OLE’s electronic case management system. In addition to investigations and patrols referenced in the previous section, incidents referenced here include referrals from external parties such as JEA and federal enforcement partners as well as complaints and reports from industry, Non-Government Organizations and the general public. They also include IST and other NOAA staff indicated non-compliance events. Many NED staff members contributed to the incident information presented here.

The query used to generate the data displayed in this section is based on the date incidents were created in Trident. As incidents created in Trident, such as investigations, occurred prior to the date of entry into Trident, the information presented in this section is meant to present an accurate snapshot of NED activity in this time period, not a precise account of all activities that have occurred since the last Council report.

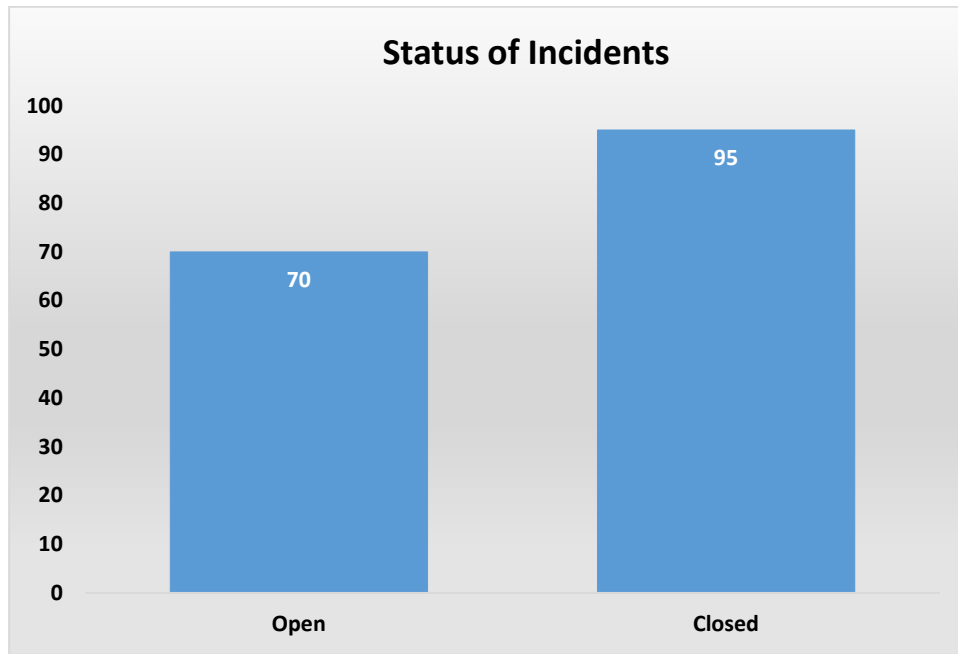


Figure 2. Status of incidents from September 21, 2021 – November 30, 2021 (95 closed, 70 open).

Table 1: 1st Quarter, FY22, summary of incidents by law/regulation

Law/Regulation/Program	Incident Totals
ACFCMA	16
Endangered Species Act	5
MSFCMA	87
HMS	30
State Law/Regulation	2
Marine Mammal Protection Act	14
International Trade Program	2
Lacey Act	2
Other Federal Law/Regulation	7
Total	165

Figure 3: Incidents in Trident broken down by specific law or program violation between September 21, 2021 and November 30, 2021.

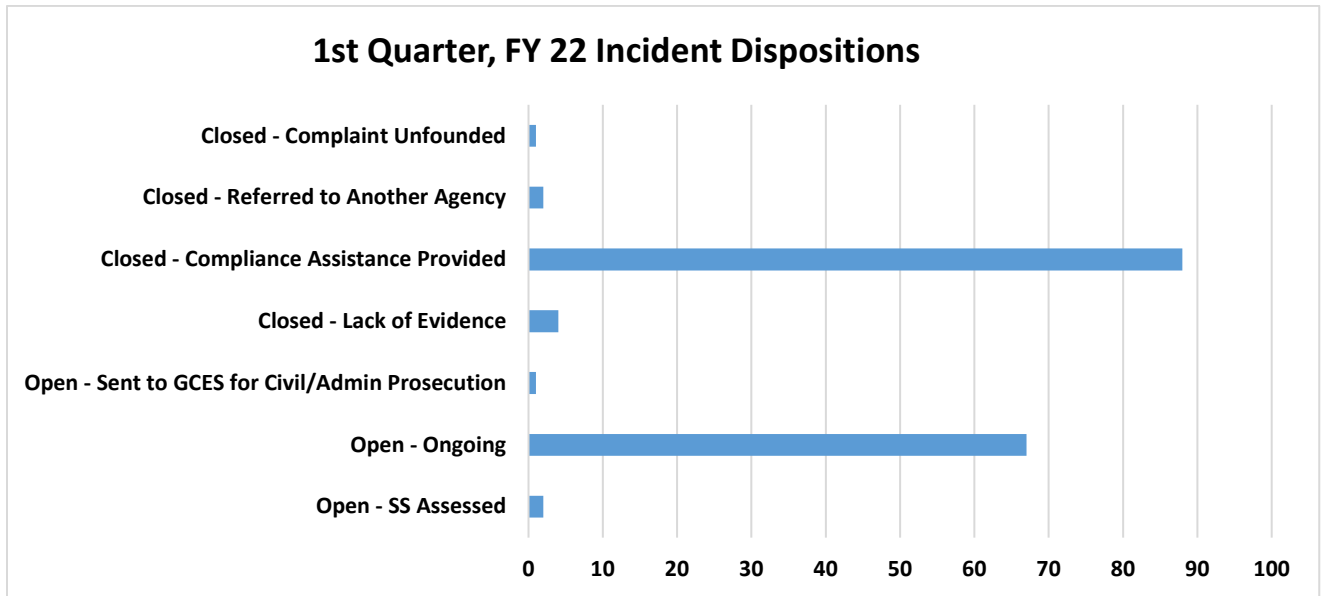
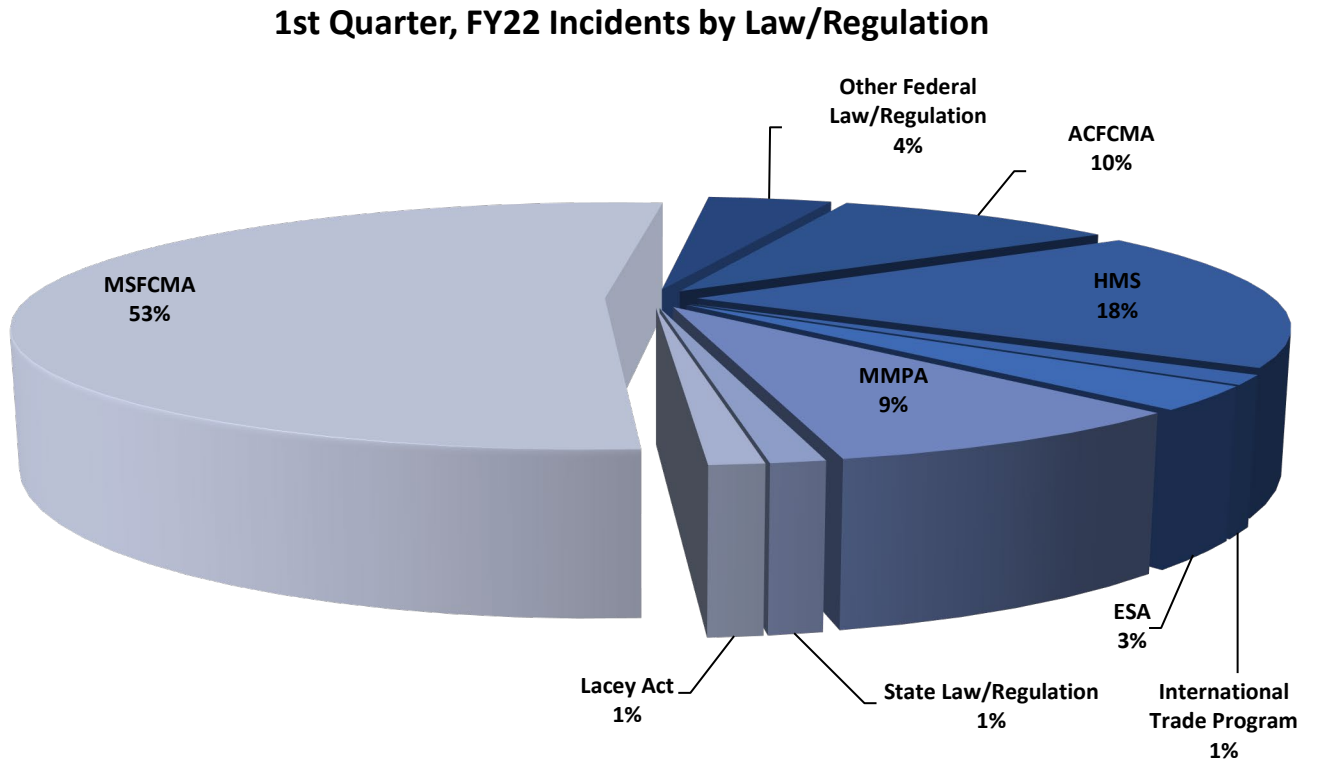


Figure 4. Incident dispositions for incidents in Trident between September 21, 2021 and November 30, 2021.

1st Quarter, FY 2022 Summary of Incidents Involving OLE Partners

A total of 43ⁱ incidents entered into Trident between September 21st and November 30th of this year involved collaboration with at least one other federal or state enforcement partner. Figure 5, below, shows incidents where NED staff in OLE partnered with a state and/or federal enforcement partner on patrols or seaport and/or airport terminal container inspections. The figure also includes cases referred to NED by state or federal enforcement partners.

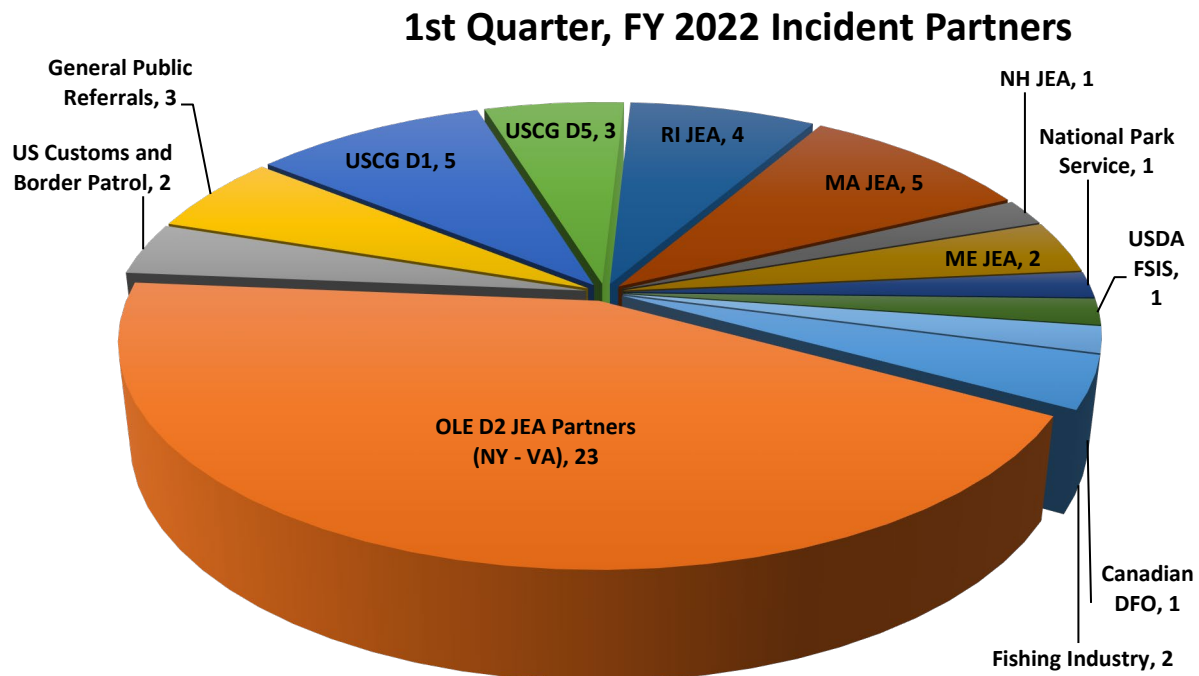


Figure 5ii. Incidents entered into Trident between June 2, 2021 and September 20, 2021 where one or more federal or state enforcement partner collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Non-enforcement partner related referrals are included here as well.

i The total number of instances of collaboration with at least one other federal enforcement partner or a state enforcement partner is greater than the 47 incidents illustrated here where there was collaboration outside of OLE. In addition, where multiple enforcement partners collaborated on a single incident, those partners were tallied separately in Figure 5, above.

ii Ongoing operations involving many NED staff prevented their review of data incorporated into Figure 5. Because they were not about to review the data set they helped contribute to that comprises this figure, there may be errors in the enforcement partners referenced here as well as the number of interactions with those enforcement partners.

1st Quarter, FY 2022 Overview of Summary Settlements

A total of 10 violations were associated with 8 Incidents with Summary Settlements issued between September 21st and November 30th, 2021 at a value of \$6,550.00. Data included in this section also comes from OLE's case management system, Trident.

Table 2: Individual Violations Associated with Summary Settlements Issued.

Law	Violation	SS Amount	State	Commercial/Recreational/For Hire?
ITP	SIMP Violation	\$1,000.00	MA	Commercial
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$250.00	NY	Recreational
MSFCMA	Expired Life Raft	\$2,500.00	ME	Commercial
MSFCMA	Fishing without Valid Operator's Permit	\$500.00	MA	Commercial
MSFCMA	Undersized Black Sea Bass	\$550.00	VA	Recreational
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$250.00	NY	Recreational
MSFCMA	Fishing without Valid Operator's Permit	\$500.00	VA	For Hire
MSFCMA	Fishing without Valid Federal Permit	\$500.00	VA	For Hire
HMS	Fishing Without Valid Atlantic HMS Permit	\$250.00	RI	Recreational
HMS	Failure to Report BFT	\$250.00	RI	Recreational
Total		\$6,550.00		-

Northeast VMS Program (1st Quarter, FY 2022)

Updated December 3rd, 2021

NE-Approved VMS Vendors and Units:

- Woods Hole Group - Thorium Leo & Thorium Triton
- SkyMate - I1500 & M1600
- AddValue - Wideye iFleetONE
- MetOcean OmniCom (Formerly Orolia)

NE VMS Unit Population:

- 948 registered vessels
 - Woods Hole Group 474
 - SkyMate 467

- Network Innovations 1
- MetOcean 6
- AddValue 0
- 3 Canadian Transshipment vessels, all MetOcean

NE VMS Population breakdown by Permits (Note: The total count below exceeds the VMS population count since most vessels hold multiple permits):

- 585 Ocean Quahog (OQ-6)
- 586 Surfclam (SF-1)
- 529 Scallop General Category (LGC-A,B,C)
- 356 Multispecies (MUL-A,D,F)
- 344 Scallop Limited Access (SC-2,3,5,6,7,8)
- 221 Longfin Squid (SMB-1A)
- 119 Herring (HER-A,B,C,E)
- 119 Mackerel (SMB-T1,T2,T3)
- 69 Illex Squid (SMB-5)
- 46 Longfin Squid (SMB-1B)
- 47 Combination (MUL-E)
- 14 Monkfish (MNK-F)
- 9 Maine Mahogany Quahog (OQ-7)

Groundfish Sector/Common Pool:

There are 283 groundfish sector vessels and 122 common pool vessels registered to the NE VMS Program.

Power-Down & Letter of Exemption (LOE) Program:

A total of 42 VMS-equipped vessels are on a NMFS -approved power down letter of exemption; of these, the owners of 11 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 17 vessels with LAGC scallop permits on a Power Down declaration in port.

Industry Contact Log Report:

In the 4th quarter of FY21, the NE Investigative Support (IS) Team addressed 223 industry issues and closed 180 issues or 81%. The most-frequently reported issues were (1) Letter or Exemption (LOE) Request, (2) VMS Non-Reporting, and (3) VMS Declaration/Forms Assistance.

In the 1st quarter of FY22, the NE Investigative Support (IS) Team addressed 83 industry issues and closed 50 issues or 60%. The most-frequently reported issues were (1) Letter or Exemption (LOE) Request, (2) VMS Non-Reporting, and (3) VMS Declaration/Forms Assistance.

Significant VMS Issues:

Program Staff:

Tyler Staples joined the team in November and filled a vacant Enforcement Technician position. Samantha Tolken departed the team in October and a job posting to backfill her Enforcement Technician position has recently closed.

VMS Vendor Decertification:

Our HQ OLE sent a letter to Network Innovations notifying the vendor that the Sailor Platinum VMS will no longer be certified in the Greater Atlantic Region effective November 1, 2021. The vendor was not able to keep pace with the required changes to the Northeast VMS reporting

software. The vessel owners were notified by certified letter that they must replace their VMS by October 31, and that they may be eligible for reimbursement, even if they had previously received a reimbursement. Only one vessels currently still has this unit installed, however this vessel fishes in Alaska, but holds GAR permits.

VMS Software Update:

There is a current VMS software change being worked on by the VMS vendors that should be pushed to the fleet by the end of year. The update will allow for the use of the year 2022 for forms that require date fields.

VMS Fleet-Wide Message:

Periodically, VMS messages will be sent to specific VMS fleets announcing fishery closures and other news. Industry is encouraged to monitor their VMS for all incoming messages. This quarter 4 fleet-wide messages were broadcast announcing a Mid-Atlantic Scallop IFQ closure, Atlantic Mackerel fishery closure, Herring 1A closure, and the Herring fishery closure.

Observer Program (4th Quarter Summary, FY 2021)

From July 1 through September 30, 2021, the observer program deployed on 1,039 trips for 2,231 sea days. Nine investigations were initiated based on Incident Reports received by the Northeast Division during the quarter. Ninety-nine percent (99%) of all selected or observed trips were completed without an enforcement referral/investigationⁱⁱⁱ. The summary below provides additional details.

Table 3: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	Four refusal reports related to vessels who sailed without an observer after being found to have expired safety equipment were received. One was closed under Compliance Assistance, and three are ongoing.
Assault	None
Harassment/Intimidation	Four investigations of complaints alleging harassment and/or intimidation were initiated. Three were closed with Compliance Assistance. A complaint involving a crew member who made unwanted comments relating to their interest in the observer is ongoing.
Interference	None
Vessel Safety Equipment/Certification	One complaint relating to a vessel owner who deliberately failed to obtain a required CFVSE is ongoing.
Observer Safety	One complaint involving a vessel that was not following the USCG vessel operation requirements,

ⁱⁱⁱ In some instances a single Incident Report contained multiple complaints and in other instances, multiple Incident Reports were received covering the same reported violation. For complaints reporting multiple potential violations, the most significant issue is the one tracked for case reporting statistics.

	during which a vessel collision was narrowly averted by the observer's actions, is under investigation.
Failure to provide reasonable assistance	None
Failure to provide equal accommodations	None
Observer gear/sample tampering	None
Observer program notification	None
Miscellaneous	A special agent provided enforcement training to a new training class of observers.

Cases sent to NOAA General Counsel Enforcement Section (GCES)

NED forwarded 5 cases to GCES between September 25th and December 2nd. 4 cases involve alleged fishing vessel violations and 1 case involves transiting through Mid-Atlantic Seasonal Management Areas at excessive speeds. They include but are not limited to: ACFCMA violations, permit violations, closed area violations, etc.