

# Council Report – Second Quarter, FY 2023

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**January 1, 2023 – March 31, 2023**

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), Division 1 and Division 2<sup>i</sup>, conducted essential operations last winter and spring and will continue those operations as we move into the warmer months of the year. All OLE staff strive daily to support our mission objectives. Enforcement Officers (EOs) and Special Agents (SAs) maintain a presence in our crucial fishing ports. They initiate and pursue investigations and provide outreach and compliance assistance when needed, while OLE's Administrative and Investigative Support Program (ISP) staff work behind the scenes to assist with ongoing investigations and operations.

This report reveals the high quality work NED staff performs to protect marine wildlife and habitat. All of us at OLE 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.

Figures 1-9 and Tables 1-4, below, include second quarter, FY 2023 data from NED. Please keep in mind OLE does not release information on any ongoing or open investigations. We welcome feedback on any section of this report.

## NED Enforcement Highlights

Our second quarter, FY 2023 law enforcement efforts continued to focus on two main priorities: Enforcing laws critical to the survival of the North Atlantic Right Whales (NARWs) and amplifying our collaboration with the Northeast Fisheries Observer Program (NEFOP). Our collaboration with NEFOP aims to reduce the overall number of observer related incidents and help encourage observer retention. A third priority is our Seafood Import Monitoring Program (SIMP) and efforts to counter Illegal Unreported and Unregulated (IUU) seafood commerce. Emphasis on these three priorities does not mean we stopped enforcing other important living marine resource focused laws under our jurisdiction, such as those associated with the Magnuson Stevens Fishery Conservation and Management Act, the Atlantic Coastal Fisheries Cooperative Management Act, and many others.

Our most recent enforcement efforts to protect and conserve the NARW population are carefully outlined in a dedicated section of this report starting on page 4. Similarly, we outlined our second quarter work in support of NEFOP starting on page 14.

## Enforcement and Compliance

The following metrics do not showcase the full performance of NED. We compile these metrics from a weekly internal NED report. Those reports highlight our higher priority and most impactful activities. For instance, roughly 1 in 4 of the patrols conducted make it to that report. While not precise with regard to total counts, the following metrics seek to break down our personnel resource allocations and efforts that resulted in more meaningful work products.

In the second quarter, FY 2023, there were approximately 20 high priority operations and/or patrols that occurred either on land or at sea. There were 29 documented instances of more

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<sup>i</sup> Both OLE and USCG separate out areas of specific geographic coverage by "Division". For OLE, NED's area of coverage is split between Division 1, covering from CT to Maine, and Division 2, covering from New York to Virginia. Similarly and overlapping this area is USCG Northeast Division 1, covering from New York to Maine, and USCG Mid Atlantic Division 5, covering from New Jersey to North Carolina.

impactful dockside outreach and/or industry compliance assistance in the field, allowing critical face-to-face interaction between our field staff and industry members. There were 31 instances of participation in various, significant, NOAA internal and external government partner meetings/events. There were also 13 seaport container inspections to monitor seafood imports. NED EOs and SAs initiated at least 23 high priority investigations based on previously conducted patrols and container inspections. Many of those investigations are ongoing.

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 ISPs in the VMS Program, the Compliance Liaison, and administrative staff within NED conduct on a daily basis. In addition, Figure 1 and the metrics mentioned above do not fully capture the regular interaction our agents and officers have with industry. As mentioned above, these metrics only capture a subset of our total work products. Multiple vessels may be boarded and multiple docks may be visited across multiple days on a single operation or patrol<sup>ii</sup>, as listed in Figure 1. Land based operations and patrols may also involve dealer and vehicle inspections.

### Enforcement Field Work and Outreach Effort Summary

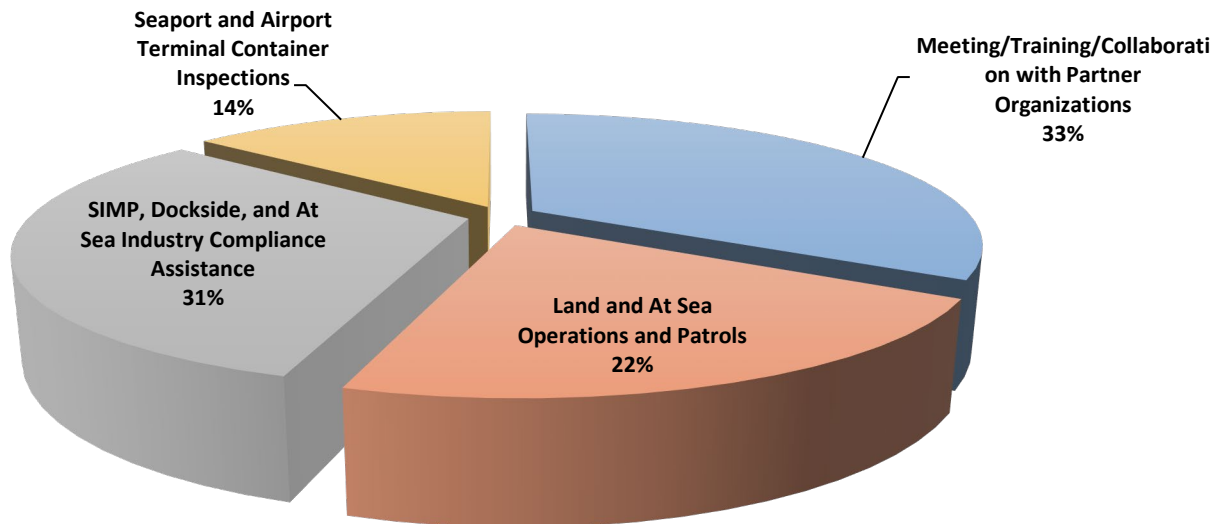


Figure 1: Roughly 93 events took place between and January 1, 2023 and March 31, 2023. The figure is broken down by land and at sea operations and patrols, internal government meetings, training events and collaborative efforts with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport and Airport Terminal Container Inspections.

## North Atlantic Right Whale Enforcement

[NARWs](#) inhabit coastal waters, making them particularly vulnerable to [vessel strikes](#) and entanglement in fixed fishing gear. These are the two human activities responsible for the majority of NARW deaths and serious injuries. We enforce speed rules and other regulations that protect these whales so that they are less likely to be struck by vessels and entangled in fishing gear.

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ii Operations can be more complex than patrols and involve multiple enforcement partners over several days, often targeting specific vessel activity.

By enforcing both of these regulatory strategies, we play an instrumental role in protecting not only NARWs, but all large whales along the Atlantic coast. We also participate in the development of on-demand (or ropeless) technology. Work on this technology may benefit all large whale species, but current NARW conservation priorities drive this effort. We provide vessel owners and operators the information they need to remain in compliance with federal regulations.

The following are highlights of our second quarter FY 2023, NARW speed and Atlantic Large Whale Take Reduction Plan (ALWTRP) enforcement activities.

## Vessel Speed Enforcement

Multiple [Seasonal Management Areas](#) (SMAs) are in place up and down the eastern seaboard from November through July to help reduce lethal vessel strikes. During these times of year, most vessels 65 feet or longer are required to reduce their speeds to 10 knots or slower while transiting the designated areas. These speed restrictions help reduce the lethality of strikes, allow boaters more time to sight and respond to nearby whales, and allow whales more time to move away from oncoming vessels.

NOAA's Office of Law Enforcement is charged with enforcing these regulations and helping the public comply with the rules. To enforce the speed rule, we deploy a number of technologies and strategies, including:

- Automatic Identification System (AIS) to detect speeding;
- Portable radar units to detect speeding by vessels not carrying AIS (such as the M2 unit<sup>iii</sup>);
- Active patrolling of Seasonal Management Areas (specialized equipment allows us to measure ocean current speed to determine if a deviation from the speed limit is warranted);
- Industry and public outreach to help stop violations before they happen.

Beyond enforcement, we also provide the public with the information they need to comply with the regulations. Since November, 2021, we have instructed hundreds of vessel owners along the Atlantic coast about the current vessel speed rule and the potential penalties for violations. In addition, reacting in near-real time and leveraging satellite-based technologies, we have sent more than 170 alerts to vessels operating in close proximity to NARWs in FY 2023<sup>iv</sup>. NED's ISP helps support operations with real time alerts for agents and officers in the field. OLE and GCES staff involved with speed rule case processing completed speed enforcement case work for the last SMA season and have begun work processing cases in the current season. We will continue to evaluate our efforts to maximize our ability to enforce the speed rule.

Our strategy to provide the impacted vessel community with compliance assistance and outreach to better accompany related case work is constantly evolving. Our hope is that our cumulative efforts will help curb the number of violations committed by all vessel types, but by recreational pleasure craft in particular. Figure 2, below, clearly illustrates the significance this vessel type plays in overall number of violations we observed during the CY 2021 – 2022 SMA season. OLE EOs and SAs along with GCES staff continue to investigate these types of violations.

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iii Please read the April edition of the [NOAA Fisheries Navigator insert to the Commercial Fisheries News](#) (page 3) for more information on OLE's M2 mobile radar unit.

iv This alert estimate includes those sent so far in the third quarter, FY 2023, as of the time this report was compiled (middle of May).

## CY 2021 – 2022 Adjudicated Vessel Speed Enforcement Violation Summary

SMA speed violations may be subject to potential [civil penalties](#). Thanks to our investigative work, NOAA has assessed over \$700,000 in penalties across 46 cases originating from the CY 2021 to 2022 SMA season. Many of these cases involve recreational pleasure craft.

Table 1: All fully adjudicated SMA speed violation cases from the CY 2021 – 2022 season.

| Case Number | Vessel Type                   | Flag / Nationality | Penalty Charged / Assessed |
|-------------|-------------------------------|--------------------|----------------------------|
| NE2200026   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2200027   | Charter Fishing               | USA                | \$7,500.00                 |
| NE2200028   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2200037   | Passenger Ship                | USA                | \$7,500.00                 |
| NE2200039   | Recreational Pleasure         | USA                | \$10,000.00                |
| NE2200040   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2201532   | Recreational Pleasure         | USA                | \$8,500.00                 |
| NE2201534   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2201536   | Passenger Ship                | USA                | \$7,500.00                 |
| NE2201538   | Recreational Pleasure         | USA                | \$15,000.00                |
| NE2203316   | Passenger Ship                | USA                | \$7,500.00                 |
| NE2203317   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2203317B  | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2203318   | Recreational Pleasure         | USA                | \$20,000.00                |
| NE2203319   | Charter Fishing               | USA                | \$15,000.00                |
| NE2203321   | Recreational Pleasure         | USA                | \$30,000.00                |
| NE2203327   | Recreational Pleasure         | USA                | \$75,000.00                |
| NE2203327   | Chemical/ Oil Products Tanker | Marshall Islands   | \$7,500.00                 |
| NE2203425   | Research Vessel               | USA                | \$20,000.00                |
| NE2204924   | Recreational Pleasure         | USA                | \$7,500.00                 |
| NE2204927   | Recreational Pleasure         | USA                | \$25,500.00                |
| NE2205628   | Bulk Carrier                  | China              | \$7,500.00                 |
| NE2205630   | Crude Oil Tanker              | Marshall Islands   | \$7,500.00                 |
| NE2205634   | General Cargo Ship            | United Kingdom     | \$7,500.00                 |
| NE2205636   | Crude Oil Tanker              | Liberia            | \$7,500.00                 |
| SE2200433   | Recreational Pleasure         | Germany            | \$20,000.00                |

|           |                                  |                   |                     |
|-----------|----------------------------------|-------------------|---------------------|
| SE2200555 | Charter Fishing                  | USA               | \$12,500.00         |
| SE2200572 | Recreational Pleasure            | Cayman Islands    | \$12,500.00         |
| SE2200614 | Recreational Pleasure            | USA               | \$7,500.00          |
| SE2200624 | Recreational Pleasure            | USA               | \$7,500.00          |
| SE2200770 | Recreational Pleasure            | USA               | \$7,500.00          |
| SE2201018 | Recreational Pleasure            | USA               | \$12,500.00         |
| SE2201020 | Recreational Pleasure            | USA               | \$12,500.00         |
| SE2203331 | Recreational Pleasure            | USA               | \$20,000.00         |
| SE2203362 | Charter Fishing                  | USA               | \$27,500.00         |
| SE2203379 | Recreational Pleasure            | USA               | \$15,000.00         |
| SE2203419 | Recreational Pleasure            | USA               | \$22,500.00         |
| SE2203504 | Recreational Pleasure            | USA               | \$15,000.00         |
| SE2205391 | Port Tender/Offshore Work Vessel | USA               | \$7,500.00          |
| SE2205416 | Container Ship                   | Singapore         | \$21,306.00         |
| SE2205446 | Chemical/ Oil Products Tanker    | Liberia           | \$7,500.00          |
| SE2205593 | Container Ship                   | Cyprus            | \$52,500.00         |
| SE2205596 | Container Ship                   | Cyprus            | \$60,000.00         |
| SE2205618 | Chemical/ Oil Products Tanker    | Liberia           | \$15,000.00         |
| SE2205620 | Bulk Carrier                     | Bahamas           | \$7,500.00          |
| SE2205738 | General Cargo Ship               | Antigua & Barbuda | \$15,000.00         |
|           | <b>Total Assessed Penalties</b>  | -                 | <b>\$717,806.00</b> |

Council members from both the MAFMC and the NEFMC and others have expressed interest in learning more about the vessels OLE and GCES have investigated related to speed rule violations. Table 1, above, lists vessel information individually, by violating vessel. One question asked of OLE at various points was, "What type of vessels are committing these violations?" Another was, "What was the country of origin or the flag of nationality of the violating vessels?" Figures 2 and 3, below, illustrate a graphic response to both of those questions, respectively.

## CY 2021 - 2022 SMA Violations By Vessel Type

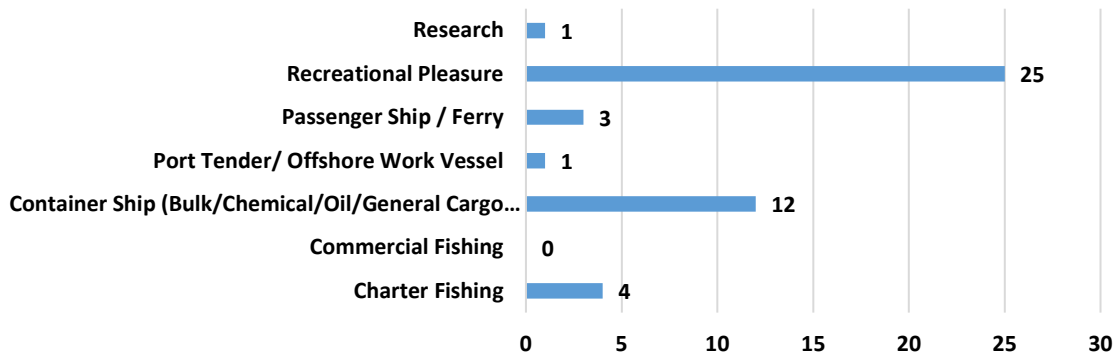


Figure 2: Breakdown of 46 cases fully adjudicated from the CY 2021 – 2022 SMA season involving various vessel types.

## CY 2021 - 2022 SMA Speed Violations by Vessel Flag/Nationality

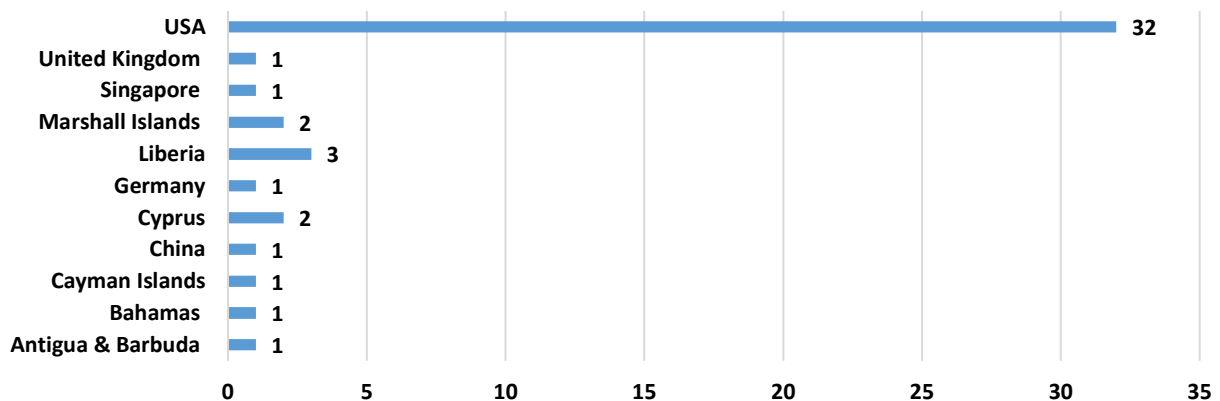


Figure 3: Breakdown of 46 cases fully adjudicated from the CY 2021 – 2022 SMA season by vessel flag and/or nationality.

## Second Quarter, FY 23, Vessel Speed Enforcement Activity

The following list includes related work conducted in chronological order by NED staff in the second quarter, FY 23:

- At the request of an SA in the first week of January, ISP staff compiled data on CY 2022 Dynamic Management Area and slow zones. The data included effective time, boundary, and whale presence.
- An EO conducted patrols with MA Environmental Police (MEP) to monitor and enforce speed violations within an SMA in the first week of January on two consecutive days.
- In the second week in January, ISP staff sent VMS messages to multiple vessels that staff identified to be fishing in the vicinity of sighted NARWs. Based on a survey at the time, 14 NARWs were spotted south of Nantucket. OLE policy is to broadcast VMS messages to any VMS equipped vessels entering within a 20 nm radius of a confirmed NARW sighting for the following 48 hours.



- Also in the second week of January, Two EOs and an SEO met with the command staff for the NY and NJ Pilots Association on Staten Island to discuss our past SMA operation, upcoming operations, and enforcement. This meeting was a follow up from our attendance at the USCG Sector NY, NY Harbor Operations Planning Safety Steering Committee meeting held in December, 2022. The SEO explained if there is a safety concern to life or property, deviation from the speed rule is authorized and must be annotated in the ships log. The meeting helped to foster a better relationship between OLE and the pilots.
- The following week, SAs and EOs, along with JEA Partners, conducted a speed rule enforcement operation in the mouth of the Delaware Bay. The main objective of this operation was to target and contact vessels travelling in excess of the 10 knot speed rule. Participating staff used the M2 mobile radar unit and handheld radar technology to obtain real-time speed data on vessels travelling through the Delaware Bay SMA. In support of operation, ISP staff set up AIS alerts for vessels exceeding speed rule limits in the SMA. Those alerts were sent to EOs and SAs supporting the operation in real time. Various staff monitored the M2 radar interface in support of the operation.
- The last week in January, an EO conducted multiple patrols to provide outreach to boaters about the presence of NARWs in the Cape Cod Bay, as well as vessel speed requirements within the Cape Cod Bay SMA.
- Also in that week, an EO, three MEP officers, and USCG D1 conducted a joint patrol within the Cape Cod Bay SMA due to a large number of NARWs identified in the area. The EO observed approximately 10 NARWs feeding within the Bay, while an aerial survey identified a total of 24. No vessel speed violations were documented.
- Again in that week, an SEO, three EOs and a SA conducted a five day operation targeting vessel traffic within the Delaware Bay SMA. NED staff partnered with Delaware Natural Resource Police, USCG D5 and the New Jersey Department of Environmental Police on the operation. A total of 22 vessels were observed and no violations were identified.
- In the 1<sup>st</sup> week of February, an SEO and EO met with the Virginia Marine Resources Police JEA Coordinator to plan an upcoming speed rule operation.
- In the same week, ISP staff sent five messages to VMS equipped vessels identified to be in the vicinity of NARWs.
- The following week, ISP staff sent seven messages to VMS equipped vessels identified to be in the vicinity of newly confirmed NARW sightings.
- Also in the second week of February, an EO and two MEP officers conducted speed enforcement inside the Cape Cod Bay SMA.
- In late February, in support of a speed rule operation, ISP staff set up and sent AIS alerts to EOs conducting the operation. Various NED staff utilized the M2 radar unit during the operation.
- Also in late February, NED ISP staff created case packages for vessels alleged of violating the speed rule.
- In early March, an SEO, three EOs, USCG D5, and Virginia Marine Resources Police conducted a three day NARW speed operation in the Chesapeake Bay SMA. Speeds were checked on approximately 32 vessels. All vessel speeds checked were in compliance. Officers identified a whale watch vessel who was not broadcasting AIS information as required. USCG D5 contacted vessel and enforcement action is forthcoming.
  - In support of that speed rule operation, ISP staff set up AIS alerts for a group of vessels to trigger when leaving port. During the operation, NED staff determined that numerous vessels were not operating AIS as required.
- In the third week in March, an SA began investigating two recreational pleasure vessels for allegedly violating the speed rule. The vessels were documented by AIS to allegedly be in excess of speed restrictions while transiting various SMAs.

## Atlantic Large Whale Take Reduction Plan Enforcement

To reduce entanglements in fishing gear, NOAA Fisheries worked with a team of fishermen, scientists, conservationists, and state and federal officials from Maine to Florida. The team developed the Atlantic Large Whale Take Reduction Plan in 1996, which addresses gear and closed area restrictions. The Plan has been updated several times. With the help of the Atlantic Large Whale Take Reduction Team, OLE enforces ALWTRP laws to reduce the risk of large whale entanglement in fixed gear fisheries. NOAA Fisheries added significant [new regulations in 2021](#) to address NARW entanglement in Northeast lobster and Jonah crab trap/pot gear. New [Restricted Gear Areas](#) (RGAs) impacting fixed lobster and crab pot and trap gear went into effect in late 2021, but the gear modification requirements included in those regulations did not go into effect until May 1 of last year.

The following list includes related work conducted in chronological order by NED staff in the second quarter, FY 23, by our EOs and SAs:

- In early January, the NED Compliance Liaison (CL) and our D1 SEO collaborated with NOAA staff from GCES, the Office of Protected Resources, and the Protected Resources Division (PRD) at the Greater Atlantic Regional Fisheries Office to develop a plan for Lobster Management Area (LMA) 3 lobstermen regarding the 1700 lb breaking strength end line requirement that went into place on May 1 of last year. In March, PRD approved compatible, 1700 lb breaking strength end line (1/2" gauge) and NED agreed to begin the enforcement of weak breaking strength end line requirements in LMA 3. NOAA Fisheries leadership also approved the use of weak inserts to satisfy weak breaking strength requirements in LMA 3.
- One day following the joint patrol alongside MEP to enforce speed violations within an SMA in the first week of January mentioned previously, the participating EO conducted an ALWTRP patrol with MEP in the same area.
- In the second week of January, an EO found an LMA 3 lobster/crab vessel in violation for failing to properly mark buoys following a dockside inspection in New Bedford.
- Again in the same week, an EO held a training at USCG Station Boston for new staff members as well as MEP officers. The training event focused on the recent ALWTRP changes, operations for the upcoming Northern Gulf of Maine (NGOM) scallop fishery, as well as Highly Migratory Species (HMS) and groundfish regulations. Approximately 20 partners were in attendance.
- In the third week of January, an EO participated in a Living Marine Resources flight with USCG Air Station Cape Cod over the Gulf of Maine. Areas patrolled were over the LMA 1 Restricted Area, currently closed to trap/pot fishing with traditional buoy gear, the edges of LMA 1/LMA 3 and the US/CA Exclusive Economic Zone (EEZ). Information was collected regarding LMA 3 fleet activity and no violations were observed.
- In the last week of January, as mentioned above, an EO participated in an at-sea patrol with MEP and USCG D1 in Massachusetts Bay/Cape Cod Bay focused on ALWTRP and speed rule enforcement due to the large number of NARWs congregating in the area. Officers identified vessel activity and one violation. One detached gear buoy was found floating in the vicinity of the NARWs and an investigation is ongoing. Approximately two dozen lobster trawls were identified inside the EEZ "Wedge" area and in state waters bordering the area. Those gear observations informed gear inspection plans with MEP when the Wedge closure went into effect the next week.
- In the same week, while also providing boaters with speed rule compliance assistance information, an EO conducted multiple patrols and spoke to lobster vessel captains about ALWTRP requirements. He also listened to their concerns about changes within their fishery.
- Also in late January, an EO and SEO conducted an ALWTRP and speed rule patrol outside Chesapeake Bay. Officers checked several sets of gear and monitored five vessels. They found no violations.

- In early February, an EO assisted MEP and USCG D1 with a patrol of the Wedge closure. Officers identified several trawls and the EO queried the permit numbers and determined that the vessel owner had already contacted NOAA regarding their inability to remove gear in time for closure. We continued to work with the subject to remove the gear until it was fully removed.
- Also in early February, an EO identified three violations during two dockside inspections in New Bedford, including an LMA 3 lobster/crab vessel in violation of ALWTRP regulations for failing to properly mark buoys.
- Again in the first week of February, the EO and two MEP officers who conducted a patrol of the Cape Cod Bay SMA for speed rule violations mentioned above, also conducted a patrol inside the Massachusetts Restricted Area RGA targeting lobster gear. One set of unmarked fixed gear with improper line markings was located and marked for future hauling and inspection.
- Also in the second week of February, an EO alongside Maine Marine Patrol (MMP) conducted an ALWTRP gear patrol in EEZ waters offshore southern Maine. Officers inspected 17 trawls, seven identified with ALWTRP violations. Those investigations are ongoing.
- In the third week of March, an EO attended the Maine Fisherman's Forum and represented OLE in a panel discussion on the NGOM scallop fishery. The panel covered the following topics: observer requirements, National Marine Sanctuary wreck avoidance, closed areas, quotas, the Research Set Aside program, and sand lance. During the event the EO also staffed the NOAA booth to provide outreach and education on ALWTRP, among other topics.

Figure 4 below illustrates our patrol efforts in the second quarter, FY 2023, which focused on ALWTRP compliance. Between January 1 and March 31, about 78% of all inspected vessels were compliant with no observed ALWTRP non-compliance. This is down from 88% compliance for the previous quarter (first quarter, FY '23). This is primarily due to MMP efforts to identify wet storage violations which increase in number in the winter months as well as improved efforts targeting non-compliant vessels. Out of about 254 vessels inspected by boarding officers, 199 had no observed ALWTRP violations.

The vast majority of second quarter, FY '23 ALWTRP patrol efforts were carried out independently by MMP. NED agents and officers conduct land and sea based patrols independent of an enforcement partner and all MA Environmental Police and USCG D1 patrols listed in Figure 5, below, were partner patrols with NED. NED staff partnered on or conducted independently, 13 land and sea patrols, in addition to 1 air patrol with USCG D1. OLE and our enforcement partners continued ALWTRP patrols into the start of the third quarter, FY 2023.

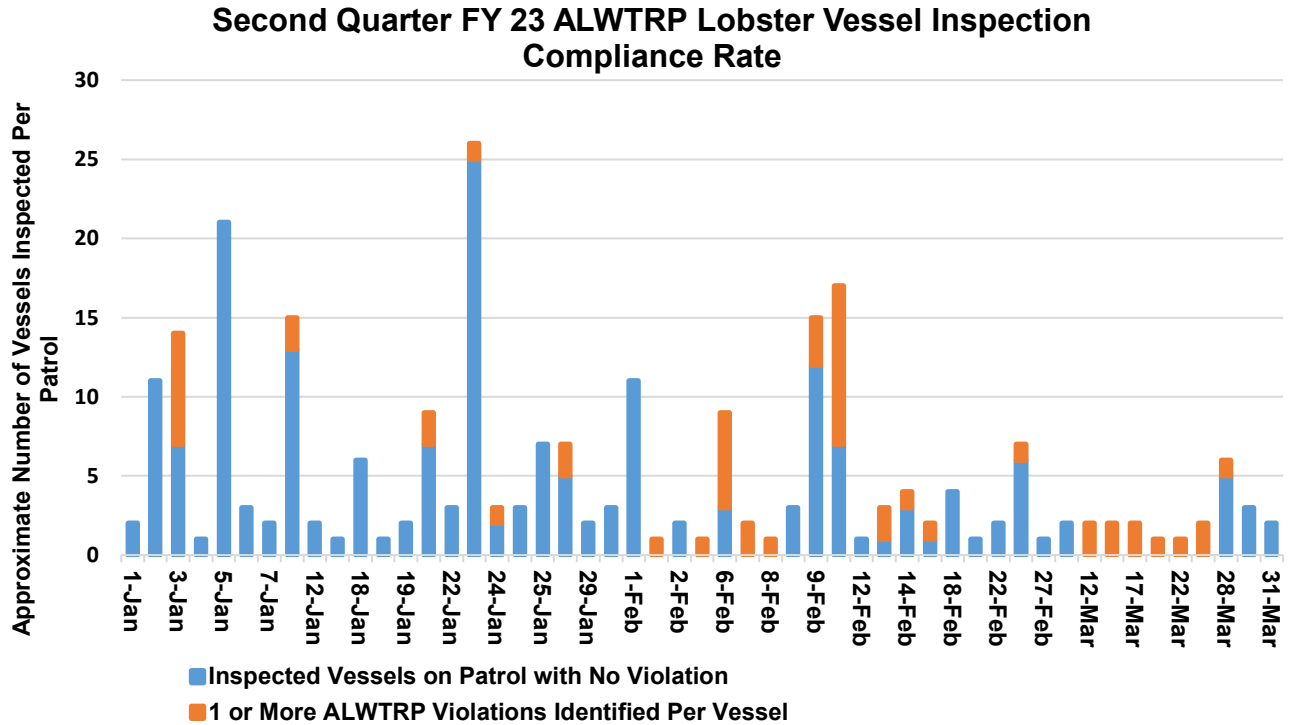


Figure 4<sup>v</sup>: Shown here is the compliance rate observed on individual patrols conducted by OLE and state enforcement partners from MA to ME. Each bar represents an individual patrol and the blue and/or orange color within each bar represents the total number of compliant and/or non-compliant vessels, respectively, per patrol. Combined, enforcement partners inspected approximately 254 separate vessels for compliance with ALWTRP regulations between January 1 and March 31, 2023.

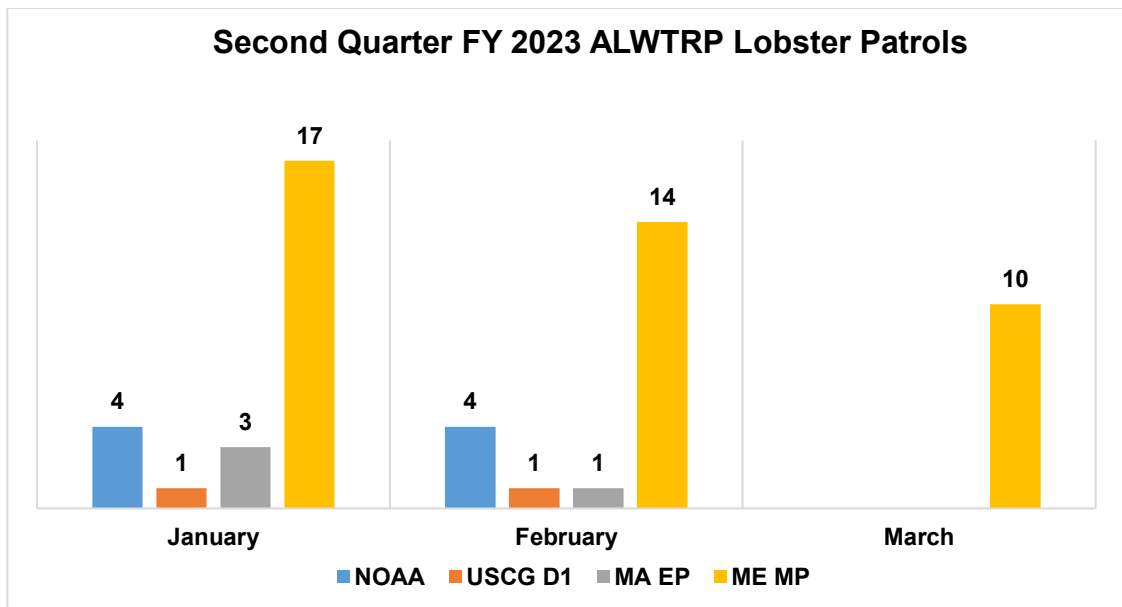


Figure 5: This figure shows a breakdown, by month and enforcement partner, of the number of patrols between January 1 and March 31, 2023. NED and our enforcement partners conducted an aggregate of 54 ALWTRP patrols in this time period.

<sup>v</sup> Figure 2 does not include patrols listed in Figure 3 where no vessels were located during the patrol.

NED staff responded to, participated in, and investigated numerous large whale stranding events that sadly occurred over the winter from MA down to VA. Many of those stranding events involved humpback whales, a species currently categorized as experiencing an Unusual Mortality Event (UME). The currently active humpback whale UME began in 2016. More data on the humpback whale UME may be found on NOAA Fisheries' [Humpback Whale UME web page](#). NOAA Fisheries' staff fielded many questions recently related to a possible nexus between offshore wind development and whale mortality. Please see a [NOAA Fisheries FAQ](#) developed to address those questions.

Because of the heightened number of whale stranding events NED staff participated in last winter, we documented that work here. The following list includes NED staff's whale (and dolphin) stranding work conducted in chronological in the second quarter, FY 23:

- ISP staff provided AIS data to an SA for a vessel of interest related to whale stranding complaints in the third week of January. ISP staff sourced AIS data to compile four months of data in both spreadsheet form and geographic display files that could be used in programs like Google Earth.
- In the same week, an EO responded to a report of a deceased humpback whale washed up on the beach in Brigantine, NJ. An EO, along with NJ Conservation Officers and State Park Police provided security over a four day period. Members of multiple organizations including the NJ Marine Mammal Stranding Center assembled to perform a full necropsy. The necropsy team was able to determine that the likely cause of death was a vessel strike.
- In the first week of February, an EO responded to a stranding event for a deceased adult humpback whale named Luna. The whale washed up on Lido Beach in Nassau County. The EO and New York State Department of Environmental Conservation (NYS DEC) Police assisted the Atlantic Marine Conservation Society (AMCS) on the necropsy. The EO responded and coordinated security for 2 days with Hempstead Town Bay Constables, Hempstead Town Public Safety Officers, Nassau County Police Department, and NYS DEC Police.
- In the second week of February, an EO assisted the Virginia Aquarium Stranding Response Team (VASRT) in conducting a necropsy on a deceased humpback whale. The preliminary findings were inconclusive with regards to death caused by trauma and based on the amount of decomposition, the VASRT said that the whale had been deceased for a long time. They took samples to attempt to identify the cause of death.
- In the third week of February, OLE responded to a dead humpback whale that washed up in Manasquan, NJ. Over two days, an EO and SA provided security while coordinating with NJ Fish and Wildlife Officers, local police, marine mammal stranding centers and NOAA Public Relations.
- Separately, the same week, an EO, SEO, and Virginia JEA officers responded to a deceased NARW and maintained perimeter and scene security during a necropsy and the disposal of the carcass.
- In early March, an SA began working with the National Park Service to identify a subject who is suspected of removing the fins from a juvenile humpback whale that washed ashore at Assateague Island National Park. Prior to burial, staff performed a necropsy.
- Also in early March, NOAA National Ocean Service's (NOS's) Emergency Response Division provided a Hindcast<sup>vi</sup> model to NED to visualize whale carcass drift. NED staff met with NOS staff to help gain a better understanding of the data and to build a relationship for future requests. ISP staff also sourced and plotted AIS data for the area of concern and then presented a final product to an SA.
- In the second week of March, OLE received a report of a dead humpback whale that washed up in Seaside Park, NJ. Over a period of three days, an EO provided security while acting as a

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vi Hindcast is a NOS model designed to predict debris/oil movement. We used it to predict where a whale carcass could have traveled from based on landing/sighting location date/time and environmental conditions (tide, wind, current).

liaison between NJ Fish and Wildlife officers, local police, the local public works department, town officials, marine mammal stranding centers, and NOAA Public Relations.

- That same week OLE received a report of a dead bottlenose dolphin that washed up in Avalon, NJ. Over the course of two days, an EO provided security while the stranding team relocated the dolphin for necropsy and burial.
- In the third week of March, an SA began working with the ISP staff, NMFS NOS, and the VA stranding team in relation to a NARW fatality that occurred in February. The SA coordinated data set sharing between partners to leverage all available information and produce investigative leads.
- Also in the third week of March, an EO received a complaint from PRD that marine mammal stranding staff collected a deceased common dolphin from MA waters that had been moved repeatedly by bystanders as they attempted to rescue it. The EO conducted an interview of one involved bystander, whom was uncooperative with the investigation.
- Again in the same week, an EO received notification that two minke whales were found deceased in Barnstable Harbor, MA, both within 2 miles of each other. The whales have been examined and further investigation is pending the necropsy results.

## NEFOP Enforcement Collaboration

In support of our priority to aid NEFOP, our goals are to reduce the overall number of observer related incidents and help encourage observer retention. Our second quarter FY 2023 efforts in support of this priority involved close collaboration with staff from the Fisheries Monitoring Operations Branch (FMO) of the Northeast Fisheries Science Center (NEFSC) and industry members.

We recognize that observer retention is a challenge even under ideal circumstances. While industry concern over COVID-19 transmission due to observer requirements may be waning, those with pre-existing health conditions may still have related concerns to carrying observers. Recent increases in coverage rates in the northeast groundfishery and NGOM scallop fishery have also placed additional strain on the observer program and industry. Full implementation of [Amendment 23](#) last January increased At Sea Monitoring (a form of observer coverage) coverage rates and NGOM scallop permit holders<sup>vii</sup> must call into the [Northeast Industry-Funded Scallop Observer Program](#) as of April 1, 2022, the date NOAA Fisheries implemented Amendment 21 to the scallop FMP. NEFOP's inability to provide vessels with suitable life rafts to accommodate observers past June 30, 2023 may also complicate observer relations with industry and is a topic we now regularly address with industry.

On April 12, 2023, NOAA Fisheries published a [Notice on Preventing Observer Harassment](#). The notice highlights observer safety on board commercial fishing vessels, in particular Sexual Assault or Sexual Harassment (SASH). It also provides resources and guidance to owners and operators to help avoid SASH among observers. In addition, it highlights a recent change to federal law, 46 U.S.C. § 10104<sup>viii</sup>. The notice was designed to be easily printed so that it could be placed on display in areas readily visible by commercial vessel crew and observers.

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vii Limited Access General Category (LAGC) NGOM permit holders were included in industry funded scallop observer program call in requirements by the implementation of Amendment 21 to the scallop FMP.

viii 46 U.S.C. § 10104 now requires “the responsible entity” of a documented vessel to immediately report to the Coast Guard “any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such entity is made aware.” The law defines the term “responsible entity of a

We plan to accomplish goals under this priority by working more closely with both industry members, members of the observer program, and our enforcement partners. Our enforcement of observer related violations remains unchanged as the law change mentioned above is under USCG jurisdiction.

Our activities in support of our NEFOP priority are as follows:

- Two SAs (One from NED and the other Alaska Region based) presented at two northeast fisheries industry training workshops on harassment and one similar workshop directed to the observer provider community in January. The NED CL and an SA presented at a third industry based workshop, also in January. All four workshops were organized by FMO, in partnership with OLE. Industry workshops were not well attended, but organizers invited participants in all federal fisheries in the Northeast and Mid-Atlantic regions. FMO and OLE conducted these voluntary workshops to further support observers in the field and to support industry in understanding observer harassment and SASH. The workshops suggested ways for captains to talk to crew members about these topics as well as best practices if they witness unacceptable behavior at sea. Please see a NEFSC [webpage](#) to register for the next related industry workshop planned on July 10, 2023.
- In addition to quarterly meetings held between FMO and OLE staff to discuss ongoing observer related cases, observer related issues, and brainstorming new ideas for collaboration within our groups, we collaborate monthly to identify issues where compliance assistance and outreach may be provided to individual vessels or at individual ports. This effort allows FMO to elevate issues to OLE that do not rise to the level of an enforcement action where compliance assistance and outreach can be provided. Our hope is that this early intervention with individual vessels or at individual ports can mediate issues before they become violations.
- An SA participated in 3 observer training events for classes of new observers. That SA now participates in two separate training agenda items at each observer training event for new observers. The first agenda item is a general presentation on OLE geared towards helping new observers understand how OLE supports them. The other agenda item is a more recent addition. That is, an SA participates on an observer support panel which consists of OLE, USCG, and FMO staff. Similar to the general presentation OLE provides, the support panel offers another venue for new observers to hear from and interact with enforcement staff and FMO staff involved in alerting enforcement staff of potential observer related violations.
- An SA conducted joint presentations with FMO staff to JEA partners covering observer program responsibilities and OLE's role in support and conducting investigations.
- During the 2023 OLE In-Service held at the end of March, Agents/Officers attended a SASH training to aid them with conducting related investigations.

While a goal of this priority is to help encourage observer retention, we focus our efforts on both industry members and members of the observer community. We will encourage best practices and standards of behavior among industry and the observers. If you have questions on this topic, you may contact us at the following numbers:

- Compliance Liaison; (978) 281-9213, option 2
- the Northeast Fisheries Observer Program; [ne.observerprogram@noaa.gov](mailto:ne.observerprogram@noaa.gov)
- the NOAA OLE Hotline (available 24/7); 1-800-853-1964

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vessel" to mean "(1) the owner, master, or managing operator of a documented vessel engaged in commercial service; or (2) the employer of a seafarer on such a vessel." A "documented vessel" is a vessel for which a certificate of documentation has been issued under 46 U.S.C. Chapter 121.



We included a summary of our second quarter observer related violations in Table 2, below. From January 1 through March 31, 2023, the NOAA Observer Program deployed on 734 trips for 2,910 sea days. We initiated six investigations based on Incident Reports<sup>ix</sup> received this quarter. 99.2% of all selected or observed trips were completed without an enforcement referral/investigation<sup>x</sup>. The summary below provides additional details.

Table 2: Summary of Observer Program Complaints and Status

| Type of complaint                        | Number of complaints and status   |
|--|---|
| Refusal                                  | None  |
| Assault                                  | None  |
| Harassment/Intimidation                  | We received one observer harassment/intimidation complaint. The investigation is ongoing.   |
| Interference                             | We received one observer interference complaint. The investigation is ongoing.  |
| Vessel Safety Equipment/Certification    | None  |
| Observer Safety                          | None  |
| Failure to provide reasonable assistance | We received two reasonable assistance complaints. One investigation is ongoing and the other we closed after providing compliance assistance. |
| Failure to provide equal accommodations  | None  |
| Observer gear/sample tampering           | None  |
| Observer program notification            | We received one complaint for a slippage event and that investigation is ongoing.   |
| Groundfish Catch Handling                | We received one complaint for discard of legal sized groundfish and that investigation is ongoing.  |
| Miscellaneous                            | None  |

## Incident Information

Incidents listed in this section come directly from the NOAA Enforcement Information System (NEIS)<sup>xi</sup>, OLE's new electronic case management system. NEIS replaced Trident as OLE's case management system in late September, 2022. Incidents referenced here include investigations and patrols mentioned in the NED Enforcement Highlights section, above, 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 ISP and other NOAA staff indicated non-compliance events. Many NED staff members contributed to the incident information presented here.

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ix NED receives notices from FMO on potential observer violations through Incident Reports they submit to us.  
x 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.

xi September 15 was the internal cutoff date for our transition from Trident, our former case management system, to NEIS. All case information that was available in Trident, is now in NEIS. Beginning on September 16, OLE staff nationwide began entering in all new case information in NEIS.



The query used to generate the data displayed in this section is based on the date incidents were created in NEIS. As incidents created in NEIS, such as investigations, occurred prior to the date of entry into NEIS, the information presented in this section is meant to present an accurate snapshot of NED activity in the second quarter, FY 2023, not a precise account of all activities that have occurred during that time.

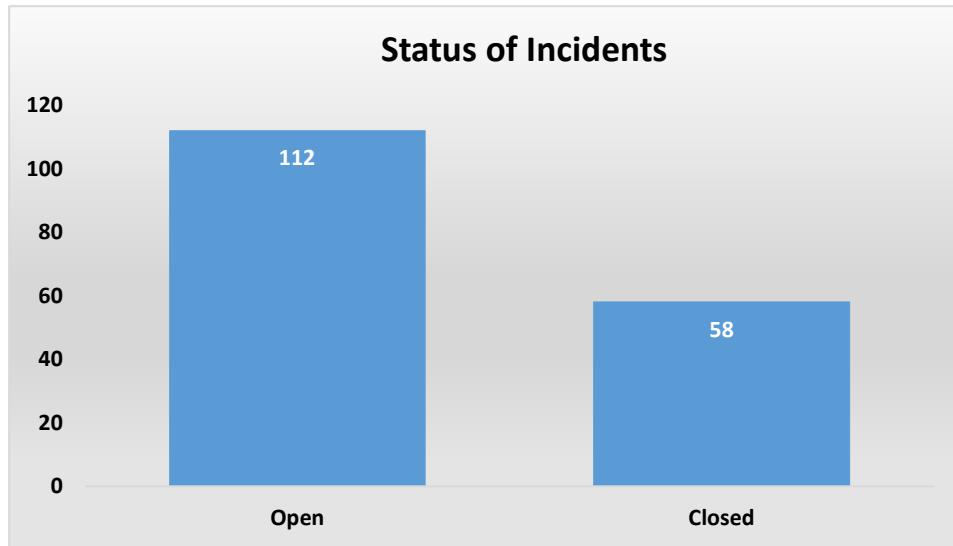


Figure 6. Status of incidents entered in NEIS between and including January 1 and March 31, 2023 (58 closed, 112 open).

Table 3: Second Quarter, FY 23, summary of incidents by law/regulation

| Law/Regulation/Program       | Incident Totals |
|------------------------------|-----------------|
| Marine Mammal Protection Act | 45              |
| Combined MMPA and ACFCMA     | 17              |
| Endangered Species Act       | 2               |
| MSFCMA                       | 63              |
| HMS                          | 8               |
| International Trade Program  | 26              |
| Lacey Act                    | 3               |
| Other Federal Law/Regulation | 6               |
| <b>Total</b>                 | <b>170</b>      |

### Second Quarter, FY23 Incidents by Law/Regulation

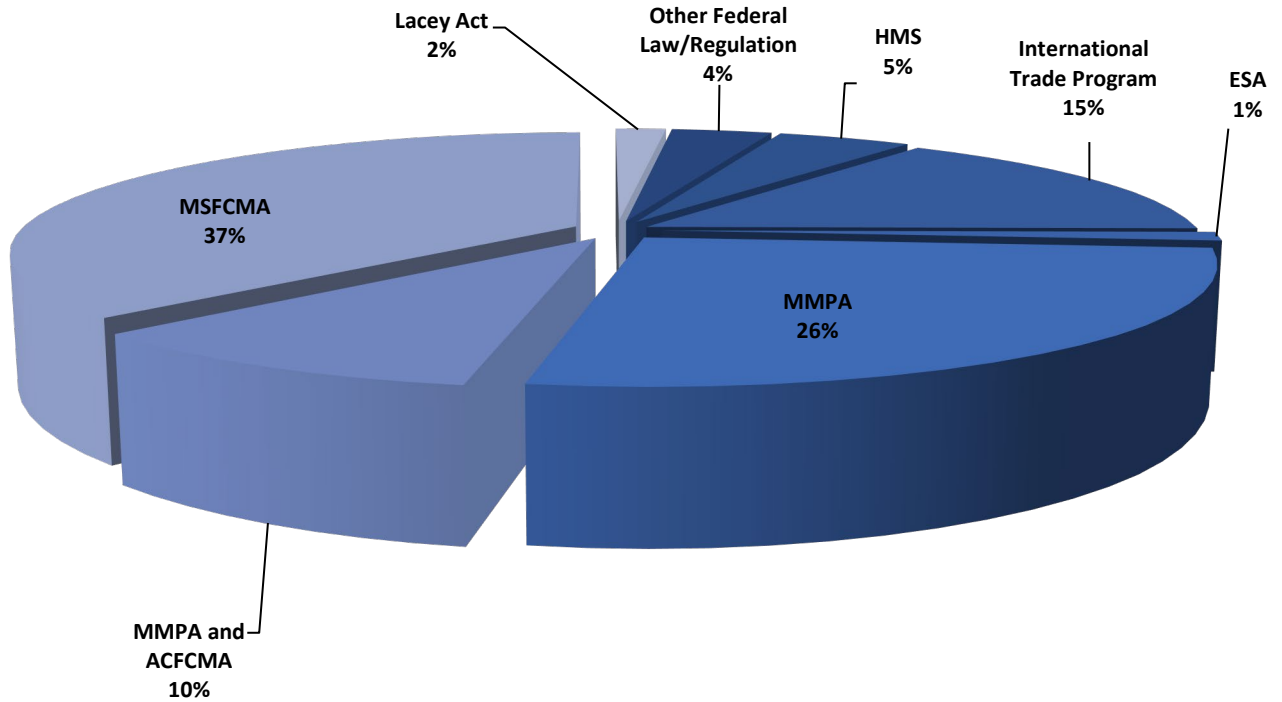


Figure 7: Incidents in NEIS broken down by specific law or program violation from January 1 through March 31, 2023.

### Second Quarter, FY 23 Incident Dispositions

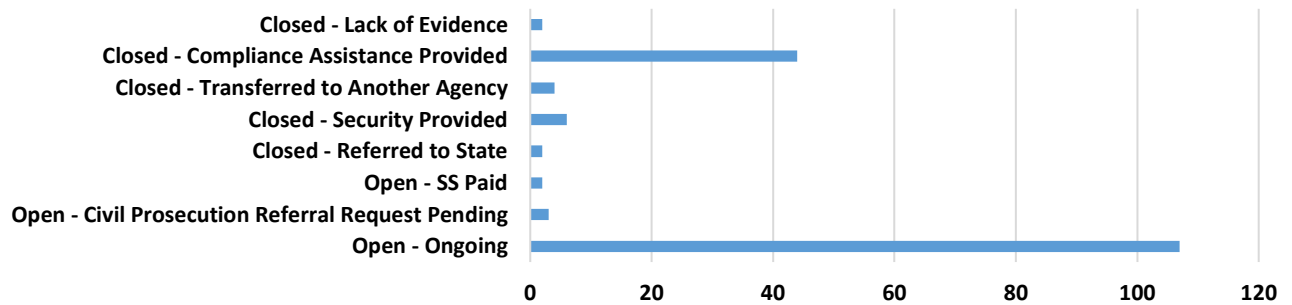


Figure 8. Incident dispositions from January 1 through March 31, 2023.

# Summary of Incidents Involving OLE Partners

A total of 86<sup>xii</sup> incidents entered into NEIS from January 1 through March 31 of this year involved NED collaboration with at least one other federal, state, or other enforcement partner. Figure 9, below, shows incidents where NED staff in OLE partnered with an enforcement partner on patrols, seaport and/or airport terminal container inspections, whale stranding events, or referred case packages.

## Second Quarter, FY 2023 Incident Partners

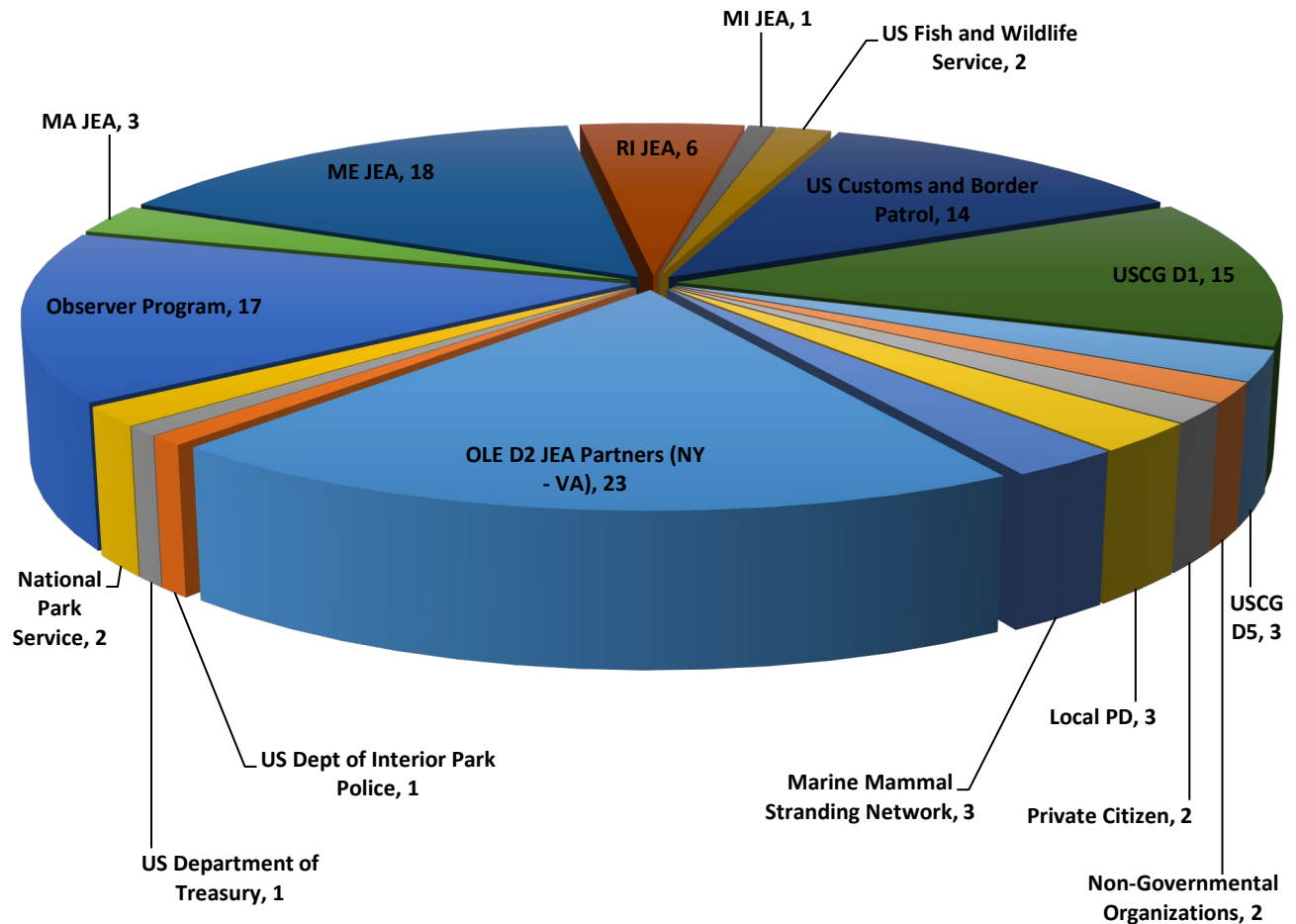


Figure 9. Incidents entered into NEIS between January 1 and March 31, 2023 where one or more federal, state, or local enforcement partners collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Observer program related referrals are included here, but all other NOAA internal referrals are not.

xii The total number of instances of collaboration between OLE and at least one other enforcement partner illustrated in Figure 9 is greater than the 86 incidents referenced in this data set. Where multiple enforcement partners collaborated on a single incident, those partners were tallied separately in Figure 9.

# Overview of Summary Settlements

NED staff issued Summary Settlements for 21 violations associated with 18 incidents between January 1 and March 31, 2023 totaling \$19,750. Data included in this section also comes from OLE's case management system, NEIS. Many incidents with Summary Settlements listed here predate incidents listed in the "Incident Information" section, above.

Table 4: Individual Violations Associated with Summary Settlements Issued in the second quarter, FY 23.

| Law          | Violation                                     | SS Amount          | State | Commercial / Recreational / For Hire |
|--------------|---|--------------------|-------|--------------------------------------|
| MSFCMA       | SIMP Non-Compliance                           | 1000               | MA    | Commercial                           |
| MSFCMA       | SIMP Non-Compliance                           | 1000               | MA    | Commercial                           |
| HMS          | Fishing Without a Valid Vessel Permit         | 500                | MD    | Recreational                         |
| MSFCMA       | Observer Refusal                              | 1000               | ME    | Commercial                           |
| Lacey Act    | Illegal Lobster Transport                     | 250                | ME    | Commercial                           |
| Lacey Act    | Illegal Lobster Transport                     | 2000               | ME    | Commercial                           |
| MSFCMA       | SIMP Non-Compliance                           | 3000               | MI    | Commercial                           |
| MSFCMA       | SIMP Non-Compliance                           | 1000               | MI    | Commercial                           |
| MSFCMA       | SIMP Non-Compliance                           | 2000               | MI    | Commercial                           |
| MMPA         | ALWTRP Gear Violation                         | 250                | NJ    | Commercial                           |
| HMS          | Undersized Swordfish Possession               | 500                | NJ    | Recreational                         |
| ACFCMA       | Atlantic Striped Bass Possession in the EEZ   | 1000               | NJ    | Recreational                         |
| MSFCMA       | SIMP Non-Compliance                           | 1000               | NJ    | Commercial                           |
| HMS          | Possession of Tuna in Improper Form           | 750                | NY    | Commercial                           |
| MSFCMA       | Vessel FVTR Reporting Failure                 | 500                | RI    | For Hire                             |
| MSFCMA       | Regulated Species Possession in Improper Form | 250                | RI    | For Hire                             |
| HMS          | Atlantic HMS Possessed in Improper Form       | 750                | RI    | For Hire                             |
| ACFCMA       | Atlantic Striped Bass Possession in the EEZ   | 1500               | RI    | For Hire                             |
| MSFCMA       | Vessel FVTR Reporting Failure                 | 500                | VA    | For Hire                             |
| MSFCMA       | Fishing Without a Valid Permit                | 500                | VA    | For Hire                             |
| MSFCMA       | Operating a Vessel Without a Valid Permit     | 500                | VA    | For Hire                             |
| <b>Total</b> |   | <b>\$19,750.00</b> |       | -                                    |

## Northeast VMS Program

Updated April 21, 2023

### NE VMS Unit Population (active):

- 919 registered vessels
  - Woods Hole Group 445
  - SkyMate 468

- Network Innovations<sup>xiii</sup> 1
- MetOcean<sup>xiv</sup> 5
- AddValue 0
- 8 vendor test units (installed at NED OLE)

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

- 591 Surfclam (SF-1)
- 590 Ocean Quahog (OQ-6)
- 505 Scallop General Category (LGC-A,B,C)
- 349 Multispecies (MUL-A,D,F)
- 342 Scallop Limited Access (SC-2,3,5,6,7,8)
- 226 Longfin Squid (SMB-1A)
- 121 Herring (HER-A,B,C,E)
- 116 Mackerel (SMB-T1,T2,T3)
- 67 Illex Squid (SMB-5)
- 46 Combination (MUL-E)
- 40 Longfin Squid (SMB-1B)
- 15 Monkfish (MNK-F)
- 6 Maine Mahogany Quahog (OQ-7)

**Groundfish Sector/Common Pool:**

There are 272 groundfish sector vessels and 121 common pool vessels registered to the NE VMS Program. Sector vessels gained 4 vessels since the first quarter, FY 23 report and the common pool (vessels fishing under the “Days at Sea” program) gained 3 vessels since the last report.

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

A total of 41 VMS equipped vessels are on a NMFS approved power down LOE; of these, the owners of 25 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 12 vessels with LAGC scallop permits on a Power Down declaration in port.

**Industry Contact Log Report:**

In the second quarter of FY 23, ISP staff addressed 219 industry issues. The most-frequently reported issues were (1) VMS Non-Reporting and Power Down issues (2) VMS Declaration/Forms Assistance and Compliance and (3) Closed Area issues and regulatory questions

**VMS Notes and Significant Events:**

VMS Fleet-Wide Message

Periodically, ISP staff send VMS messages to specific VMS fleets announcing fishery closures and other news. In those messages, we encourage vessels to monitor their VMS for all incoming messages. In second quarter, FY 23, ISP staff sent five messages. Staff sent messages for the Herring Area 1B closure, Herring Area 3 closure, Closed Area I LACG scallop closure, NGOM scallop closure, and the White Hake Common Pool TAC closure.

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xiii No longer approved for use or installs in the NE. One Alaskan vessel that holds GAR permits currently is equipped with this unit.

xiv This number includes 3 Canadian Transshipment vessels.

### Monitoring of Closed Areas

Vessels are reminded that there are no buffer zones around closed areas and that VMS is actively monitored for closed area compliance. Industry is encouraged to keep onboard electronics updated with the correct closed area boundaries. Industry should monitor their VMS for any incoming messages sent from OLE.

### NARW Notices

ISP staff now broadcast VMS messages to alert vessels if there are NARWs in the vicinity of their activity. Staff send messages based on regional survey data. In the second quarter, 116 messages were sent for 14 different sighting events.

### Stellwagen Bank National Marine Sanctuary Shipwreck Avoidance

ISP staff now send VMS messages to vessels that enter specific areas to notify on known shipwreck locations inside the Stellwagen Bank Sanctuary. If there are any questions about the messages or shipwrecks please contact the Sanctuary at 781-424-0699 or Ben.Haskell@noaa.gov.

## **Cases sent to NOAA General Counsel Enforcement Section (GCES)**

NED forwarded 29 cases to GCES between January 1 and March 31, 2023. 14 cases involved speed restriction violations to protect NARWs (SMA violations). The other 15 include, but are not limited to: HMS violations, false data submissions, failure to carry observers, marine mammal harassment, permit violations, and closed area violations.