



**NOAA FISHERIES**

# Council Report – 1<sup>st</sup> and 2<sup>nd</sup> Quarter, FY 2022

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**Nov 30, 2021 – Jan 28<sup>th</sup>, 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), Division 1 and Division 2 (D1 and D2)<sup>i</sup> continued to conduct essential operations last fall into early winter and will continue those operations as we move through the remaining 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 1-2, below, pick up where the last Council report left off in early December, 2021. We welcome feedback on any section of this report.

## NED Enforcement Highlights

- The Department of Justice's U.S. Attorney's Office, District of Maine, publicly announced an indictment Friday, January 29<sup>th</sup>, 2022. In summary, U.S. Attorney Darcie N. McElwee announced that five fishermen from Maine and one from NH, along with a corporation, were charged with conspiracy, mail fraud and obstruction of justice in connection with a multi-year scheme to sell unreported Atlantic herring and falsify fishing records. Commenting on this case, OLE Director James Landon said, *"NOAA's Office of Law Enforcement is proud to join with the Maine Marine Patrol on this investigation. Together we form a valuable team, leveraging each other's strengths and demonstrating the value of Federal-State partnerships."* For more information, please see the public announcement at URL: <https://www.justice.gov/usao-me/pr/maine-and-new-hampshire-herring-fishermen-charged-conspiracy-fraud-and-falsification>
- Another indictment went out on Wednesday, last week, from the Department of Justice. Christopher Winkler was charged with one count of conspiracy to commit mail fraud, to obstruct the National Oceanic and Atmospheric Administration (NOAA) through the falsification of fishing logs, and to unlawfully frustrate NOAA's efforts at regulating federal fisheries. For more information on this indictment, please see the public announcement: <https://www.justice.gov/opa/pr/superseding-indictment-charges-new-york-fisherman-conspiracy-fraud-and-obstruction>
- NED EOs and SAs continued dockside and at sea patrols since the last report to the NEFMC and are listed in chronological order:
  - EOs, SAs, and USCG stations Cape Charles and Little Creek conducted a patrol operation in the Chesapeake Bay Seasonal Management Area (SMA) in support of the North Atlantic Right Whale (NARW) speed reduction rule. Vessel transit speeds were

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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 NY to Virginia. Similarly and overlapping this area is USCG Northeast Division 1, covering from NY to Maine, and USCG Mid Atlantic Division 5, covering from New Jersey to North Carolina.

checked on approximately 49 vessels utilizing Automatic Identification System (AIS) ship tracking, Mini-Automatic Radar Plotting Aid, and traditional Doppler speed detection devices. Seven violations were identified: Four vessels were identified violating the speed rule and were contacted via VHF. Two of the violations were minor, and were contemporaneously provided compliance assistance, and two violations are under investigation.

Two vessels were identified not transmitting AIS and will be referred to USCG enforcement. One commercial fishing vessel was boarded and found to be in violation of Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations. During this operation, a NED SEO and 2 EOs responded to a USCG radio alert and assisted an individual at sea in medical distress. NED officers were first on scene providing medical support before USCG medical staff arrived and took over. We subsequently learned the individual suffered a heart attack and survived.

- Following an implementation delay for the Restricted Gear Area (RGA) in Lobster Management Area 1 (LMA-1), an EO conducted an at sea patrol with Maine Joint Enforcement Agreement (JEA) partners inside the RGA. This RGA is the first new RGA to go into effect as part of recently approved changes to ALWTRP. The EO contacted 2 commercial vessels and provided compliance assistance on the RGA closure inside LMA-1. The EO documented lobster gear from 3 additional vessels inside the area. Those investigations are ongoing.
- Also related to lobster, An EO coordinated with Massachusetts JEA partners to target gillnet vessels suspected of landing incidental lobsters in excess of state and federal incidental landing limits based on dealer reported landing weights. Two vessels were found to have exceeded state landing limits and also violated federal size limits. The first vessel landed nine oversized lobsters and the second vessel landed 15 oversized lobsters.
- Continuing an early December busy with Patrols, An EO coordinated with Massachusetts JEA partners to target gillnet vessels suspected of landing incidental lobsters in excess of state and federal incidental landing limits based on dealer reported landing weights. Two vessels were found to have exceeded state landing limits and also violated federal size limits. The first vessel landed nine oversized lobsters and the second vessel landed fifteen oversized lobsters.
- The following week, an EO organized a focused patrol in response to a complaint regarding lobster gear violations and territorial disputes. The EO worked with the USCG to conduct five patrols which resulted in seven inspections. During each boarding, captains hauled gear while the EO inspected the gear for compliance with ALWTRP requirements. One vessel was issued compliance assistance for fishing an untagged trap.
- OLE issued 60 compliance letters to owners of vessels that violated the North Atlantic right whale vessel speed regulations in Northeast ports all based on AIS data.
- OLE agents are investigating six violations of the North Atlantic right whale vessel speed regulations. Depending on the investigation outcome, these cases may be referred to General Counsel Enforcement Section for consideration of a Notice of Violation and Assessment.

- On December 16, Bob Gosman's Co. pleaded guilty to selling or transporting summer flounder and squid in interstate commerce in violation of New York State regulations and in violation of the Lacey Act. Gosman's and the government agreed to a \$50,000 fine, four years of organizational probation and three Special Conditions. One Special Condition requires implementation of an Environmental Compliance Plan, which among other things mandates the use of certified scales and submission of specific sale and purchase records to OLE and DOJ on a weekly basis.

## Enforcement and Compliance

Since the last Council meeting, and over the Holiday season, there were approximately 8 operations and/or patrols that occurred either on land or at sea. There were 4 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 7 instances of participation in various NOAA internal and external government partner meetings and events and 6 seaport container inspections to monitor seafood imports. NED EOs and SAs initiated at least 19 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 panels, school events, 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 Team 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

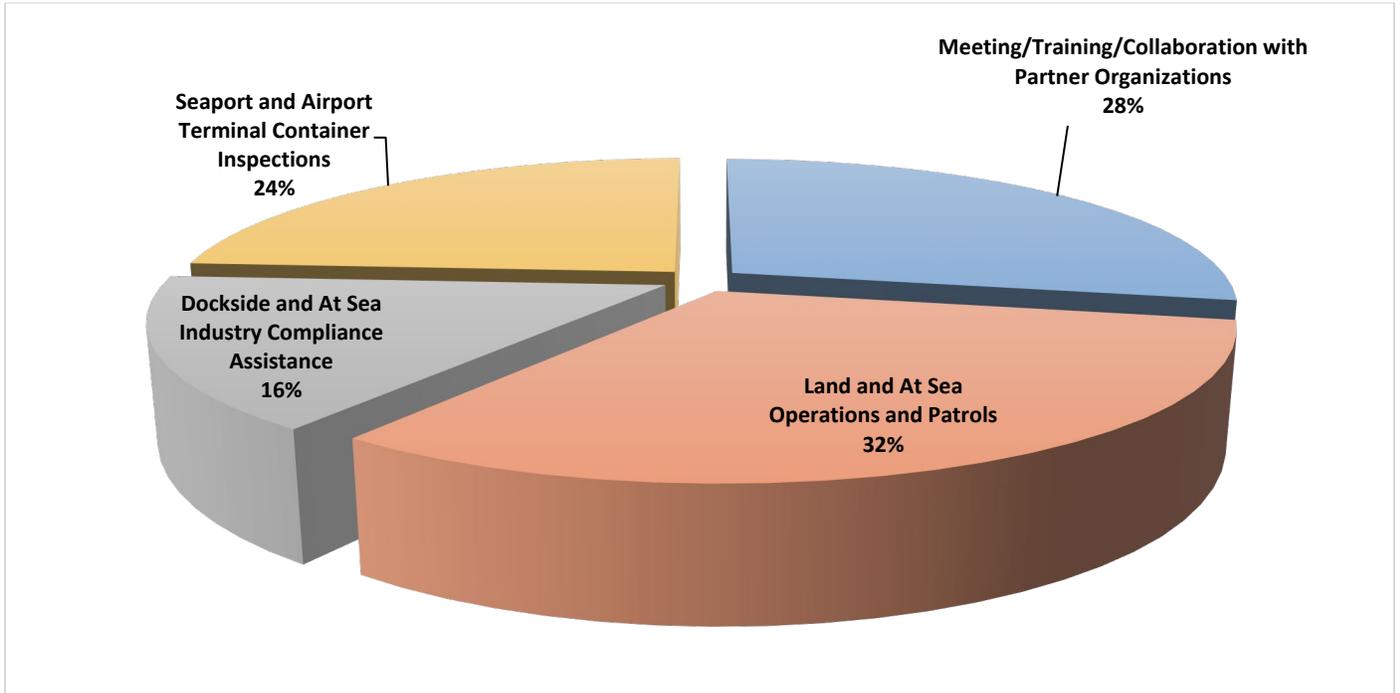


Figure 1: Roughly 23 events took place between November 30<sup>th</sup>, 2021 and January 24<sup>th</sup>, 2022. The figure is broken down by land and at sea patrols, internal government meetings, training events, and collaborative efforts with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport and Airport Terminal Container Inspections.

## 1<sup>st</sup> and 2<sup>nd</sup> 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.

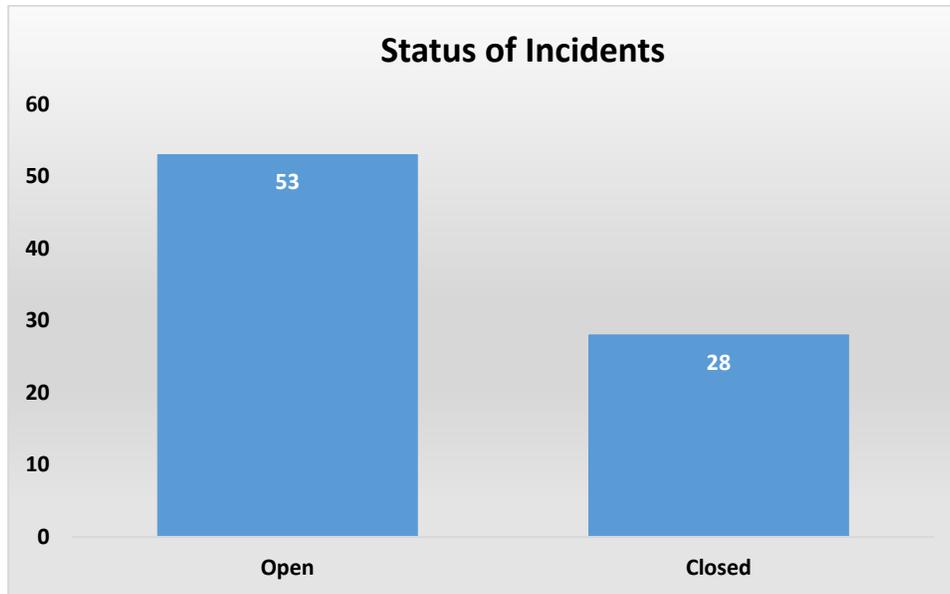


Figure 2. Status of incidents from December 1, 2021 – January 24, 2022 (28 closed, 53 open).

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

Law/Regulation/Program	Incident Totals
ACFCMA	7
Endangered Species Act	6
MSFCMA	33
HMS	13
High Seas Fisheries Compliance Act	2
Marine Mammal Protection Act	11
CITES	1
International Trade Program	1
Lacey Act	1
Other Federal Law/Regulation	6
<b>Total</b>	<b>81</b>

Figure 3: Incidents in Trident broken down by specific law or program violation between December 1, 2021 and January 24, 2022.

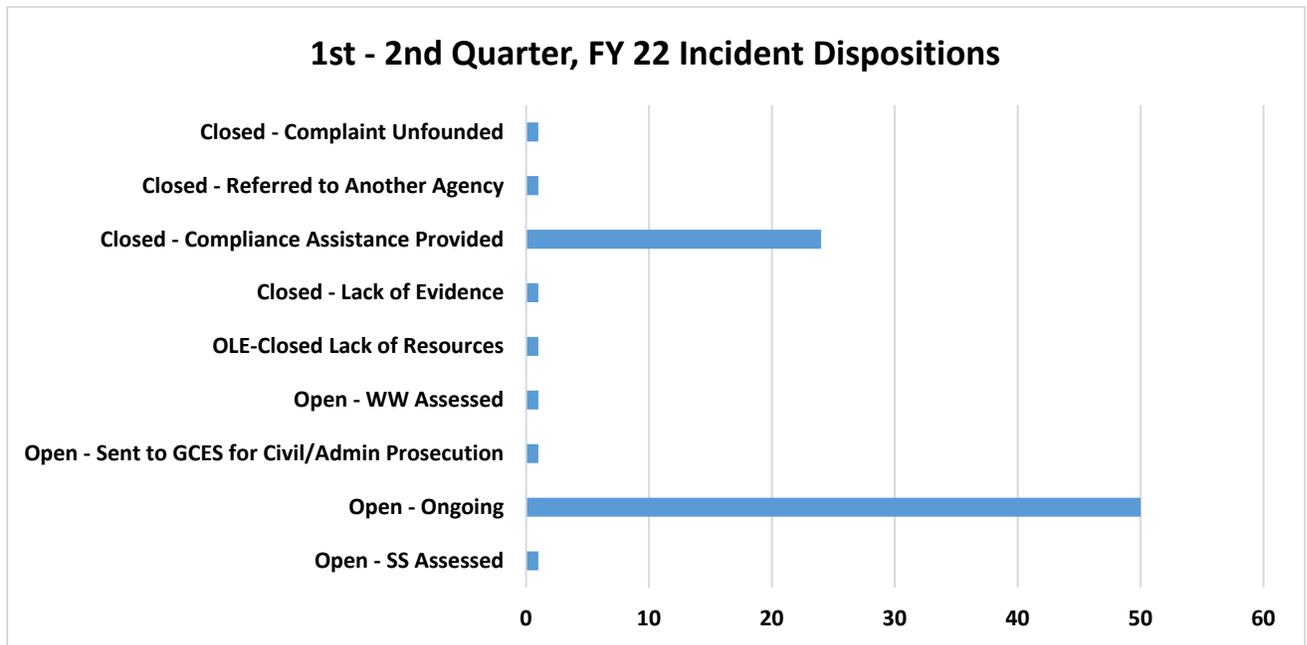
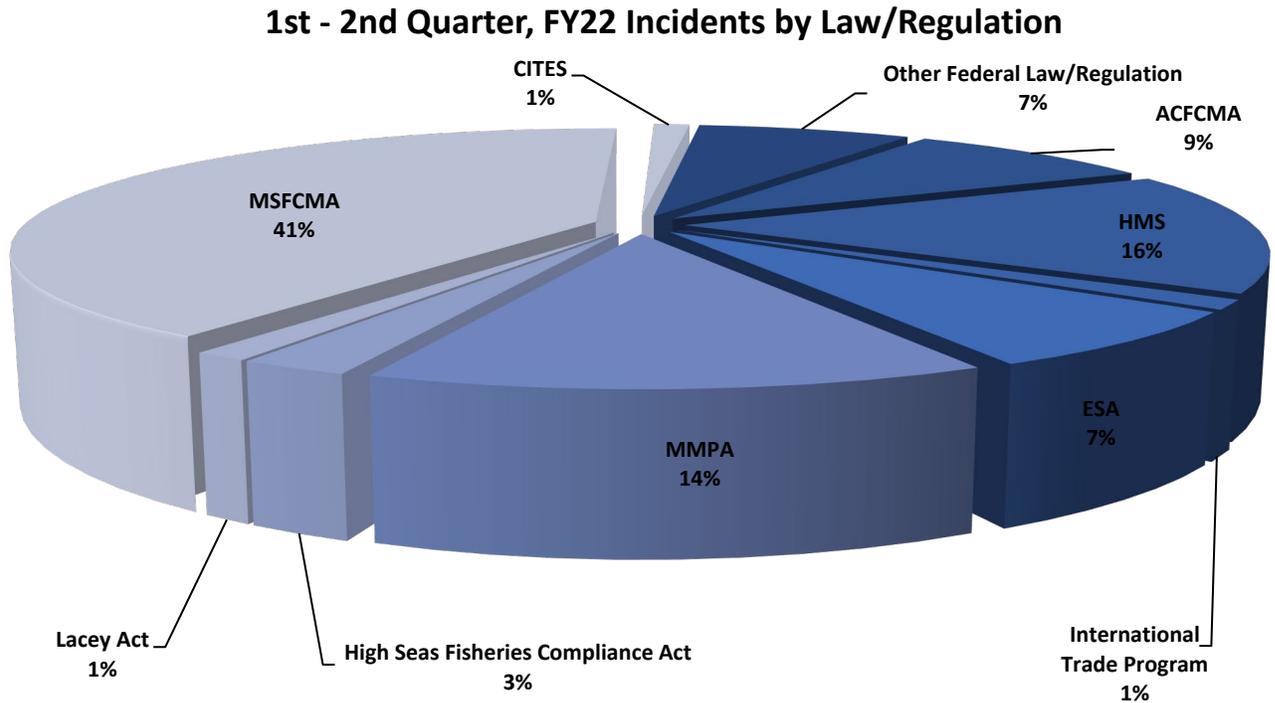


Figure 4. Incident dispositions for incidents in Trident between December 1, 2021 and January 24, 2022.

# 1<sup>st</sup> and 2<sup>nd</sup> Quarter, FY 2022 Summary of Incidents Involving OLE Partners

A total of 37<sup>ii</sup> incidents entered into Trident between December 1<sup>st</sup>, 2021 and January 24<sup>th</sup> of this year involved collaboration with at least one other international, federal, or state enforcement partner. Figure 5, below, shows incidents where NED staff in OLE partnered with a state, federal, and/or international enforcement partner on patrols, seaport and/or airport terminal container inspections, or referred case packages.

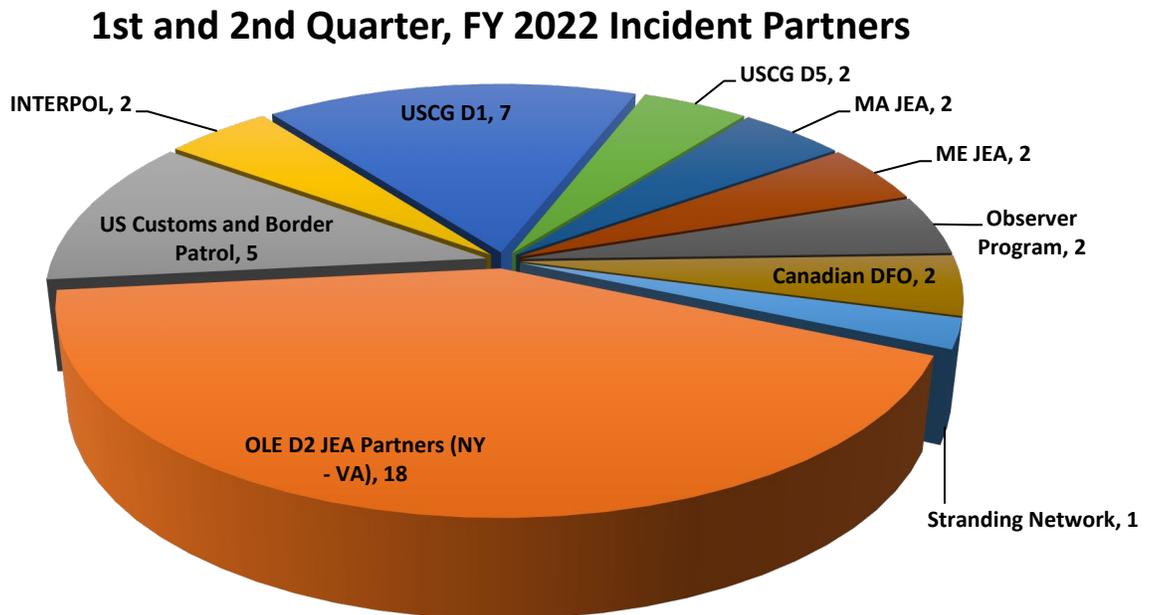


Figure 5. Incidents entered into Trident between December 1, 2021 and January 24, 2022 where one or more international, federal, or state enforcement partner collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Observer program related referrals are included here as well.

# 1<sup>st</sup> and 2<sup>nd</sup> Quarter, FY 2022 Overview of Summary Settlements

A total of 8 violations were associated with 7 Incidents with Summary Settlements issued between December 1<sup>st</sup>, 2021 and January 24<sup>th</sup>, 2022 at a value of \$7,268.19. Data included in this section also comes from OLE’s case management system, Trident.

<sup>ii</sup> 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.

Table 2: Individual Violations Associated with Summary Settlements Issued.

Law	Violation	SS Amount	State	Commercial/Recreational/ For Hire?
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$500.00	RI	Recreational
MSFCMA	Failure to Report FVTR	\$500.00	MA	Commercial
HMS	Failure to Report Atlantic Swordfish	\$1,000.00	MA	Commercial
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$500.00	RI	Recreational
ACFCMA	Possession of Oversize Lobster	\$1,000.00	MA	Commercial
MSFCMA	Incomplete/Inaccurate FVTR	\$1,000.00	MA	Commercial
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$250.00	RI	Recreational
MSFCMA	Illegal Atlantic Sea Scallop Possession	\$2,518.19	MA	Commercial
<b>Total</b>		<b>\$7,268.19</b>		-

## Northeast VMS Program (1<sup>st</sup> and 2<sup>nd</sup> Quarter, FY 2022)

Updated January 27, 2022

### NE-Approved VMS Vendors and Units:

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

### NE VMS Unit Population:

- 942 registered vessels
  - Woods Hole Group 473
  - SkyMate 462
  - Network Innovations 1
  - MetOcean 6
  - AddValue 0
- 8 vendor test units (installed at NED OLE)
- 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 Surfclam (SF-1)
- 585 Ocean Quahog (OQ-6)
- 529 Scallop General Category (LGC-A,B,C)
- 356 Multispecies (MUL-A,D,F)
- 337 Scallop Limited Access (SC-2,3,5,6,7,8)
- 224 Longfin Squid (SMB-1A)
- 119 Herring (HER-A,B,C,E)
- 119 Mackerel (SMB-T1,T2,T3)

- 69 Illex Squid (SMB-5)
- 47 Combination (MUL-E)
- 43 Longfin Squid (SMB-1B)
- 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 57 VMS equipped vessels are on a NMFS approved power down LOE; of these, the owners of 15 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 22 vessels with LAGC scallop permits on a Power Down declaration in port.

**Industry Contact Log Report:**

In the 1<sup>st</sup> quarter of FY22, the NE Investigative Support (IS) Team addressed 134 industry issues and closed 92 issues or 69%. The most-frequently reported issues were (1) VMS Non-Reporting (2) Letter of Exemption (LOE) Request/Power down, and (3) VMS Declaration/Forms Assistance and Compliance.

So far in the 2nd quarter of FY22, the NE Investigative Support (IS) Team addressed 41 industry issues and closed 26 issues or 63%. The most-frequently reported issues were (1) VMS Non-Reporting, (2) VMS Declaration/Forms Assistance and Compliance, and (3) Letter of Exemption (LOE) Request/Power down.

**Significant VMS Issues:**

**VMS Non-Reporting:**

VMS vessels that are failing to send position reports 24/7 and that are not on an authorized LOE are considered non-reporting. On any given day, the list of vessels that are not reporting could be over 100 vessels. Non-reporting can occur from various reasons like power supply issues or antennae blockage. Primarily, non-reporting occurs at the dock/mooring. The VMS team conducts outreach and makes calls constantly, but the issue persists on a daily basis.

**VMS Software Update:**

At the end of December, a VMS software update was pushed to the fleet over the air. The update was needed for the calendar 2022 to be entered on VMS eForms, such as catch and preland reports. If a vessel's software was not updated, the VMS vendor should be notified to receive the update.

**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.

**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 vessel currently still has this unit installed, however this vessel fishes in Alaska, but holds GAR permits.

## Observer Program (1<sup>st</sup> Quarter Summary, FY 2022)

From October 1 through December 31, 2021, the observer program deployed on 701 trips for 2,001 sea days. Nine investigations were initiated based on Incident Reports received by the Northeast Division during the quarter. Ninety-nine percent of all selected or observed trips were completed without an enforcement referral/investigation<sup>iii</sup>. The summary below provides additional details.

Table 3: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	Six refusal reports related to vessels that sailed without an observer after being selected were received. One was closed with compliance assistance, once was closed due to lack of evidence, one resulted in the issuance of a \$2,500 summary settlement offer and three are ongoing.
Assault	None
Harassment/Intimidation	Two reports were received. One was closed due to lack of evidence per the observer's choice not to proceed with an investigation and the other was forwarded to GCES.
Interference	None
Vessel Safety Equipment/Certification	None
Observer Safety	None
Failure to provide reasonable assistance	A compliance originally submitted under other headings was determined to be a failure to provide reasonable assistance issue and was subsequently closed with compliance assistance.
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.

<sup>iii</sup> 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.

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

NED forwarded 7 cases to GCES between December 3rd and January 28th. 2 cases are criminal referrals. 3 cases involve alleged fishing vessel violations which include but are not limited to: HMS violations, ACFCMA violations, failure to report, etc. 1 case involves a Seafood Import Monitoring Program violation and 1 case involves take of an ESA-listed species.