



NOAA FISHERIES

Office of Law Enforcement

2nd Quarter Fiscal Year 2013
Northeast Enforcement Division

January 1, 2013 – March 31, 2013



Council Report

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

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2nd Quarter Enforcement and Compliance

Summary

During the second quarter of Fiscal Year 2013, the Office of Law Enforcement put out for public comments its National Priorities document for FY2013. As these are being finalized, we continue to focus on our priorities, working with our state and federal partners. In the second quarter, there were 119 documented patrols, allowing critical face-to-face interaction between our field staff and the industry; 49 documented instances of outreach (not an exhaustive list; includes phone calls with industry, dock visits, trade shows, presentations, etc); and 14 meetings. As always, this list does not include the extensive outreach that the VMS team provides on a daily basis, nor can it fully capture the interaction our agents, officers, and support staff regularly have with industry.

We will have a new enforcement officer reporting to Newport News, VA in late May 2013. His name is Justin Hanacek. Justin has a Master's Degree in Criminal Justice and an Undergrad in Environmental Science and Policy with a focus on Marine and Coastal Resource Management.

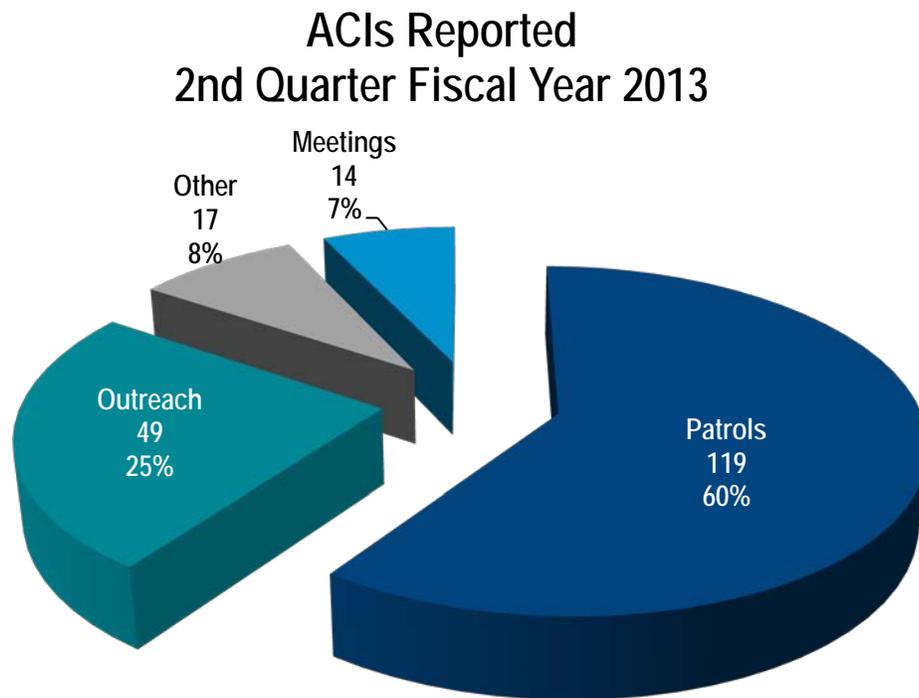


Figure 1: 199 ACIs reported from January 1, 2013 through March 31, 2013. The chart is broken down by patrols, outreach, other (collateral duties, homeland security, info gathering MMPA) and meetings.

Incidents by Type 2nd Quarter Fiscal Year 2013

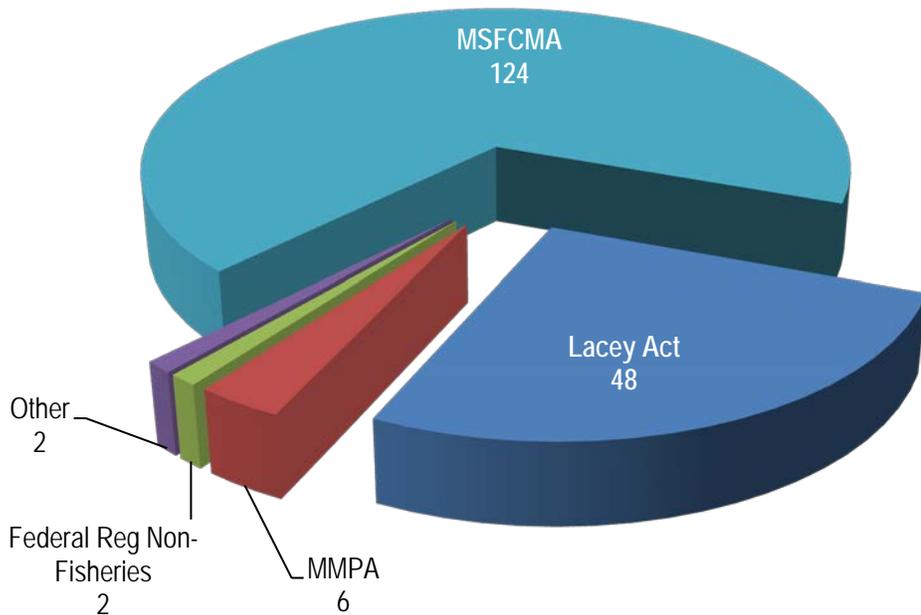


Figure 2. Incidents opened from January 1, 2013 through March 31, 2013. 182 incidents were opened. "Other" includes state regulations (fisheries), Federal regulations (non-fisheries), Agricultural Marketing Act, CCAMLR, Marine Sanctuaries Act, and one unknown.

2nd Quarter, Fiscal Year 2013 Highlights

Lacey Act

A fisherman and his corporation pleaded guilty January 9, 2013, to trafficking in illegally harvested striped bass, in violation of the Lacey Act. The defendant and his corporation were indicted on Nov. 8, 2012, by a federal grand jury on charges of conspiracy, Lacey Act violations and false statements. He faces a maximum penalty of five years in prison and a \$250,000 fine, as well as forfeiture of the fishing vessel used during the commission of the crimes. The corporation faces a maximum fine of \$500,000, as well as forfeiture of the fishing vessels used during the commission of the crimes. This case was investigated by OLE and the Virginia Marine Police and with assistance from the Federal Communications Commission Enforcement Bureau, Norfolk, VA office.

As part of a plea agreement for illegally harvesting striped bass, a charter boat captain agreed to serve 30 days in jail, pay a \$5,000 fine and \$1,300 in restitution to NOAA, and to surrender his captain's license for life. The captain also agreed that he will not engage in the charter fishing industry in any capacity during the term of his supervised release. In a statement of facts filed with his plea agreement, the subject admitted he took a charter fishing trip into the EEZ to fish for striped bass, knowing that it was illegal to fish for striped bass in the EEZ. When his boat was approached by law enforcement, the subject attempted to flee. When the vessel was caught, law enforcement officers observed a plastic trash barrel with 13 Striped Bass floating in the water near the vessel. The trash barrel had been thrown overboard from the vessel during the pursuit, and the striped bass contained within the trash barrel had been harvested by fishermen aboard the vessel within the EEZ.

Agents participated in two outreach presentations regarding seafood mislabeling, with industry and governmental partners, to explain how OLE works to prevent seafood mislabeling. The first was at the Boston Seafood Show, alongside FDA, USDC Seafood Inspection, a former U.S. Attorney, The Boston Globe, and a seafood industry representative. The second was at Maritime Gloucester, also alongside The Boston Globe and another industry representative.

Marine Mammal Protection Act

EO Wilmarth completed a two-day operation with MA Environmental Police and USCG focusing on the HPTRP and pinger compliance. Gillnets were checked in the Massachusetts Bay and Stellwagen Bank management areas.

Handheld and underwater acoustic detectors were utilized. One boarding resulted in an issuance of a violation, an observed take of a harbor porpoise and seizure, for evidence, of three (3) nonfunctioning pingers. In addition to this focused patrol, CL Frei and ET Etheridge organized a pinger detector training session with JEA staff, OLE agents and officers, and a gear specialist.

Magnuson-Stevens Fishery Conservation and Management Act

The Coast Guard and OLE issued a violation to a Gloucester, Massachusetts-based fishing vessel for a significant fisheries infraction late January, the second net-liner violation issued at that point in the year. The vessel was issued the violation for allegedly fishing for Northeast Multispecies in the EEZ while utilizing a net liner, an illegal fishing gear configuration. After issuing the violation, the Coast Guard escorted the vessel back to port in Gloucester and seized all catch aboard in collaboration with OLE and Office of General Counsel. The catch was sold at fair market value in Gloucester and the proceeds from that sale will be held in a suspense account pending final adjudication and forfeiture proceedings.

A panel discussion at the Maine Fishermen's Forum was organized and attended by CL Frei and OS Jarnes, with SA Schoppmeyer and EO Adams on the panel, alongside industry, state, and USCG representatives. The panel explained how to avoid gear conflicts in the lobster fishery, and what to do if they happen.

GCES has issued two NOVAs for two separate cases involving the use of net liners in groundfish trawls in New England. The NOVA amounts issued by GCES were for \$74,411 (which constitutes \$34,411 for economic benefit

and a 40,000 proposed fine) and \$40,000, with a Notice of Proposed Forfeiture for the seized catch which was sold for \$19,453.14.

Northeast Observer Program

The summary below details the status of observer related complaints during the 2nd Quarter of 2013.

Table 1: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	10 observer refusal complaints: 2 closed as unfounded 2 closed with a verbal warning 1 closed with a written warning 1 closed via compliance assistance 4 ongoing
Assault	None
Harassment/Intimidation	None
Interference	3 observer interference complaints: 1 closed due to lack of evidence 1 closed via compliance assistance 1 ongoing
Safety	4 observer safety complaints: 3 closed via compliance assistance 1 closed with a written warning
Failure to provide reasonable assistance	1 failure to provide reasonable assistance, closed via compliance assistance
Observer gear/sample tampering	None
Observer program notification	1 observer notification complaint, closed via compliance assistance.
Miscellaneous	5 training sessions covering observer enforcement issues were completed this quarter. Two separate NOVAs, each for \$17,500, for observer intimidation and harassment violations, were issued in January 2013 by NOAA GCES. A NOVA of \$22,035 for an observer refusal violation was issued in January 2013 by NOAA GCES. A NOVA of \$70,000 for observer refusal violations was issued in February 2013 by NOAA GCES.

Incident and Case Information

INCIDENTS INITIATED 2nd Quarter 2012 & 2013

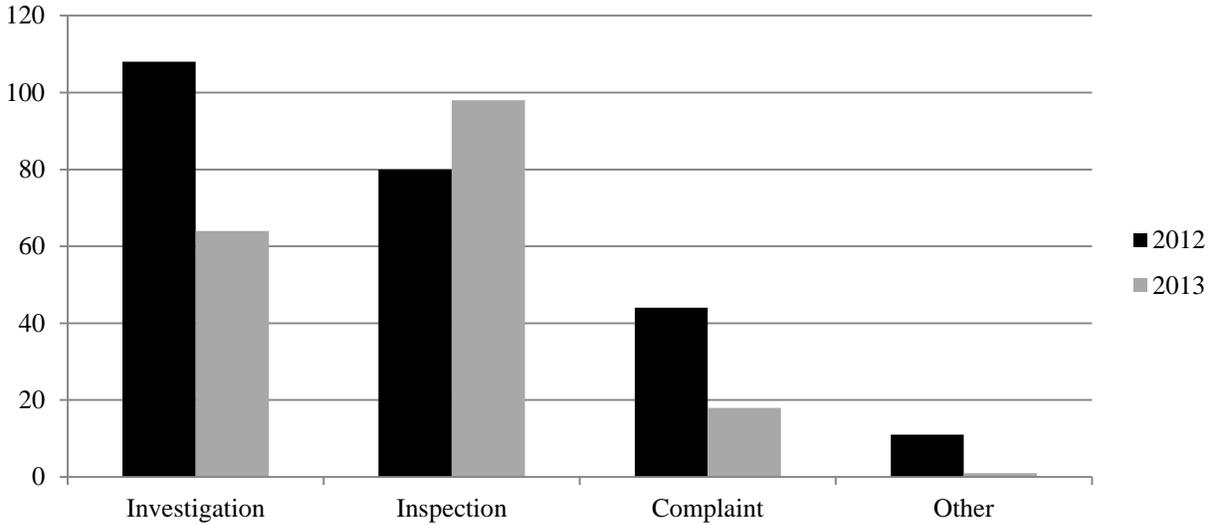


Figure 3. FY2012 2nd quarter: 108 investigations, 80 inspections, 44 complaints, 11 other. 243 total.
FY2013 2nd quarter: 64 investigations, 98 inspections, 18 complaints, 1 other. 181 total.

INCIDENT DISPOSITIONS 2nd Quarter 2012 & 2013

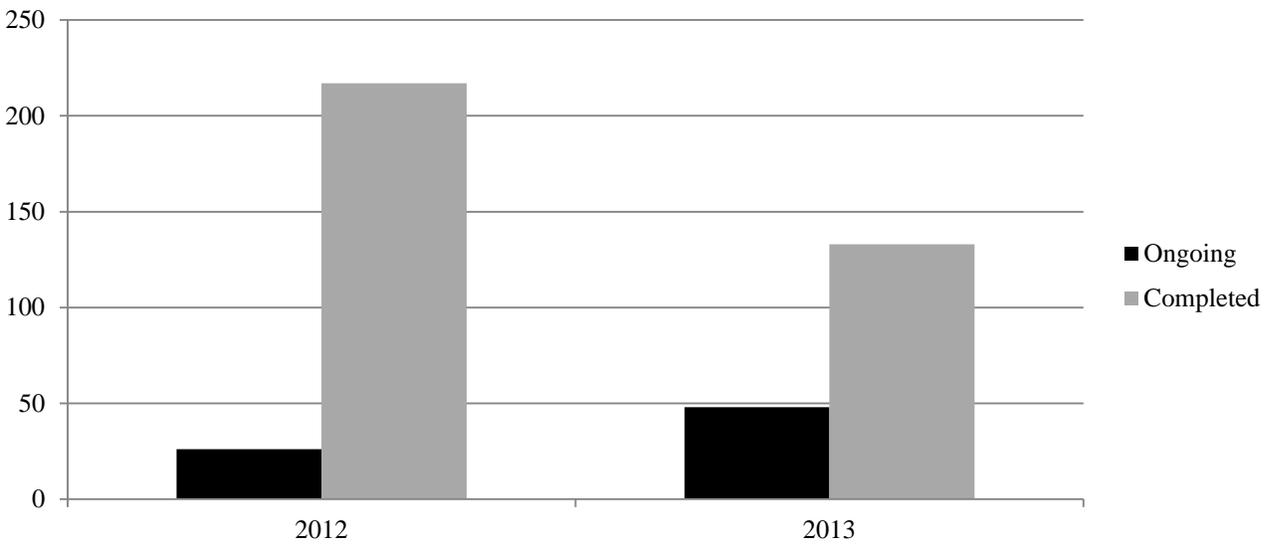


Figure 4. Status of incidents in the 2nd quarter of FY2012 (217 completed, 26 ongoing) and 2nd quarter FY2013 (133 completed, 48 ongoing).

Cases sent to NOAA General Counsel Enforcement Section (GCES)

- 47 cases opened
- 27 summary settlements issued
- 14 cases forwarded to GCES