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NOAA FISHERIES
Office of Law Enforcement
NORTHEAST ENFORCEMENT DIVISION

Council Report



1st Quarter FY 2013

October 1 – December 31, 2012

To Report Fisheries Violations
Call Our National Hotline
1-800-853-1964

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FISCAL YEAR 2012 ENFORCEMENT AND COMPLIANCE SUMMARY

During Fiscal Year 2012, the Northeast Enforcement Division continued to focus on our priorities to ensure a level playing field for the many hard-working fishermen and other members of the fishing industry. As always, we worked with industry to emphasize compliance and outreach in our daily jobs, while also conducting patrols and investigations. From October 1, 2011, to September 30, 2012, there were 322 documented instances of direct outreach to industry, including: general compliance assistance; mediating gear conflicts; phone calls to improve dealer and vessel reporting; public outreach events (industry trade shows, school visits, workshops, etc) and, as a whole division, acting as a liaison to help industry find the information they need to comply with the regulations.

These 322 instances do not include the extensive outreach provided by the VMS team on a daily basis, or the many regular interactions between our officers and agents with fishermen, dealers, processors and so on to educate industry on the regulations.

OLE conducted almost 400 patrols and inspections and continues to conduct criminal and civil / administrative investigations of alleged violations of laws and regulations. Highlights are discussed on page 5.

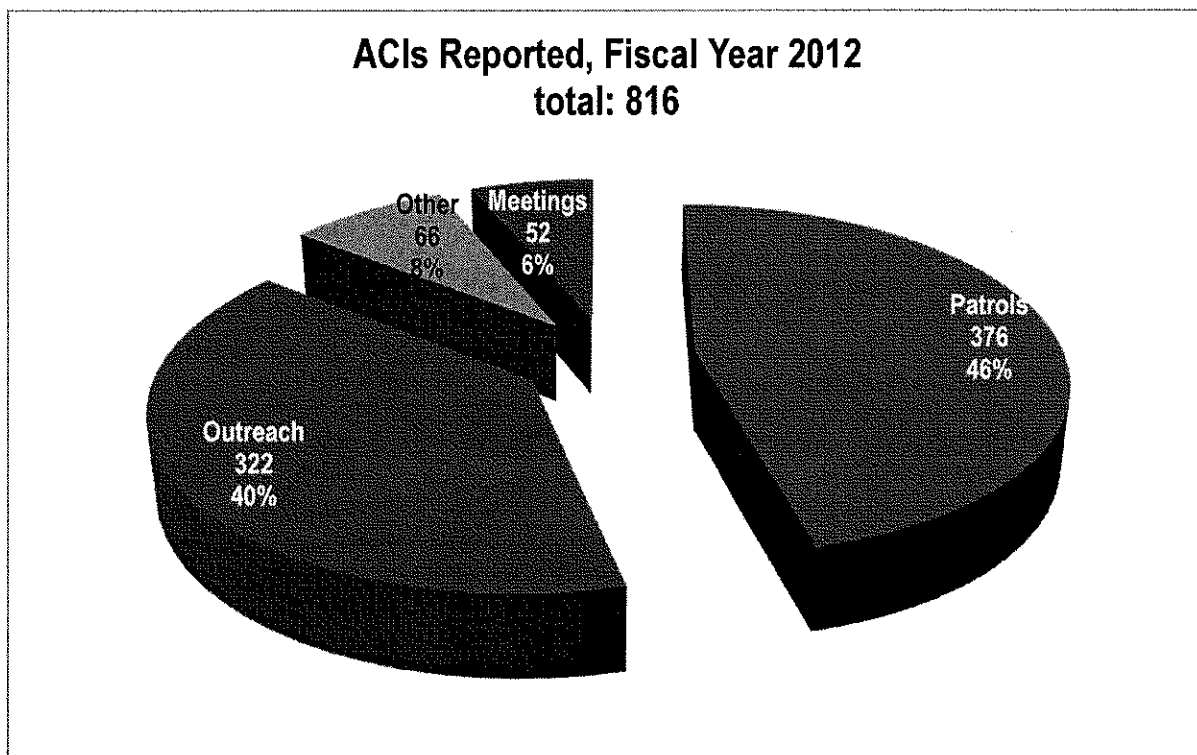


Figure 1. 816 ACIs reported from October 1, 2011 to September 30, 2012. The chart is broken down by patrols, outreach, other (collateral duties, homeland security, info gathering MMPA) and meetings.

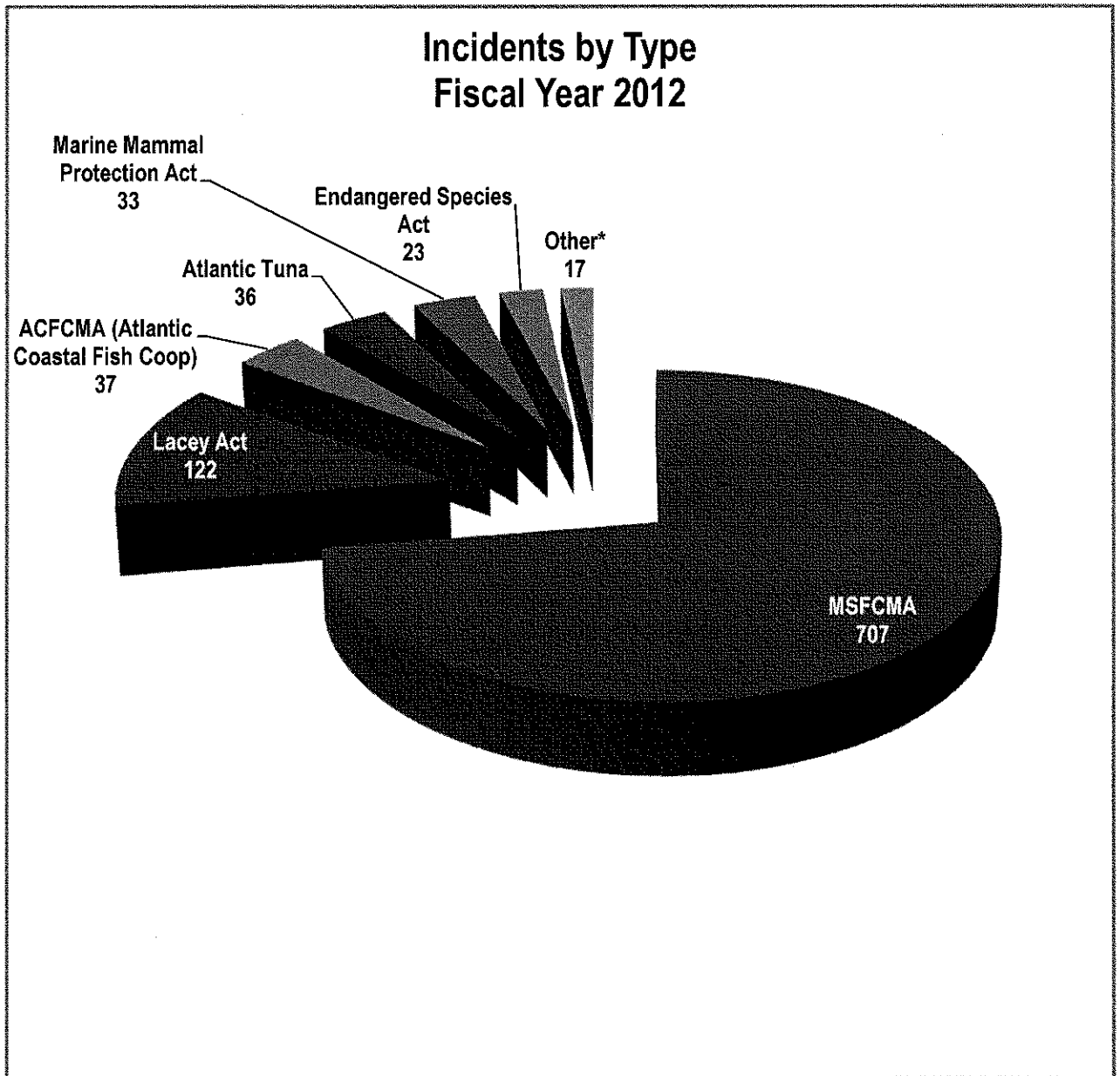


Figure 2. Incidents opened from October 1, 2011 through September 30, 2012. 975 incidents were opened. "Other" includes state regulations (fisheries), Federal regulations (non-fisheries), Agricultural Marketing Act, CCAMLR, Marine Sanctuaries Act, and one unknown.

FISCAL YEAR 2012 CASE HIGHLIGHTS

Lacey Act / Marine Mammal Protection Act / Endangered Species Act

- On January 9, 2012, a Virginia man was sentenced to one month in prison, 90 days home confinement, two years of supervised release, and a \$40,000 fine. This sentence follows his guilty plea on October 3, 2011, to two felony violations of the Lacey Act for trading in endangered marine mammal parts. He admitted to conducting sales and purchases of sperm whale teeth between April 2002 and June 2007. Most of the teeth were imported from the Ukraine and were sold in the United States, with transactions valued at more than \$70,000. Sperm whales are classified as endangered under the Endangered Species Act.
- A New Jersey man was arrested December 14, 2012 for crimes related to the illegal importation and illegal trafficking of narwhal tusks and associated money-laundering crimes. The indictment alleges that from 2007 to 2010, two men each knowingly purchased narwhal tusks that each knew were illegally imported into the United States in violation of federal law. It is illegal to import parts of marine mammals into the United States without the requisite permits and/or certifications, and without declaring the merchandise at the time of importation to U.S. Customs and the U.S. Fish and Wildlife Service.

Magnuson-Stevens Fishery Conservation and Management Act

- A North Stonington, CT, man was sentenced on February 29, 2012 in federal court for trafficking in and making false records for 12,140 pounds of illegally harvested Atlantic Striped Bass. The defendant was sentenced to serve one year of probation and pay a \$10,000 fine. As part of his plea agreement, he agreed to forfeit \$5,000 in lieu of forfeiting the boat and truck that he used to commit the fishery crimes.
- A Gloucester man was sentenced in March 2012 in federal court to two months in prison to be followed by one year of supervised release, for sexually harassing a federal at-sea monitor. The defendant is not to contact the victim either directly, indirectly or by way of a third party, while on supervised release.
- A Rhode Island man, the captain of a commercial fishing vessel, was convicted in federal court in September 2012 for assaulting two women on board the vessel he was operating. The assaults occurred while the vessel was fishing far out at sea after departing from the Port of New Bedford. He was convicted following a five-day trial on two counts of forcibly assaulting, impeding, intimidating, or interfering with the duties of two federal at-sea monitors.

False filing with Special Master

A Connecticut man was convicted in federal court on May 23, 2012 of providing false information to the NOAA Special Master in order to obtain reimbursement for fines he had previously paid. The convicted waived indictment and entered a plea before U.S. District Judge Nathaniel M. Gorton to knowingly and willfully making a materially false, fictitious, and fraudulent statement and representation in a matter before the U.S. Department of Commerce.

NORTHEAST VMS PROGRAM

Approved VMS vendors:

- Boatracs
- SkyMate
- GMPCS (for Thrane VMS units)

Vendors/Units pending NE Type Approval:

- CLS America Thorium TST-100 (testing was completed and the unit will be recommended for NE Regional Administrator approval in early January 2013)
- Faria Watchdog 750 (OLE is awaiting the completion of NE software development before testing commences)

NE VMS Vendor and Vessel Population:

- 1,015 (as of December 28, 2012)

Population breakdown by (VMS) Permits held:

(Note: The total count below exceeds the VMS population count since most vessels hold multiple permits)

- 648 Surfclam/Ocean Quahog (Permit Category 1,6,7)
- 578 Scallop General Category (Cat. A,B,C)
- 461 Multispecies (Cat. A,D,F)
- 322 Scallop Limited Access (Cat. 2,3,5,6,7,8)
- 79 Herring (Cat. A,B,C)
- 44 Combination (Multispecies Cat. E)
- 9 Monkfish (Cat. F)

Significant VMS Issues:

- To comply with Northeast regulatory changes, including approved 2012 sector exemption requests, the forms software running on Northeast VMS vessels was updated and effective for use as of November 1, 2012. Due to a vendor delay, the software for all Thrane vessels has not been delivered and these vessels have been advised to continue using the previously-approved version.
- The Sustainable Harvest Sector Manager was notified on November 5, 2012 that the 'EasyHails' software developed for the sector's use by Electric Edge Systems Group was approved for the purpose of sending NMFS-required trip hail messages via this 3rd party software and the VMS satellite network.

NORTHEAST OBSERVER PROGRAM

The summary below details the status of observer related complaints during the 1st Quarter of 2013

Table 1. Summary of Observer Program complaints and status.

Type of complaint	Number of complaints and status
Refusal	10 refusal complaints: <ul style="list-style-type: none"> • 1 closed as unfounded • 1 closed under COPPS • 3 closed as info-only • 5 ongoing
Assault	None
Harassment/Intimidation	None
Interference	1, closed as info-only
Safety	10 safety complaints: <ul style="list-style-type: none"> • 5 closed under COPPS • 5 ongoing
Failure to provide reasonable assistance	None
Observer gear/sample tampering	None
Observer program notification	2, ongoing
Miscellaneous	<ul style="list-style-type: none"> • Two training sessions covering observer enforcement issues were completed this quarter. • A fishing vessel operator convicted of two misdemeanor violations for observer assault, harassment, intimidation was sentenced to a year of probation and ordered to pay restitution of \$1,000.00.

- 23 violation reports received and acted on by the NED.
- During this quarter the observer program deployed on 1123 trips for 2625 sea days. Approximately 98.0% of all selected or observed trips were completed without a reported enforcement incident.

INCIDENT AND CASE INFORMATION

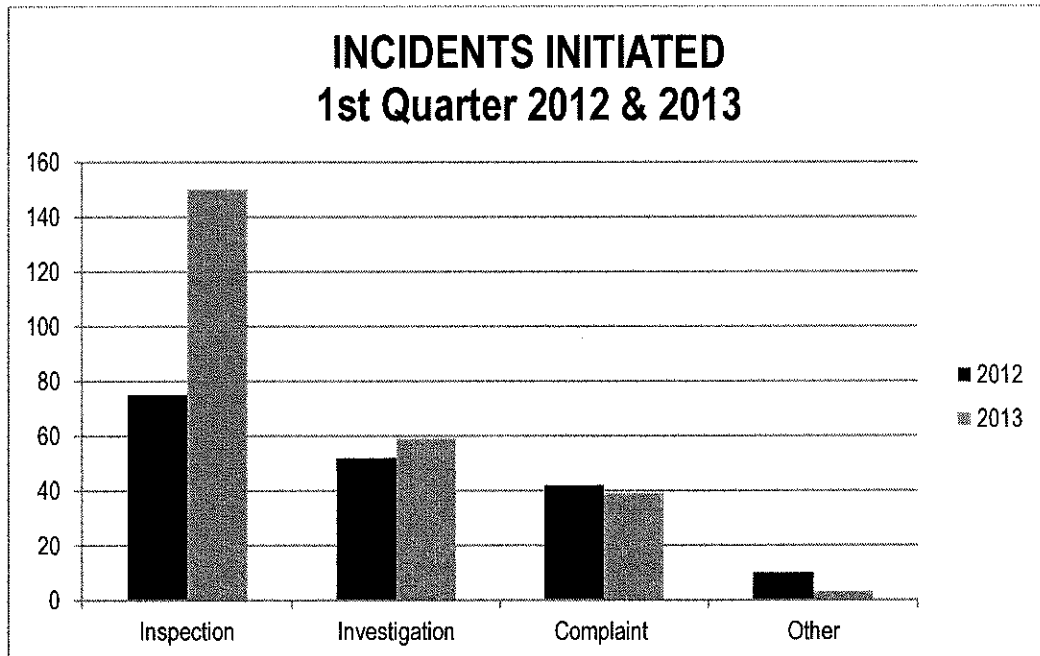


Figure 3. FY2012 1st quarter: 75 inspections, 52 investigations, 42 complaints, 10 other. **179 total.**
 FY2013 1st quarter: 150 inspections, 59 investigations, 39 complaints, 3 other. **251 total.**

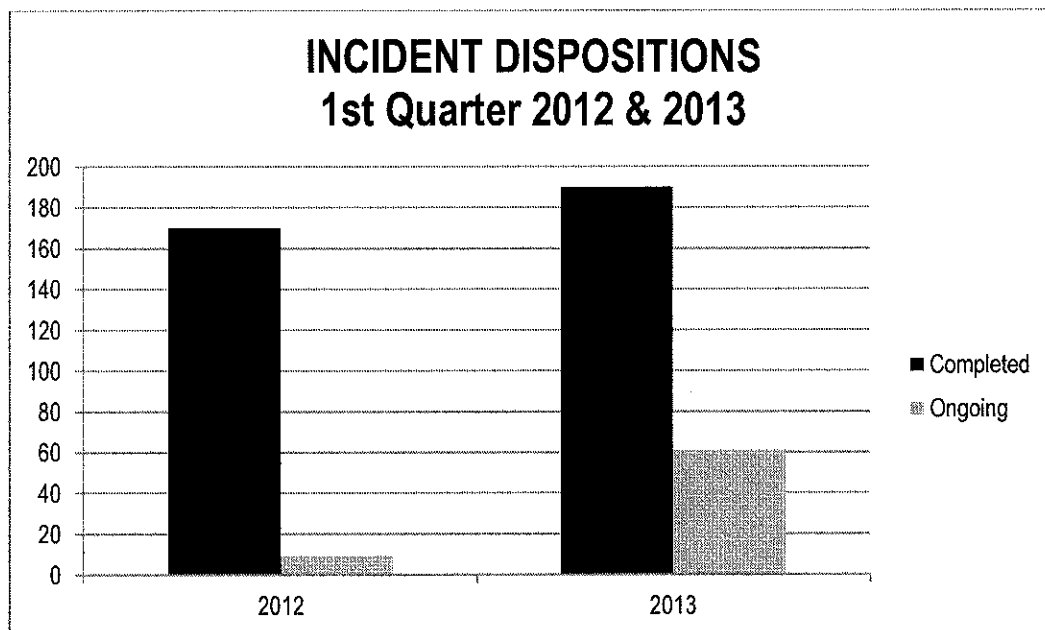


Figure 4. Status of incidents in the 1st quarter of FY2012 (170 completed, 9 ongoing)
 And 1st quarter FY2013 (190 completed, 61 ongoing).

Cases sent to NOAA General Counsel Enforcement Section (GCES)

OLE did not forward any new cases to NOAA GCES during Q1 FY2013; however, thirty-one (31) Summary Settlement cases were issued by OLE during the first quarter of 2013.