



NOAA FISHERIES

2nd Quarter 2018 Council Report Northeast Enforcement Division

January 1, 2018 – March 31, 2018



Council Report

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

Table of Contents

| | |
|--------------------------------------|----|
| Enforcement and Compliance | 3 |
| Incident Information | 5 |
| Enforcement Highlights..... | 6 |
| Focused Operations..... | 7 |
| Overview of Summary Settlements..... | 7 |
| Northeast VMS Program..... | 9 |
| Observer Program Highlights..... | 11 |
| Cases Sent to GCES..... | 12 |

Enforcement and Compliance

Summary

Since the last Council meeting, there were 50 documented patrols, allowing critical face-to-face interaction between our field staff and the industry; 90 documented instances of outreach (not an exhaustive list; includes phone calls with industry, dock visits, trade shows, presentations, etc.); and 18 meetings. 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.

Enforcement Effort Summary

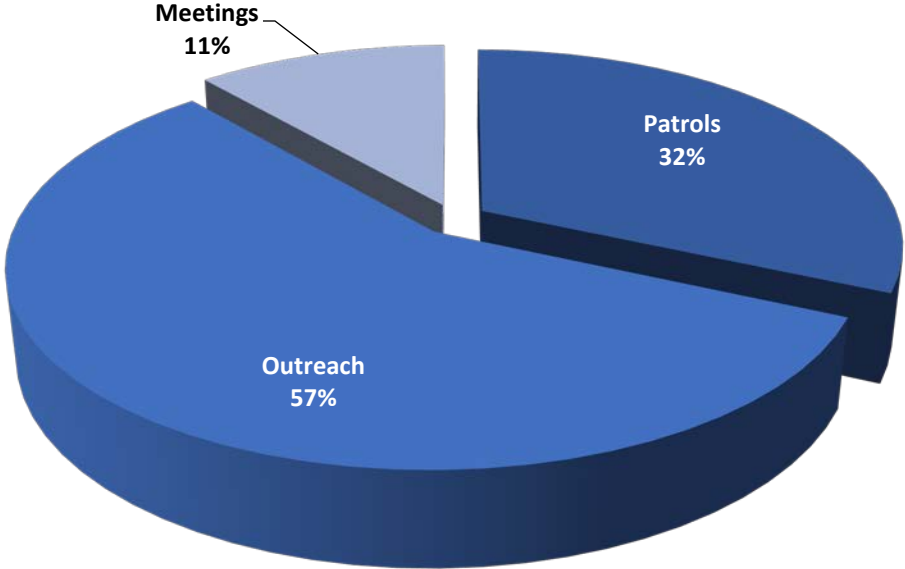


Figure 1: 227 incidents reported from January 1, 2018 through March 31, 2018. The chart is broken down by patrols, outreach, and meetings.

Table 1: Summary of Incidents by Law/Regulation

| Law/Regulation/Program | FY 17 Incident Totals |
|------------------------------|-----------------------|
| ACFCMA | 30 |
| Endangered Species Act | 4 |
| HMS | 53 |
| Lacey Act | 8 |
| Marine Mammal Protection Act | 24 |
| MSFCMA | 101 |
| Other Federal Law | 3 |
| State Regulations | 4 |
| Total | 227 |

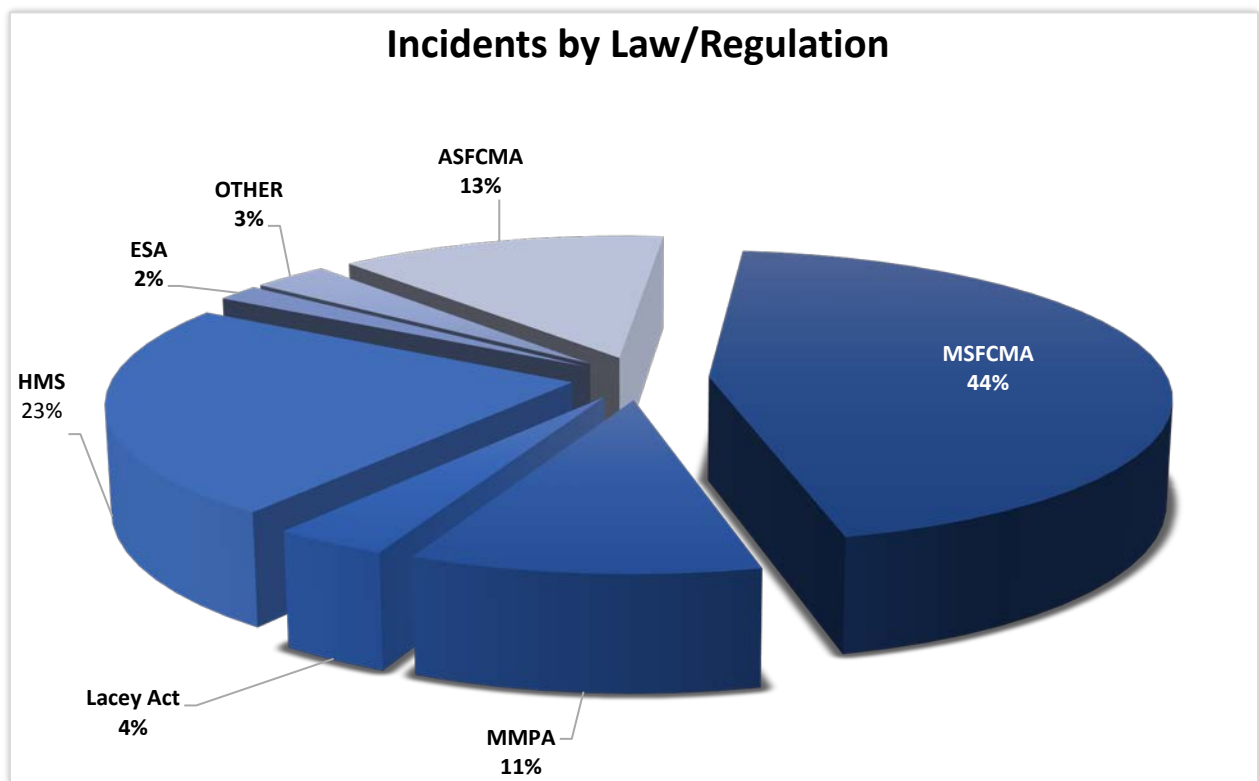


Figure 2: Incidents opened from January 1, 2018 through March 31, 2018. 227 incidents were opened.

Incident Information

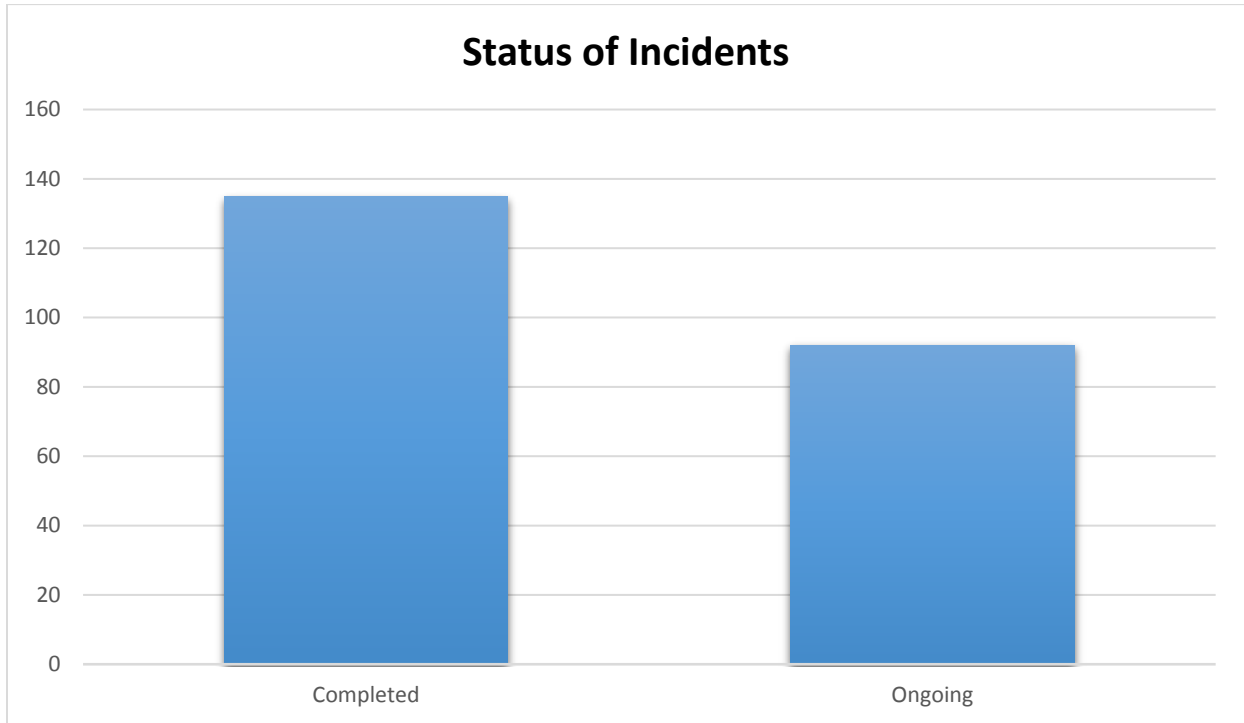


Figure 3. Status of incidents from January 1, 2018 – March 31, 2018 (135 completed, 92 ongoing).

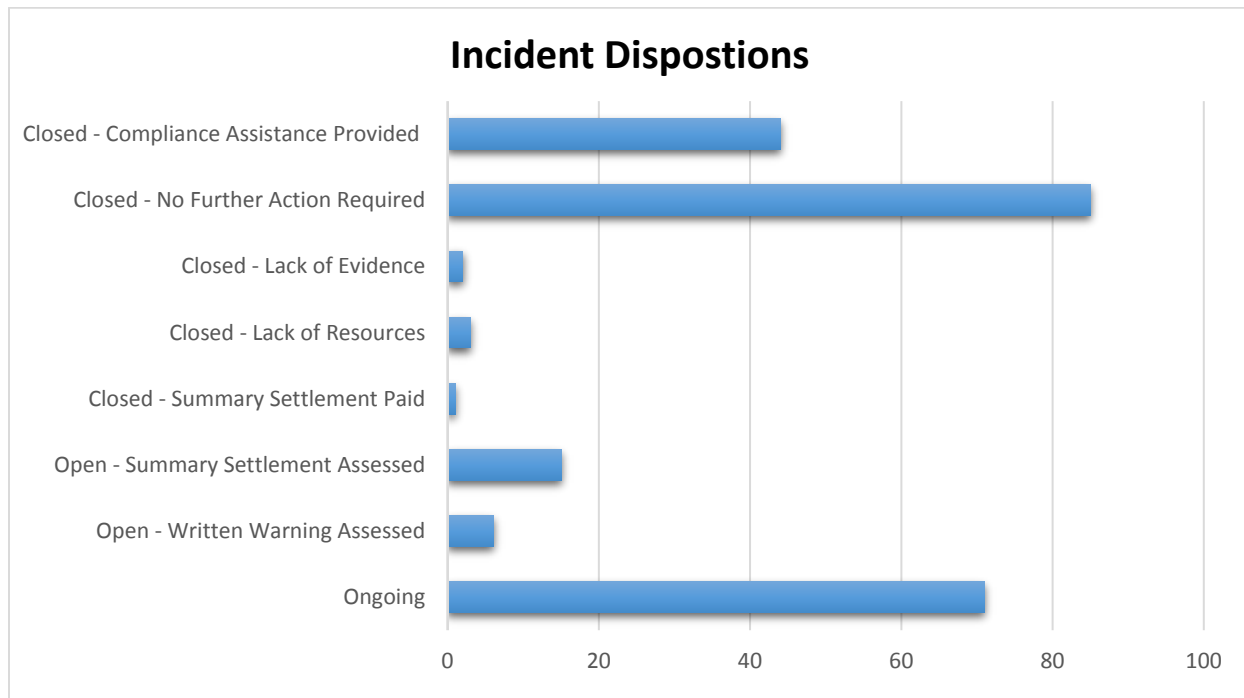


Figure 4. Incident Dispositions from January 1, 2018 – March 31, 2018 (135 completed, 92 ongoing)

Enforcement Highlights

Seafood Fraud

James R. Casey, the owner and President of Casey's Seafood, Inc. was charged with conspiring to commit Lacey Act violations for blending foreign crab meat with Atlantic blue crab meat, then labeling the blended crab meat as "Product of USA". This is one of several, similar cases involving falsely labeled crab being investigated in the mid-Atlantic.

Bluefin Tuna Conspiracy/Lacey Act

A Massachusetts District Court Judge sentenced John Cafiero to a term of 36 months probation for his admitted role in the unlawful taking and subsequent at sea transfer of twenty Bluefin tuna. The Judge further ordered that Cafiero shall not be engaged with any commercial fishing activity for the first twelve months of probation. Cafiero is a long line vessel captain who previously plead guilty to conspiracy and Lacey Act charges

Whale Teeth Smuggling

John Bell was arraigned in the Eastern District of Massachusetts. Bell pleaded not guilty to one count of conspiracy, seven counts of the Lacey Act and three counts of smuggling. Bell was released on a \$20,000 bond at his arraignment appearance in Massachusetts. Bell is alleged to have smuggled whale teeth from the Ukraine to the United States for resale from October 2004 to November 2007. On December 24, 2017, Bell was taken into custody by the US Marshall Service at JFK airport in New York after he was deported from Russia.

Research Set Aside Conspiracy

The U.S. v. Thomas Kokell trial began in February in the Eastern District of New York. Thomas Kokell was the last fisherman to be prosecuted in the Research Set-Aside investigation, which began in July, 2010. Kokell was indicted for multiple counts of conspiracy, mail fraud and falsification of federal records in connection with the Research Set Aside program. After deliberating for approximately 16 hours over a three-day period, the jury was deadlocked. As a result, the judge declared a mistrial. In the coming weeks, the U.S. Department of Justice will assess all aspects of the trial and make a determination as to whether another trial will be pursued.

Focused Operations

Maine Port of Entry Operation

The operation was in preparation to the seasonal influx of large amounts of Canadian seafood entering the US to supply demand for the Christmas holiday. As a result, NOAA-OLE worked in conjunction with Customs and Border Protection, Maine Marine Patrol, US Fish and Wildlife and US Coast Guard assets to log approximately 270 hours and inspect 29 shipments during the course of the operation. NOAA-OLE issued 21 Summary Settlements and 1 NOVA. The total Summary Settlement amount was \$25,950. Seven additional violations were addressed through Compliance Assistance. Several shipments had multiple violations and the majority of violations were v-notch lobsters.

Table 2. Summary of Patrol

| | |
|--|----------|
| Shipments Inspected | 29 |
| Shipments with violations | 20 |
| Total Violations | 29 |
| Compliance Assistance Provided | 7 |
| Summary Settlements Issued | 21 |
| NOVAs referred to GC | 1 |
| Total Summary Settlement Fine Amounts Issued | \$25,950 |

Overview of Summary Settlements

Table 4. Summary of 36 Summary Settlements Issued

| Law | Violation | State | Amount |
|--------|--|----------------|---------|
| ASFCMA | Fishing for Black sea bass in the EEZ without a Federal permit | TX from DE JEA | \$500 |
| ASFCMA | Fishing for Striped bass in the EEZ | TX from USCG | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from USCG | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ (5 counts) | TX from NJ JEA | \$2,500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ (2 counts) | TX from NJ JEA | \$1,000 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ (4 counts) | TX from NJ JEA | \$2,000 |
| ASFCMA | Possession of Striped bass in the EEZ (4 counts) | TX from NJ JEA | \$2,000 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from MD JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Possession of Striped bass in the EEZ | TX from NJ JEA | \$500 |
| ASFCMA | Unlawful importation of 5 v-notched American lobsters | ME | \$1,250 |
| ASFCMA | Unlawful importation of 4 v-notched American lobsters | ME | \$1,000 |
| ASFCMA | Unlawful importation of 7 v-notched American lobsters | ME | \$1,750 |

| | | | | |
|--------------|--|--------------|-----|--------------------|
| ASFCMA | Unlawful importation of 2 undersized American lobsters | | ME | \$200 |
| ASFCMA | Unlawful importation of 14 v-notched American lobsters | | ME | \$1,700 |
| ASFCMA | Unlawful importation of 3 undersized American lobsters | | ME | \$300 |
| ASFCMA | Unlawful importation of 12 v-notched American lobsters | | ME | \$2,000 |
| ASFCMA | Unlawful importation of 16 v-notched American lobsters | | ME | \$2,000 |
| ASFCMA | Unlawful importation of 3 v-notched American lobsters | | ME | \$750 |
| ASFCMA | Unlawful importation of 2 undersized American lobsters | | ME | \$200 |
| ASFCMA | Unlawful importation of 6 v-notched American lobsters | | ME | \$1,500 |
| ASFCMA | Unlawful importation of 8 v-notched American lobsters | | ME | \$2,000 |
| ASFCMA | Unlawful importation of 3 berried American lobsters | | ME | \$750 |
| ASFCMA | Unlawful importation of 4 v-notched American lobsters | | ME | \$1,000 |
| ASFCMA | Unlawful importation of 3 berried American lobsters | | ME | \$750 |
| ASFCMA | Unlawful importation of 3 v-notched American lobsters | | ME | \$750 |
| ASFCMA | Unlawful importation of 13 v-notched American lobsters | | ME | \$2,500 |
| ASFCMA | Unlawful importation of 16 v-notched American lobsters | | ME | \$2,500 |
| ASFCMA | Unlawful importation of 3 undersized American lobsters | | ME | \$300 |
| ASFCMA | Unlawful importation of 7 v-notched American lobsters | | ME | \$1,750 |
| ASFCMA | Unlawful importation of 4 v-notched American lobsters | | ME | \$1,000 |
| HMS | Exceed the possession limit of Bluefin tuna (2 counts) | TX from DE | JEA | \$200 |
| HMS | Possession of HMS without a valid HMS permit | | DE | \$500 |
| HMS | Failure to report Bluefin tuna | | MA | \$250 |
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| HMS | Failure to report Bluefin tuna | | MA | \$500 |
| HMS | Failure to report Bluefin tuna | | MA | \$500 |
| HMS | HMS eDealer non-reporting | | VA | \$1,000 |
| HMS | HMS eDealer non-reporting | | NC | \$1,000 |
| MSFCMA | Delinquent VTRs | | DE | \$500 |
| MSFCMA | Delinquent VTRs | TX from APSD | | \$500 |
| MSFCMA | Observer refusal (2 counts) | | NJ | \$2,500 |
| MSFCMA | Failure to comply with VMS requirements | | NC | \$2,000 |
| MSFCMA | Monkfish Overage | TX from MA | JEA | \$2,854 |
| MSFCMA | Monkfish Overage | TX from MA | JEA | \$3,907.73 |
| TOTAL | | | | \$55,411.73 |

*TX = Transferred

Northeast VMS Program

Northeast Active VMS Vessel Population: 973

Population Breakdown by (VMS) Permits held¹:

633 Surfclam/Ocean Quahog (Permit Category 1,6,7)
516 Scallop General Category (Cat. A,B,C)
407 Multispecies (Cat. A,D,F)
331 Scallop Limited Access (Cat. 2,3,5,6,7,8)
305 Longfin Squid/Limited Access Mackerel (Cat. 1,T1,3,T3)
131 Herring (Cat. A,B,C,E)
46 Combination (Multispecies Cat. E)
18 Monkfish (Cat. F)

Note: There are 455 groundfish sector vessels and 119 common pool vessels registered to the NE VMS Program. There are 35 sector and 4 common pool vessels on a NMFS-authorized power down Letter of Exemption.

Significant VMS Issues:

Next Software Upgrade for Northeast-equipped VMS Vessels. In mid-February, we provided NMFS-approved specifications to the four VMS vendors. Among other changes, the software implements reporting changes required by Sea Scallop Framework 29 and the Omnibus Habitat Amendment 2. OLE has been testing the vendors' software with good progress and anticipates approving the software by mid-April. Additionally, OLE will be performing an update to the regulated areas that are monitored using the vTrack application.

VMS Team Addition. OLE welcomed Samantha Tolken, contractor, on January 31, 2018 as a member of the VMS Team. Sam has NMFS observer experience and performs herring, squid and mackerel monitoring duties. She will assume groundfish monitoring duties starting on April 1st.

¹ The total count below exceeds the VMS population count since most vessels hold multiple permits

VMS Industry Contact Log Report:

The NE VMS Team addressed 388 industry issues this quarter and closed 276 issues. The most-frequently reported issues were Declaration Failure, Non-Reporting, and Declaration/Forms Assistance. A total of 22 issues were referred, primarily to OLE Supervisors, GARFO APSD, and VMS vendors.

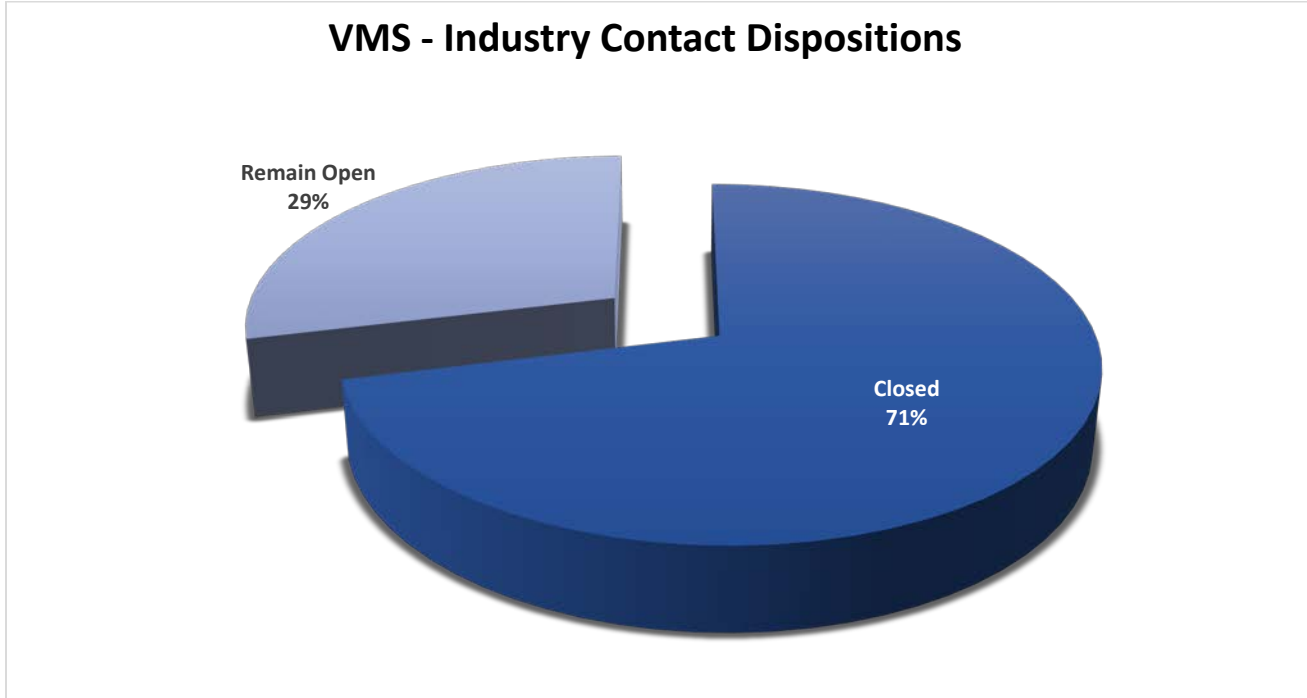


Figure 5: Status of contacts from January 1, 2018 – March 31, 2018 (276 closed, 112 remain open).

Observer Program Highlights

During this quarter the observer program deployed on 787 trips for 2,405 sea days. Approximately 98% of all selected or observed trips were completed without a reported enforcement incident. There were a total of 13 reported violation reports received and acted upon this quarter. The summary below details the status of observer related complaints during the 2nd Quarter of 2018.

Table 5: Summary of Observer Program complaints and status

| Type of complaint | Number of complaints and status |
|--|---|
| Refusal | 8 observer refusal complaints: 5 closed with compliance assistance 3 ongoing |
| Assault | None |
| Harassment/Intimidation | 1 observer harassment complaint: 1 ongoing |
| Interference | 2 observer interference complaints: 1 closed due to lack of evidence 1 ongoing |
| Vessel Safety | None |
| Observer Safety | 1 observer safety complaint: 1 ongoing |
| Failure to provide reasonable assistance | 1 observer failure to provide reasonable assistance complaint: 1 closed with compliance assistance |
| Failure to provide equal accommodations | None |
| Observer gear/sample tampering | None |
| Observer program notification | None |
| Miscellaneous | Nothing to report |

Cases sent to NOAA General Counsel Enforcement Section (GCES)

- 5 cases forwarded to GCES

Table 5. Cases sent to GCES

| Program/Law | Violation | State |
|--------------|--|-------|
| HMS | <ul style="list-style-type: none"> - Failure to maintain Swordfish in specified form - Failure to make available for inspection an Atlantic HMS - Make false statements to an officer | VA |
| MMPA | <ul style="list-style-type: none"> - Violate the ship speed rule (69 counts) | N/A |
| MSFCMA | <ul style="list-style-type: none"> - Fishing in closed area with undersized mesh | USCG |
| | <ul style="list-style-type: none"> - Observer Refusal (2 counts) - Net liner available for immediate use within the Southern New England Regulated Mesh Area - Incomplete VTR | NY |
| MSFCMA & HMS | <ul style="list-style-type: none"> - Fish for Atlantic HMS without the appropriate valid permit - Fish for Atlantic HMS with gear not authorized for the category permit issued to the vessel - Failure to maintain Atlantic HMS in specified form - Failure to comply with any sea turtle conservation measures - Sell Atlantic sea scallops for commercial purposes to a non-permitted dealer | USCG |