



NOAA FISHERIES

Council Report – 4th Quarter, FY 2021



June 2, 2021 – Sept 23, 2021

To Report a Violation Call
800-853-1964

Table of Contents

| | |
|---|-----------|
| Introduction | 3 |
| NED Enforcement Highlights..... | 3 |
| Enforcement and Compliance | 4 |
| 4th Quarter, FY 2021 Incident Information | 5 |
| 4th Quarter, FY 2021 Summary of Incidents Involving OLE Partners..... | 8 |
| 4th Quarter, FY 2021 Overview of Summary Settlements..... | 9 |
| Northeast VMS Program (4th Quarter, FY 2021)..... | 10 |
| Observer Program Highlights (3rd Quarter Summary, FY 2021)..... | 12 |
| Cases sent to NOAA General Counsel Enforcement Section (GCES) | 13 |

Introduction

NOAA Fisheries' Northeast Division (NED) of the Office of Law Enforcement (OLE) continued to conduct essential operations last summer and will continue those operations as we move into fall and the start of FY 2022. 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 and more recent rising numbers of the Delta variant, 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 1-3, below, pick up where the last Council report left off in early June, 2021. We welcome feedback on any section of this report.

NED Enforcement Highlights

- EOs participated in two offshore ROV operations to inspect offshore lobster gear for compliance with ALWTRP and MSA regulations last summer. The platform vessel was rigged to haul suspected non-compliant gear as needed to inspect gear on deck.
 - EOs were deployed on Georges Bank for a three day ROV operation in July.
 - EOs conducted a week long offshore patrol to the edge of the Northeast U.S. EEZ to inspect LMA 3 lobster gear in the Gulf of Maine and Georges Bank fishing grounds in early August. One gear violation was observed and documented. Compliance assistance was provided to the owner/operator who responded promptly with corrective action. During one of the ROV dives a fishing gear entangled adult leatherback sea turtle drifted towards the platform enforcement vessel. EOs and the vessel captain disentangled the sea turtle and recovered the fishing gear for follow-up investigation. The EO's presence was observed by active lobster vessels in the area and the gear inspection activity was communicated to vessels that made contact on channel 16. EOs identified offshore LMA 3 fishing vessel activity trends and collected valuable intelligence that will enhance future operations.
- Among numerous seaport/airport container shipment inspections so far this quarter, An EO and a U.S. Customs and Border Patrol (CBP) Agricultural Agent conducted a container inspection at JFK International Airport. The shipment was falsely labeled as cell phones and contained Blood clams and Razor clams from China. The contents of the shipment have been well documented and are being scheduled to be destroyed by CBP. In addition, an SA planned and led a joint agency operation with the Virginia Marine Police and CBP in the Port of Norfolk. The focus of the operation was to conduct on-site inspections of inbound fishery imports regulated under the Seafood Import Monitoring Program targeted by the IST. During the operation, six containers were inspected and documented which resulted in additional follow up investigations related to potential false labeling and incomplete chain of custody documentation.
- A signed NOVA settlement was received regarding the pending litigation of a groundfish vessel where the captain submitted false/inaccurate information on Fishing Vessel Trip Reports (FVTRs)

and to an at sea observer. The original NOVA was issued for \$41,699.00 and the case settled for \$36,899.00. The captain and owner have 24 months to pay the accessed penalty.

- NED District 1 Patrol Vessel F3403 is back in-service after undergoing routine maintenance and minor repairs at the CBP National Marine Center (NMC). NED participated in numerous patrols and joint enforcement partner patrols within NED's area of coverage since the last Council report as will be highlighted in the oral report.
- With AD Tim Donovan retirement last June, DSAC Jeffrey Ray stepped into the Acting AD role within NED. ASAC Michael Henry continues as Acting DSAC for NED. Investigative Analyst Carl Lemire is NED's new Investigative Support Program Manager filling the vacancy left by Bill Semrau's retirement last July. ISPM Lemire will be responsible for management of the Division's Vessel Monitoring System program, investigative analysis, evaluation and integration of emerging maritime domain awareness technologies. At Headquarters, Everett Baxter accepted the Deputy Director position for OLE.

Enforcement and Compliance

Since the last Council meeting, there were approximately 35 documented patrols that included a mix of both offshore and land based patrols. There were 16 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 28 instances of participation in various NOAA internal and external government partner meetings and events and 6 seaport container inspections to investigate Lacey Act and/or SIMP/Illegal Unreported and Unregulated fishing violations. NED EOs and SAs initiated at least 18 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 panel and school events participation, etc. in many cases are still on hold due to ongoing COVID-19 restrictions as mentioned above, 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 staff 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. Patrols may also involve dealer and vehicle inspection.

Enforcement Field Work and Outreach Effort Summary

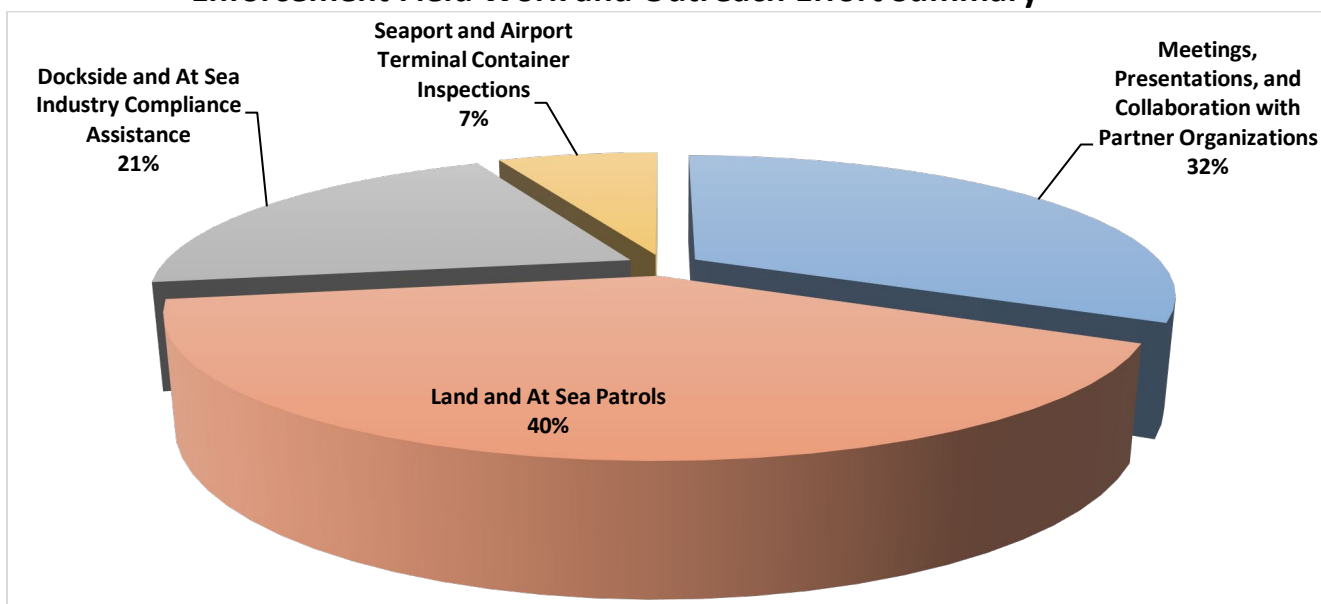


Figure 1: Roughly 85 events took place between June 2nd, 2021 and September 23rd, 2021. The figure is broken down by land and at sea patrols, internal government meetings/presentations/collaborations with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport and Airport Terminal Container Inspections.

4th Quarter, FY 2021 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 listed in Trident and shown here include investigations and complaints originating from external parties such as JEA and federal enforcement partners as well as 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. As events that result in 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.

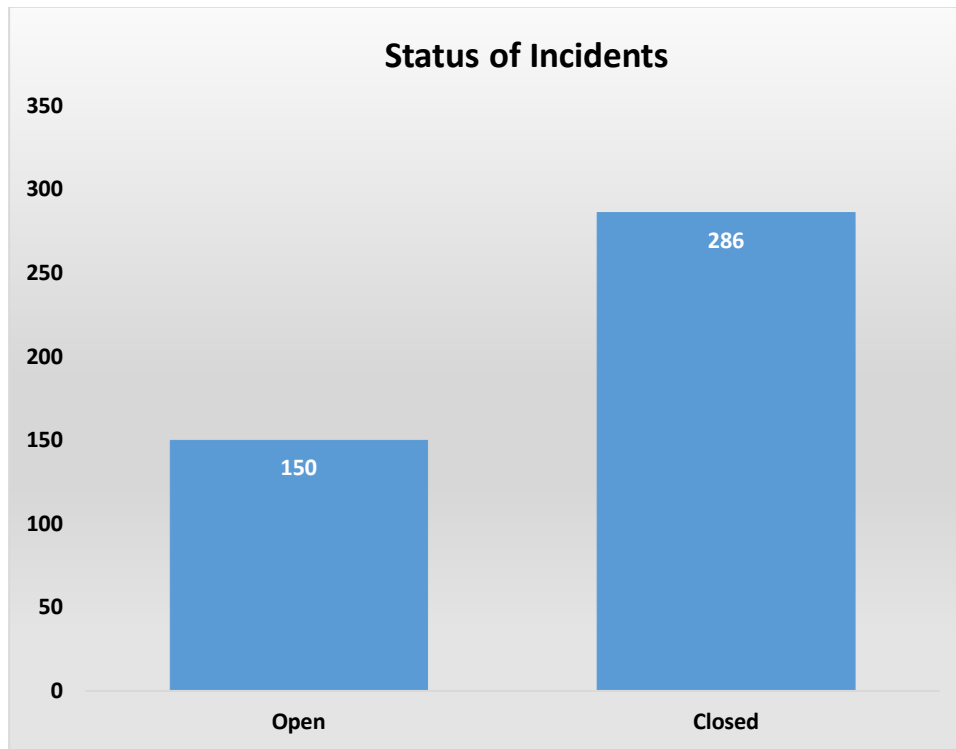


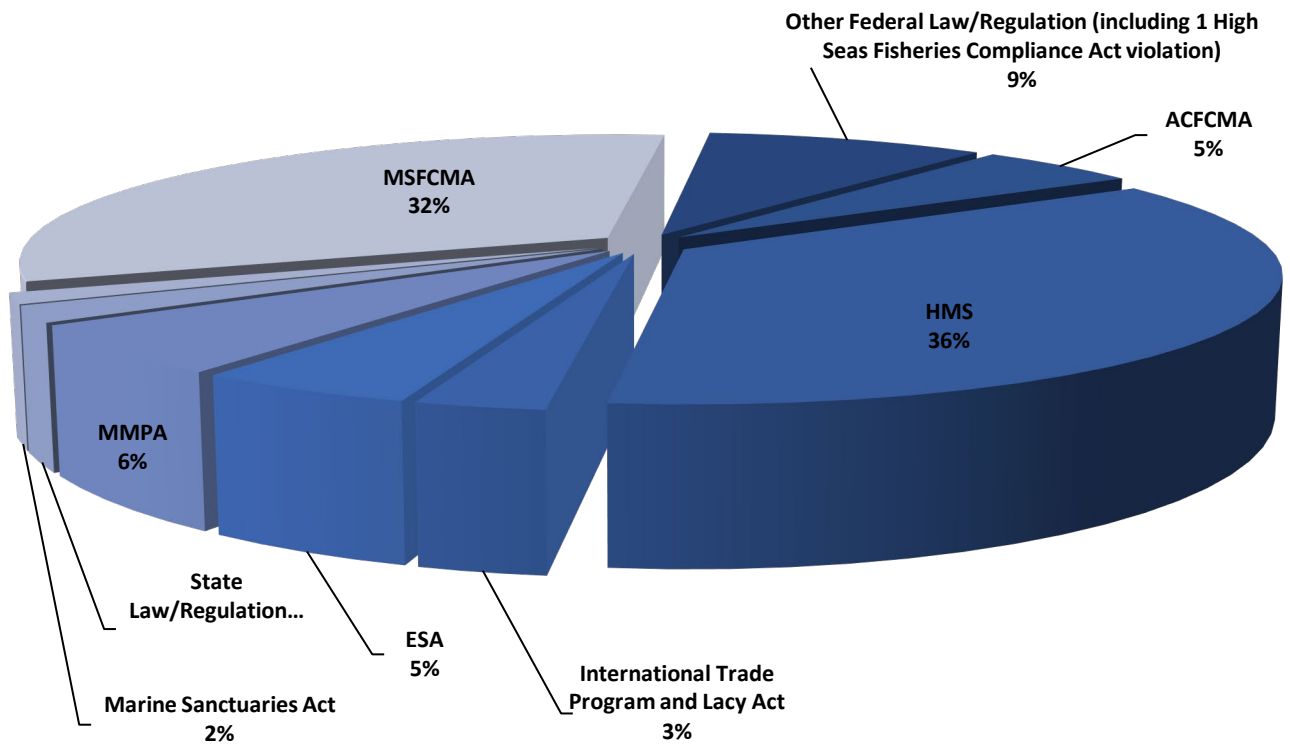
Figure 2. Status of incidents from June 2, 2021 – September 20, 2021 (286 closed, 150 open).

Table 1: 4th Quarter, FY21, summary of incidents by law/regulation

| Law/Regulation/Program | Incident Totals |
|------------------------------------|-----------------|
| ACFCMA | 23 |
| Endangered Species Act | 22 |
| MSFCMA | 140 |
| HMS | 156 |
| State Law/Regulation | 9 |
| Marine Sanctuaries Act | 6 |
| Marine Mammal Protection Act | 27 |
| International Trade Program | 12 |
| Lacey Act | 1 |
| High Seas Fisheries Compliance Act | 1 |
| Other Federal Law/Regulation | 39 |
| Total | 436 |

Figure 3: Incidents in Trident broken down by specific law or program violation between June 2, 2021 and September 20, 2021.

4th Quarter, FY21 Incidents by Law/Regulation



4th Quarter Incident Dispositions

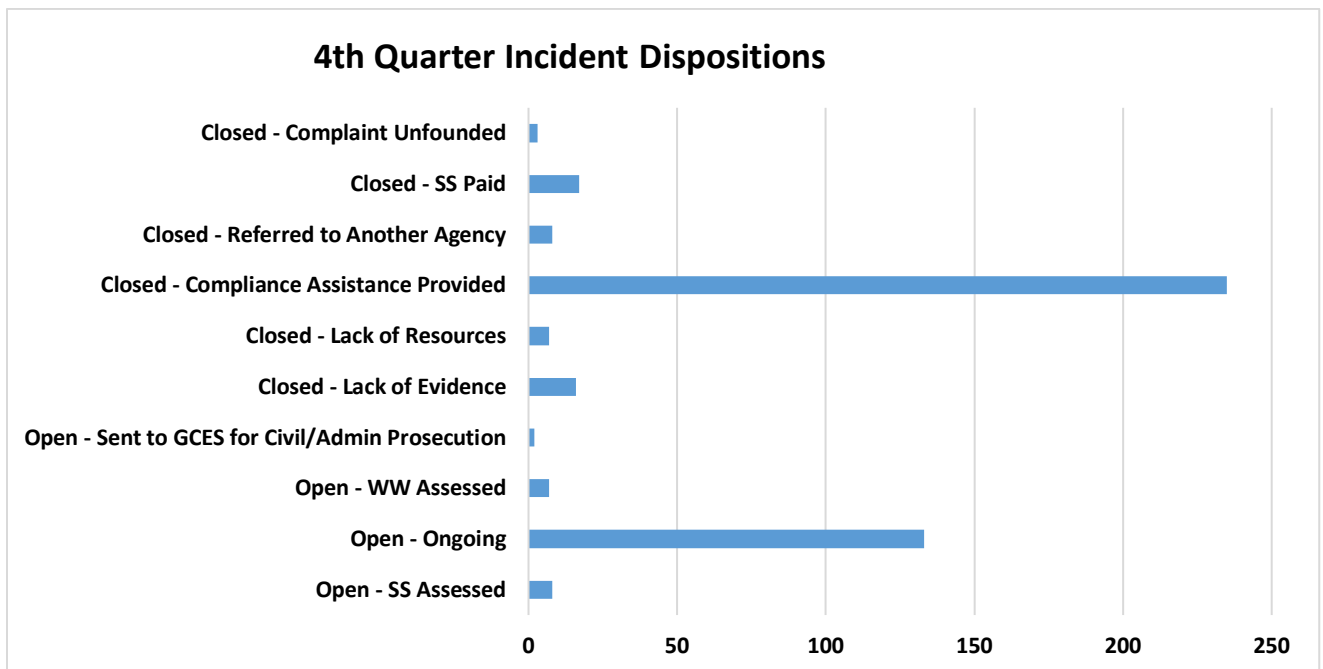


Figure 4. Incident dispositions for incidents in Trident between June 2, 2021 and September 20, 2021.

4th Quarter, FY 2021 Summary of Incidents Involving OLE Partners

A total of 185ⁱ incidents entered into Trident between June 2nd and September 20th of this year involved collaboration with at least one other federal or state enforcement partner. Figure 5, below, shows incidents where NED staff in OLE partnered with a state and/or federal enforcement partner on patrols or seaport and/or airport terminal container inspections. The figure also includes cases referred to NED by state or federal enforcement partners.

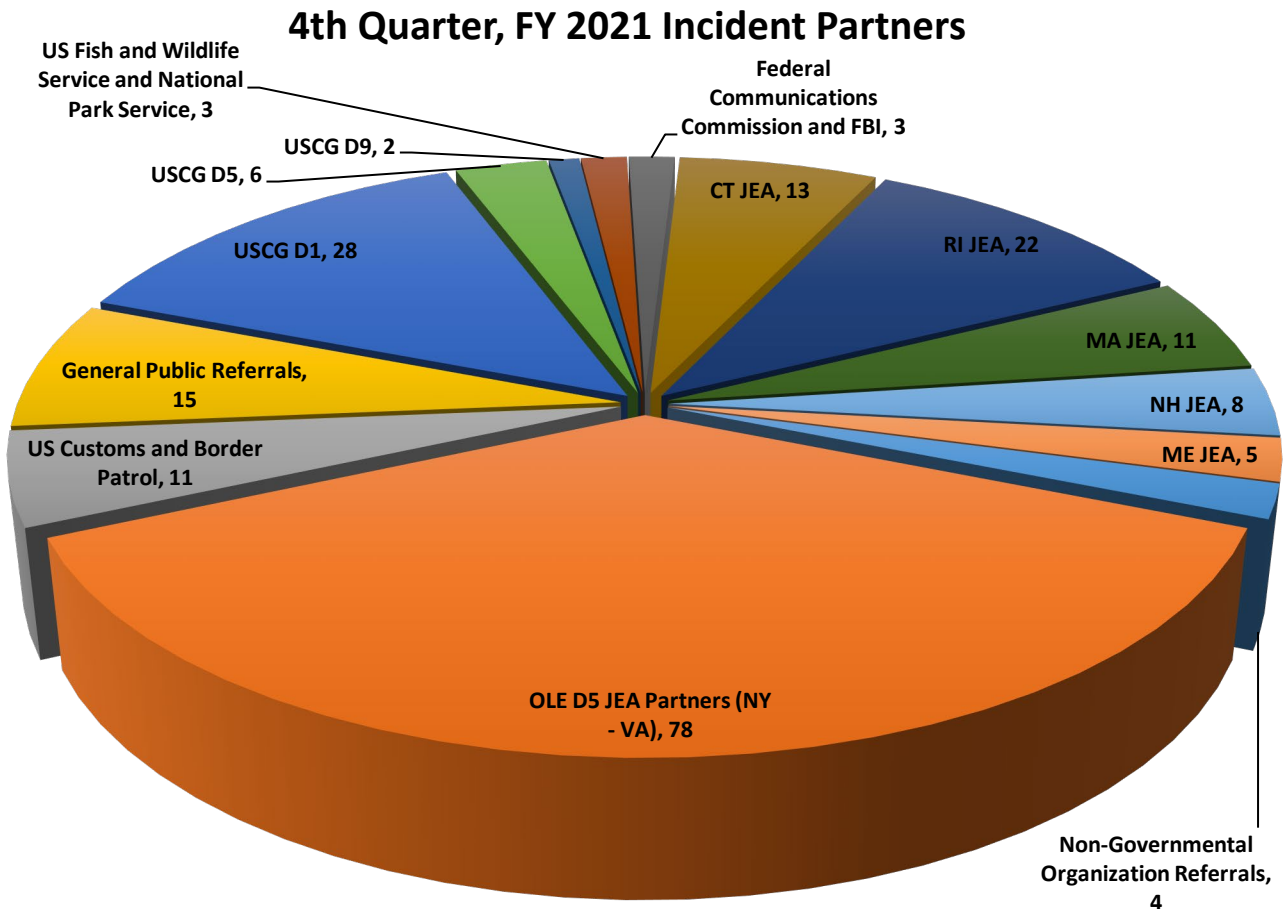


Figure 5. Incidents entered into Trident between June 2, 2021 and September 20, 2021 where one or more federal or state enforcement partner collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Non-enforcement partner related referrals are included here as well.

ⁱ The total number of instances of collaboration with at least one other federal enforcement partner or a state enforcement partner is greater than the 185 incidents, illustrated here. In addition, where multiple enforcement partners collaborated on a single incident, those partners were tallied separately in Figure 5, above.

4th Quarter, FY 2021 Overview of Summary Settlements

A total of 46 violations were associated with 36 Incidents with Summary Settlements issued between June 2nd and September 20th, 2021 at a value of \$26,354.00. Data included in this section also comes from OLE’s case management system, Trident.

Table 2: Individual Violations Associated with Summary Settlements Issued.

| Law | Violation | SS Amount | State | Trip Type ⁱⁱ |
|--------|--|------------|-------|-------------------------|
| ACFCMA | Lobster Trap Gear Violation | \$416.00 | MA | Commercial |
| ACFCMA | Possess Egg-Bearing Lobster | \$417.00 | MA | Commercial |
| ACFCMA | Possess V-notch Lobsters | \$417.00 | MA | Commercial |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$750.00 | RI | Commercial |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$250.00 | RI | Recreational |
| ACFCMA | Possess V-notch Lobsters | \$250.00 | MA | Commercial |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$500.00 | NJ | Recreational |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$250.00 | NJ | Recreational |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$1,000.00 | RI | For Hire |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$500.00 | NJ | Recreational |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$250.00 | RI | For Hire |
| HMS | Illegal BFT Possession | \$250.00 | CT | Recreational |
| HMS | Failure to Report HMS | \$1,000.00 | MI | Commercial |
| HMS | Fishing Without Valid Atlantic HMS Permit | \$500.00 | NY | Recreational |
| HMS | Failure to Report BFT | \$500.00 | NY | Recreational |
| HMS | Failure to Report BFT | \$500.00 | NY | Recreational |
| HMS | Illegal HMS Possession | \$250.00 | NY | Recreational |
| HMS | Illegal HMS Possession | \$250.00 | NY | Recreational |
| HMS | Illegal Shark Possession | \$125.00 | NY | Recreational |
| HMS | Illegal Shark Possession | \$500.00 | NY | Recreational |
| HMS | Failure to Maintain Atlantic BFT in Specified Form | \$666.00 | RI | Commercial |
| HMS | Illegal BFT Possession | \$667.00 | RI | Commercial |
| HMS | Failure to Report BFT | \$667.00 | RI | Commercial |
| HMS | Failure to Maintain Atlantic BFT in Specified Form | \$750.00 | RI | Recreational |
| HMS | Failure to Maintain Billfish in Specified Form | \$750.00 | RI | Recreational |
| HMS | Failure to Report BFT | \$625.00 | RI | Recreational |
| HMS | Failure to Maintain Shark in Specified Form | \$625.00 | RI | Recreational |
| HMS | Illegal HMS Possession | \$500.00 | VA | Recreational |
| HMS | No HMS Permit | \$500.00 | NY | Recreational |

ii This column was added in response to questions and comments made at the August MAFMC meeting. The question of trip type, commercial or recreational, for HMS SSs listed was raised. To answer, we referenced the permit of the violating vessel to determine trip type and also added the “For Hire” designation as appropriate for additional transparency.

| | | | | |
|--------------|--|--------------------|----|--------------|
| HMS | Failure to Report BFT | \$625.00 | MA | For Hire |
| HMS | Illegal BFT Possession | \$625.00 | MA | For Hire |
| HMS | Failure to Maintain Atlantic BFT in Specified Form | \$250.00 | RI | For Hire |
| HMS | Failure to Report BFT | \$250.00 | RI | For Hire |
| HMS | No HMS Permit | \$625.00 | MA | Commercial |
| HMS | Failure to Maintain Atlantic HMS in Specified Form | \$625.00 | MA | Commercial |
| HMS | Failure to Report HMS | \$500.00 | CT | Recreational |
| HMS | Failure to Maintain Billfish in Specified Form | \$500.00 | CT | Recreational |
| ITP | SIMP Violation | \$2,000.00 | MA | Commercial |
| MSFCMA | Limited Access Scallop Overage | \$2,604.00 | MA | Commercial |
| MSFCMA | Incomplete/Inaccurate FVTR | \$500.00 | MA | Commercial |
| MSFCMA | Illegal Groundfish Possession | \$125.00 | NY | Recreational |
| MSFCMA | Fishing Without Valid Operator's Permit | \$500.00 | VA | Commercial |
| MSFCMA | Fishing Without Valid GARFO Permit | \$500.00 | VA | Commercial |
| MSFCMA | Fishing Without Valid Operator's Permit | \$500.00 | NJ | Commercial |
| MSFCMA | For-Hire Fishing Without Valid GARFO Permit | \$500.00 | NY | For Hire |
| MSFCMA | For-Hire Fishing Without Valid GARFO Permit | \$500.00 | ME | Commercial |
| Total | | \$26,354.00 | | - |

Northeast VMS Program (4th Quarter, FY 2021)

Updated September 23rd, 2021

NE-Approved VMS Vendors and Units:

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

NE VMS Unit Population:

- 925 registered vessels
 - Woods Hole Group 464
 - SkyMate 452
 - Network Innovations 3
 - MetOcean 3
 - AddValue 0
- 3 Canadian Transshipment vessels, all MetOcean
- 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):

- 590 Ocean Quahog (OQ-6)
- 590 Surfclam (SF-1)
- 536 Scallop General Category (LGC-A,B,C)
- 363 Multispecies (MUL-A,D,F)
- 343 Scallop Limited Access (SC-2,3,5,6,7,8)
- 224 Longfin Squid (SMB-1A)
- 123 Herring (HER-A,B,C,E)
- 122 Mackerel (SMB-T1,T2,T3)
- 70 Illex Squid (SMB-5)
- 46 Longfin Squid (SMB-1B)
- 47 Combination (MUL-E)
- 14 Monkfish (MNK-F)
- 11 Maine Mahogany Quahog (OQ-7)

Groundfish Sector/Common Pool:

There are 290 groundfish sector vessels and 122 common pool vessels registered to the NE VMS Program.

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

A total of 59 VMS-equipped vessels are on a NMFS -approved power down letter of exemption; of these, the owners of 13 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 19 vessels with LAGC scallop permits on a Power Down declaration in port.

Industry Contact Log Report:

In the 3rd quarter of FY21, the NE Investigative Support (IS) Team addressed 382 industry issues and closed 302 issues or 79%. The most-frequently reported issues were (1) VMS Activation and Deactivation (2) eForms Compliance, and (3) LOE Requests.

In the 4th quarter of FY21, the NE Investigative Support (IS) Team addressed 201 industry issues and closed 164 issues or 82%. The most-frequently reported issues were (1) VMS Non-Reporting (2) VMS Declaration/Forms Assistance, and (3) eForms Compliance.

Significant VMS Issues:

Program Staff:

Bill Semrau retired on July 29, 2021 and Carl Lemire was hired as the new program manager, reporting to duty on August 30, 2021. A job posting to backfill an Enforcement Technician position has closed and is now in the middle of the hiring process.

Canadian Salmon Transshipment:

NMFS Office of International Affairs issued a foreign fishing vessel permit in December 2020 to four Canadian transshipment vessels for CY2021. The permit allows these vessels to enter the U.S. EEZ and Maine state waters to receive Atlantic salmon from aquaculture pens and transship them to a processing facility in New Brunswick. During this period, three vessels, Atlantic Bay, Ocean Provider 1, and Ronja Carrier have taken several trips and reported their position and activities via VMS as required by their permit. There has been no activity from the fourth vessel, MV Aqua Leader.

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 has not been able to keep pace with the required changes to the Northeast VMS reporting software. Only three vessels currently have this unit installed. 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.

McMurdo Omnitrac Replacement:

The Omnitrac was decertified in March 2020. Of the original 700+ vessels with this VMS, only 16 vessels have yet to replace their unit with an approved VMS. Their power down letters of exemption ended on May 1, 2021, requiring the owners to activate an approved VMS before their permits can be renewed.

Observer Program (3rd Quarter Summary, FY 2021)

From April 1st through June 30th, 2021ⁱⁱⁱ, the observer program deployed on 645 trips for 1885 sea days. 12 investigations were initiated based on Incident Reports NED received during this quarter. 98% of all selected or observed trips were completed without an enforcement referral or investigation^{iv}. The summary below provides additional details.

Table 3: Summary of Observer Program complaints and status

| Type of complaint | Number of complaints and status |
|---------------------------------------|--|
| Refusal | Four refusal reports were received and all are ongoing. |
| Assault | One observer assault was received which was closed after investigation due to a lack of evidence. |
| Harassment/Intimidation | Four investigations of complaints alleging harassment and/or intimidation were initiated. One complaint involving an unprofessional phone conversation was closed with compliance assistance. An investigation into the behavior that intimidated observers resulted in a written warning. An investigation of an operator who exhibited intimidating behavior during a pre-deployment safety inspection is ongoing. An investigation of an operator who made an unwelcome comment to an observer regarding her physical appearance is also ongoing. |
| Interference | Two investigations were initiated into incidents involving observer interference. One investigation is ongoing and the second resulted in a written warning. |
| Vessel Safety Equipment/Certification | Two complaints were received, which were linked to more significant complaints and both are ongoing. |
| Observer Safety | One complaint involving unsafe vessel operation due to lack of a wheel watch and suspected illegal drug use is ongoing. |

iii A 4th Quarter, FY 21 Observer Program Summary will be available to the Council at the November meeting.

iv In some instances a single Incident Report contained multiple complaints and in other instances, multiple Incident Reports were received covering the same reported violation.

| | |
|--|---|
| Failure to provide reasonable assistance | None |
| Failure to provide equal accommodations | None |
| Observer gear/sample tampering | None |
| Observer program notification | One failure to pre-notify was received and was closed with compliance assistance. |
| Miscellaneous | <ul style="list-style-type: none"> • A civil penalty of \$24,000 was issued to a former observer for false reporting. The observer failed to report several thousand pounds of discarded groundfish. • A civil penalty of \$12,000 was issued to a former observer for interfering with the duties of a trainee observer. The former observer purposefully told the trainee observer to underreport discarded groundfish. • A fishing vessel owner and fishing vessel operator agreed to pay a civil penalty of \$36,899 for charges related to providing false information to an observer. • A criminal investigation of sexual harassment of an observer resulted in a 6-month jail sentence for the violator. This case was initiated in the NED and then transferred to the SED due to venue. |

Cases sent to NOAA General Counsel Enforcement Section (GCES)

NED forwarded 7 cases to GCES between June 4th and September 20th. 6 cases involve alleged fishing vessel violations and 1 case involves a Seafood Import Monitoring Program (SIMP) violation. They include but are not limited to: HMS violations, reporting violations, permit violations, etc.