



NOAA FISHERIES

Council Report – 4th Quarter, FY 2021



June 2, 2021 – September 30, 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
3rd and 4th Quarter, FY 2021 Overview of Summary Settlements	9
Northeast VMS Program (4th Quarter, FY 2021).....	12
Observer Program (4th Quarter Summary, FY 2021)	13
Cases sent to NOAA General Counsel Enforcement Section (GCES).....	14

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 and 3, below, pick up where the last Council report left off August, 2021. Due to a question raised at the August Council meeting relating to summary settlement data presented then, summary settlement data included in Table 2, below, covers the date range included in the OLE report to the August meeting as well as the date range leading up to the October meeting. We welcome feedback on any section of this report.

NED Enforcement Highlights

- There were multiple patrols within NED's area of coverage last summer, a few of which were identified in the OLE written report for the August meeting. An EO participated in another Thunder Bay National Marine Sanctuary patrol alongside U.S. Customs and Border Patrol agents based in Michigan. That makes a total of 3 patrols in that sanctuary that OLE participated in last summer. NED participated in a number of additional patrols since the last Council meeting. These were conducted by OLE alone or with a state or federal enforcement partner. The following are patrols we'd like to highlight roughly in chronological order:
 - In addition to the ROV operation on Georges Bank in July reported at the August Council meeting to inspect offshore lobster gear for compliance with ALWTRP and MSA regulations, EOs conducted a week long offshore patrol to the edge of the Northeast U.S. Exclusive Economic Zone 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 Lobster Management Area 3 fishing vessel activity trends and collected valuable intelligence that will enhance future operations.
 - Two EOs conducted a vessel patrol inside the EEZ offshore of New England and performed five vessel inspections and one mobile gear inspection. One vessel captain was provided compliance assistance for failing to maintain 2 square inches of skin on haddock fillets.
 - An EO conducted joint underway patrols with Fire Island National Sea Shore National Park Service Law Enforcement Rangers and New York State Department of

Environmental Conservation. Officers patrolled roughly 38 Nautical Miles along the Long Island Shore.

- There was an HMS Patrol at sea that made it as far out as the canyons. One violation was found.
- Most recently, an EO participated in a patrol off the coast of Gloucester, MA as part of a groundfish saturation patrol during the limited open season on codfish. Four vessels were inspected.
- NED District 1 Patrol Vessel F3403 is back in-service after undergoing routine maintenance and minor repairs at the CBP National Marine Center (NMC).
- A Notice of Violation and Assessment in the amount of \$75,000 was assessed to a NY-based commercial vessel for a violating six counts of the Right Whale Ship Strike Reduction Rule. This is the second offense for this vessel.
- An EO issued a written warning to a Canadian Seafood importer who submitted incorrect Seafood Import Monitoring Program data for Atlantic Cod Imports through the Buffalo, NY port of entry. Specifically, the Importer listed the Atlantic Cod as a product of Hatchery Based Aquaculture from China in the International Trade Data System. The chain of custody documents show the Atlantic Cod as wild caught from Russian vessels and processed in China.
- 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 8 documented patrols that included a mix of both offshore and land based patrols. There were 10 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 19 instances of participation in various NOAA internal and external government partner meetings and events and 2 seaport container inspections to investigate Lacey Act and/or SIMP/Illegal Unreported and Unregulated fishing violations. NED EOs and SAs initiated at least 9 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, 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 Team in the VMS Program and all other administrative/support staff within NED conduct on a daily basis. In addition, this figure does not fully capture the regular interaction our

agents and officers have with industry. Specifically, patrols listed in Figure 1, below, 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

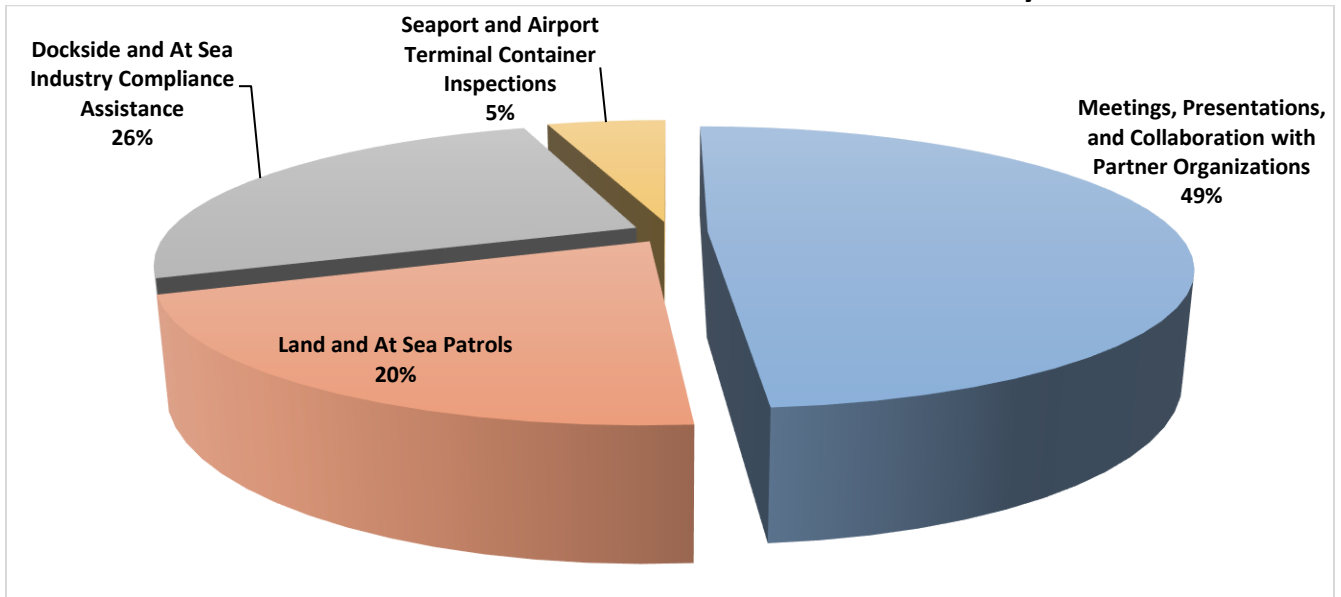


Figure 1. Roughly 39 events took place between August 6th, 2021 and September 30th, 2021. The figure is broken down by land and at sea patrols, internal government meetings/presentations/collaborations with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport 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.

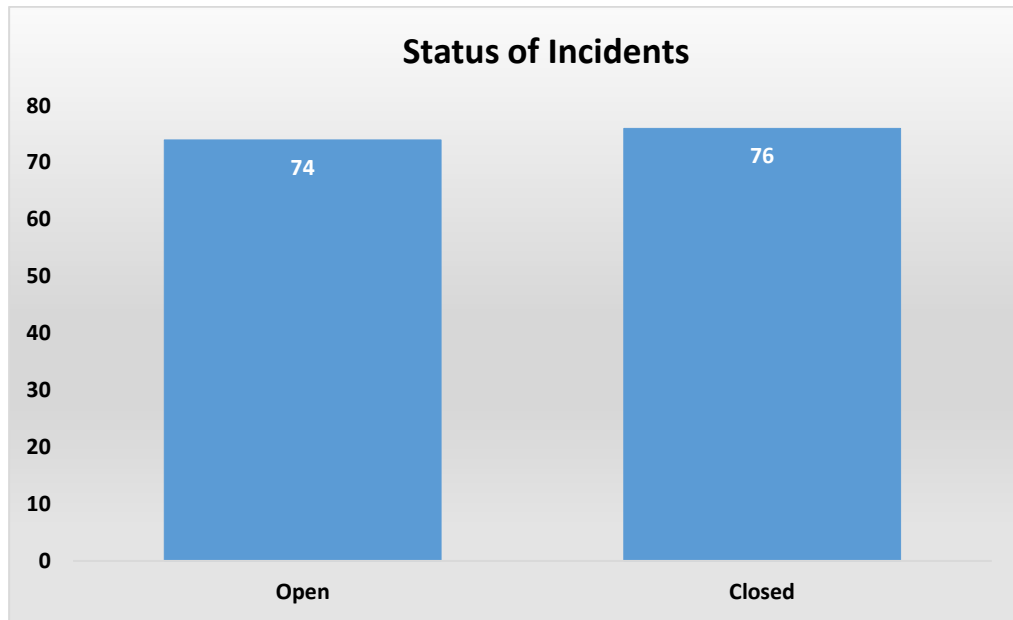


Figure 2. Status of incidents from August 3, 2021 – September 20, 2021 (76 closed, 74 open).

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

Law/Regulation/Program	Incident Totals
ACFCMA	13
Endangered Species Act	4
MSFCMA	46
HMS	54
State Law/Regulation	2
Marine Sanctuaries Act	2
Marine Mammal Protection Act	15
International Trade Program	4
High Seas Fisheries Compliance Act	1
Other Federal Law/Regulation	9
Total	150

4th Quarter, FY21 Incidents by Law/Regulation

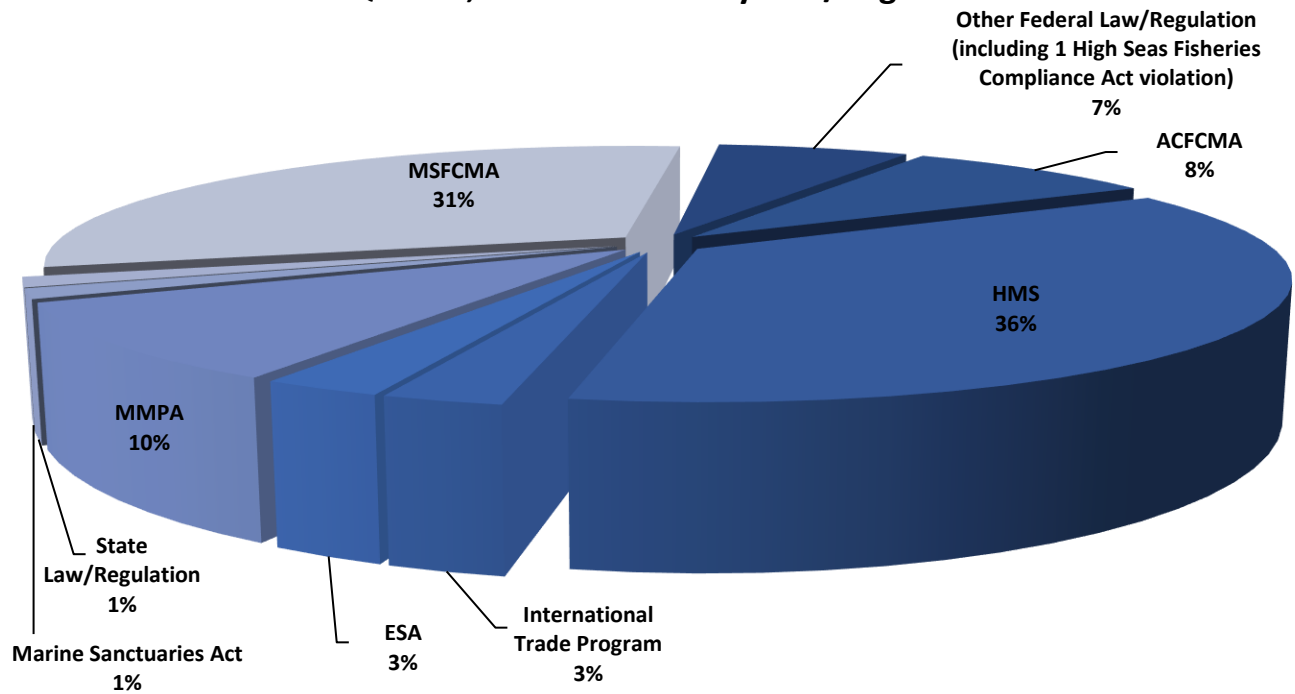


Figure 3. Incidents in Trident broken down by specific law or program violation between August 3, 2021 and September 20, 2021.

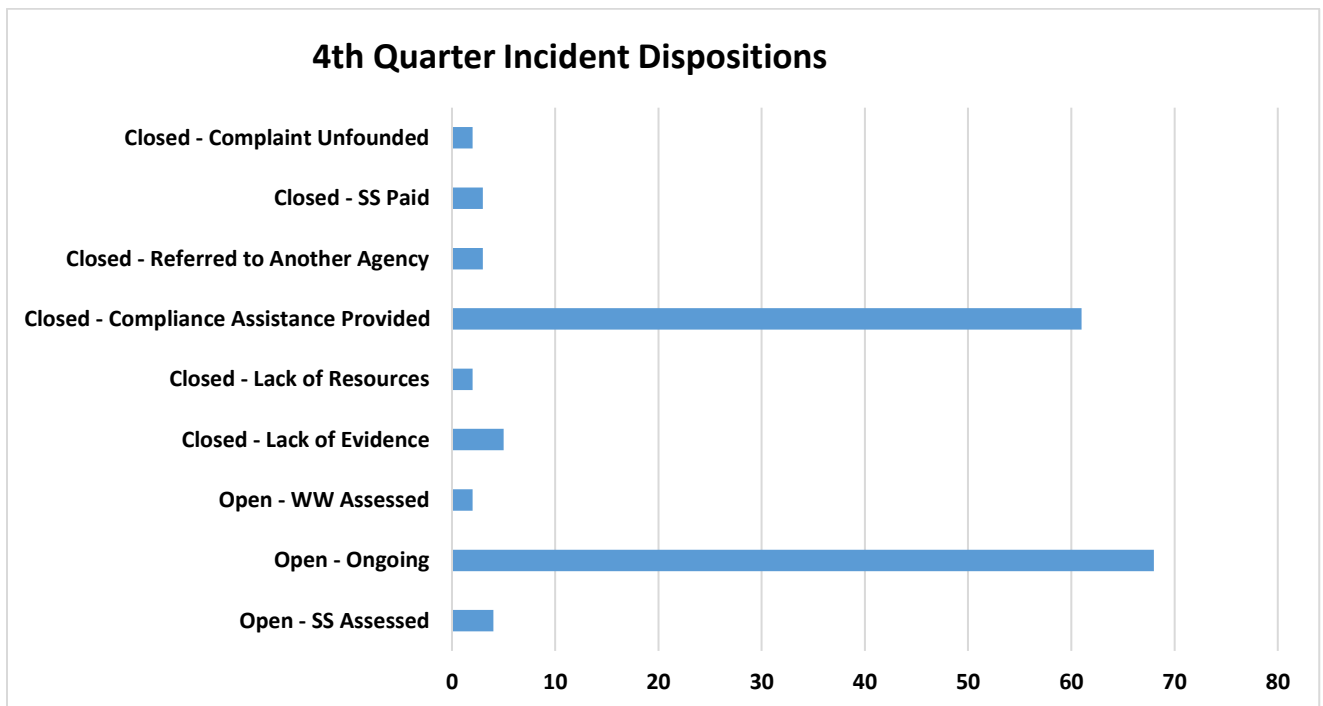


Figure 4. Incident dispositions for incidents in Trident between August 3, 2021 and September 20, 2021.

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

A total of 92ⁱ incidents entered into Trident between August 3rd 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.

4th Quarter, FY 2021 Incident Partners

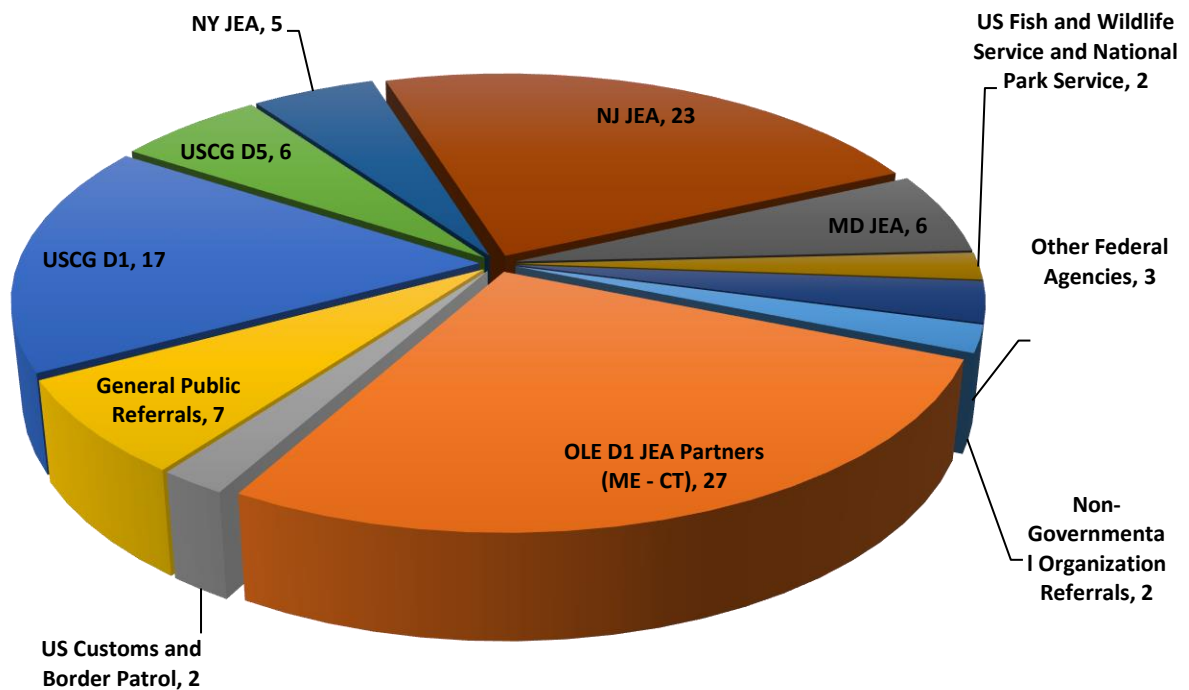


Figure 5. Incidents entered into Trident between August 3, 2021 and September 20, 2021 where one or more federal or state enforcement partner collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Non-enforcement partner 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 92 incidents, illustrated here. In addition, where multiple enforcement partners collaborated on a single incident, those partners were tallied separately in Figure 5, above.

3rd and 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. As mentioned previously, the date range for this section of the report includes cases referenced in the August Council meeting OLE report. A question asked of OLE at that meeting specific to summary settlement data presented by OLE then was, “What was the breakdown of HMS Summary Settlement data between Commercial and Recreational violations?” We responded to that question by updating the summary settlement data presented to the Council in August. Specially, we broke down the data provided in Table 2, below, to include commercial, recreational, and “For Hire” violations. Our intent, by adding in “For Hire” violations, was to avoid confusion and increase transparency. We updated all new summary settlement data that has come in since the August Council meeting in the same fashion, also in Table 2.

To answer the question asked of OLE at the August Council meeting, the “Trip Type” column was added to Table 2 of this report. We identified the disposition of individual HMS summary settlement violations by referencing the HMS permit type associated with the offending vessel. In summary, vessels with HMS violations were characterized as recreational (Angling), commercial (General Category), or for hire (Charter/Headboat) by the current HMS permit type listed in the HMS permit database for the offending vessel. The one recreational HMS violation listed with “No HMS Permit” in Table 2 was searchable in the HMS permit database presumably because they have since become compliant with permitting requirements.

In addition, we decided to include the violation type for violations issued to non-HMS permitted vessels as well in this report. Figures 6 and 7, at the end of this section, differentiate HMS and non-HMS data included in the Table 2 “Trip type” column, as described above, respectively. For GARFO permitted vessels with both commercial and for hire endorsements, we referenced GARFO’s VTR database. If the VTR for the trip where a particular violation occurred indicated fish were not sold during the trip, that violation was considered to be “For hire”. We recognize that vessel could have been on a recreational trip when fish were listed on the VTR for “home consumption”, but we thought this level of investigation was sufficient for this report. “Non HMS Recreational Vessel Violations” listed in Figure 7 did not have an HMS (or GARFO) permit and those violations did not involve HMS species.

We welcome any feedback related to the addition of this column and the methodology we used to populate it.

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

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.

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
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		-

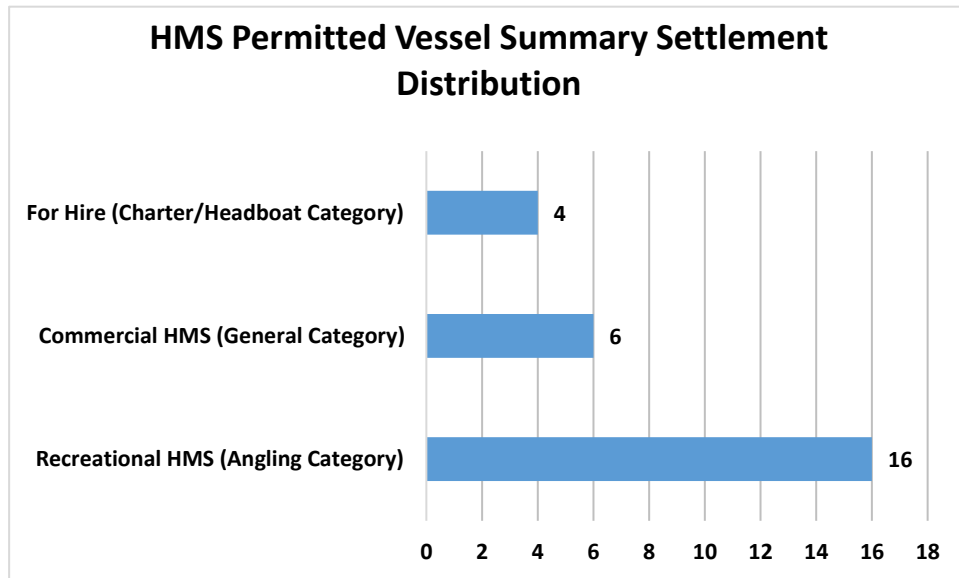


Figure 6. HMS violations for Summary Settlements that were issued between June 2 and September 20, 2021.

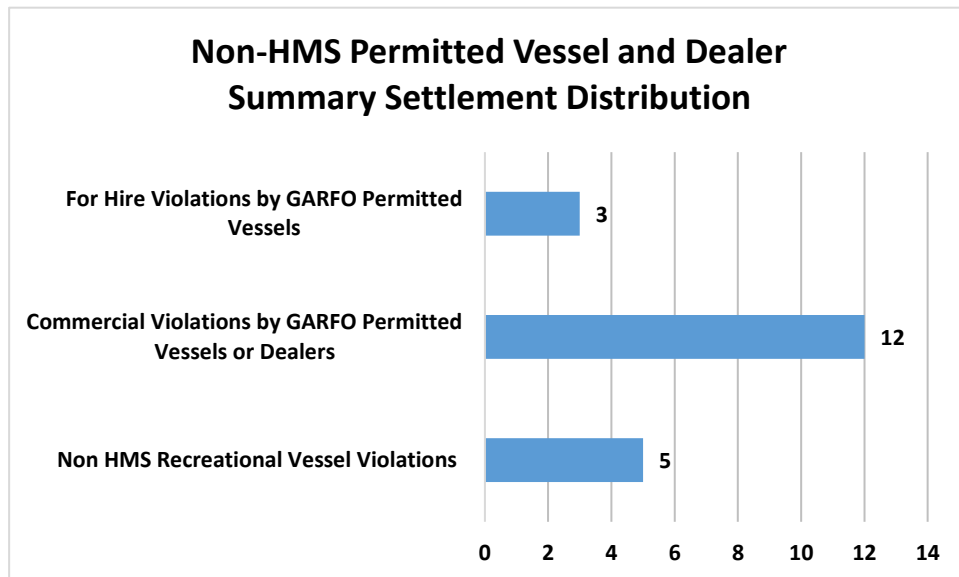


Figure 7. Violations by GARFO permitted vessels and dealers and non HMS recreational violations for Summary Settlements that were issued between June 2 and September 20, 2021.

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 (4th Quarter Summary, FY 2021)

From July 1 through September 30, 2021, the observer program deployed on 1,039 trips for 2,231 sea days. Nine investigations were initiated based on Incident Reports received by the Northeast Division during the quarter. Ninety-nine percent (99%) of all selected or observed trips were completed without an enforcement referral/investigationⁱⁱⁱ. The summary below provides additional details.

ⁱⁱⁱ In some instances a single Incident Report contained multiple complaints and in other instances, multiple Incident

Table 3: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	Four refusal reports related to vessels who sailed without an observer after being found to have expired safety equipment were received. One was closed under Compliance Assistance, and three are ongoing.
Assault	None
Harassment/Intimidation	Four investigations of complaints alleging harassment and/or intimidation were initiated. Three were closed with Compliance Assistance. A complaint involving a crew member who made unwanted comments relating to their interest in the observer is ongoing.
Interference	None
Vessel Safety Equipment/Certification	One complaint relating to a vessel owner who deliberately failed to obtain a required CFVSE is ongoing.
Observer Safety	One complaint involving a vessel that was not following the USCG vessel operation requirements, during which a vessel collision was narrowly averted by the observer's actions, is under investigation.
Failure to provide reasonable assistance	None
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.

Cases sent to NOAA General Counsel Enforcement Section (GCES)

NED forwarded three cases to GCES between August 6th and October 4th. Two cases involve alleged observer/at-sea-monitor harassment and one case involves fishing vessel violations concerning fishing for NE multispecies in a closed area and inaccurate VMS reporting.

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.