



# NOAA FISHERIES

Office of Law Enforcement

## 4<sup>th</sup> Quarter Fiscal Year 2013 Northeast Enforcement Division

July 1, 2013 – September 30, 2013



## Council Report

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

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# 4<sup>th</sup> Quarter Enforcement and Compliance

## Summary

In the fourth quarter, there were 185 documented patrols, allowing critical face-to-face interaction between our field staff and the industry; 96 documented instances of outreach (not an exhaustive list; includes phone calls with industry, dock visits, trade shows, presentations, etc); and 19 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. In the fourth quarter, there were 54 dealer inspections; 4 of which had issues that resulted in Compliance Assistance (COPPS) and 153 vessel inspections, 2 of which had issued that resulted in Compliance Assistance (COPPS).

## ACIs Reported 4th Quarter Fiscal Year 2013

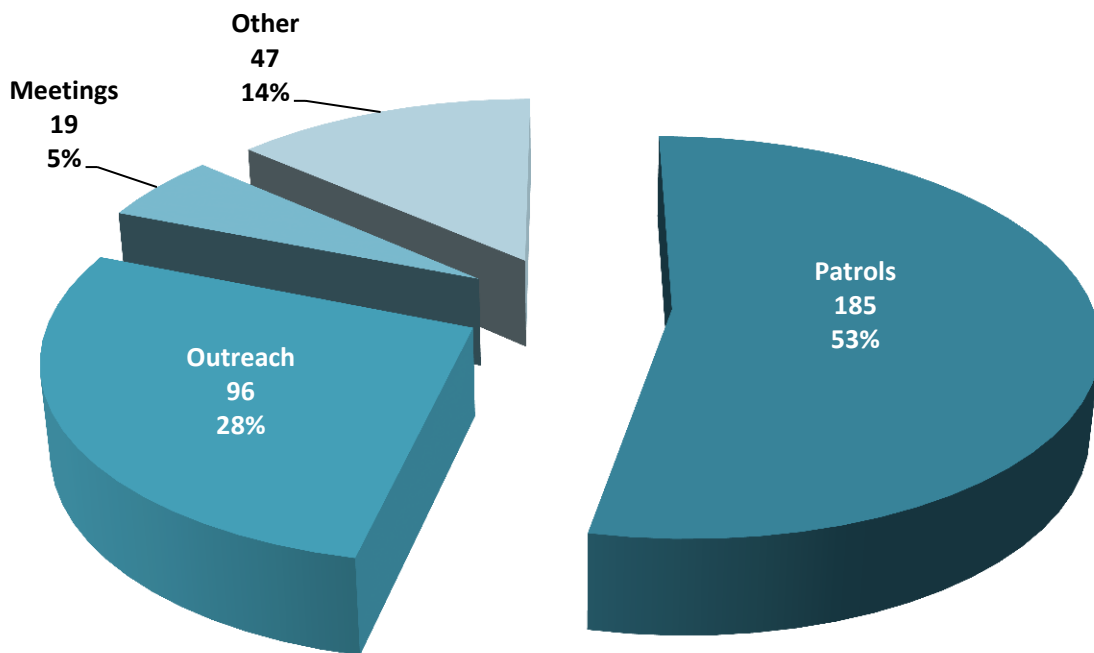


Figure 1: 347 ACIs reported from July 1, 2013 through September 30, 2013. The chart is broken down by patrols, outreach, other (collateral duties, homeland security, info gathering, MMPA) and meetings.

## Incidents by Types 4th Quarter Fiscal Year 2013

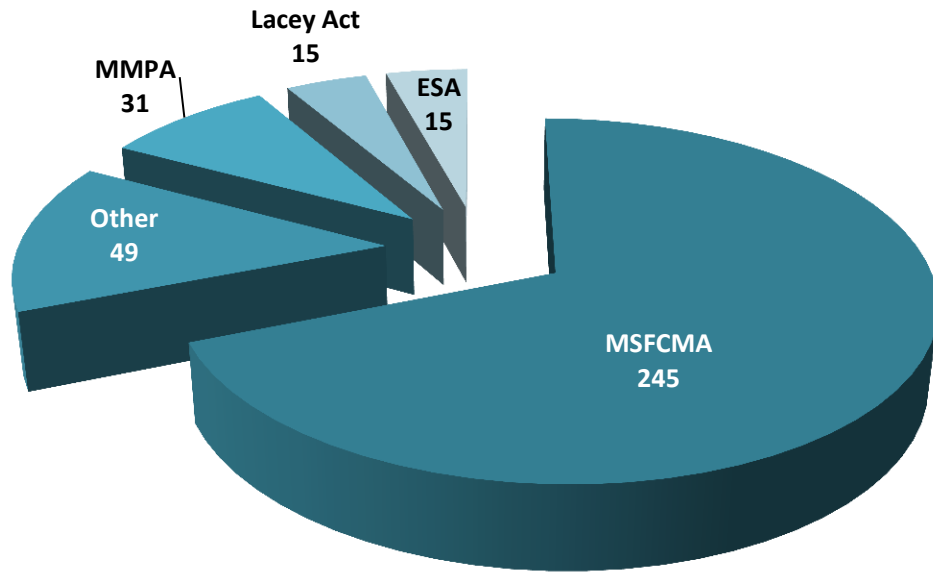


Figure 2: Incidents opened from July 1, 2013 through September 30, 2013. 355 incidents were opened. "Other" includes twenty one ACFCMA, nineteen Atlantic Tuna, three State Regulations – Fisheries, three State Regulations – Non-Fisheries, and three unknown.

# 4th Quarter, Fiscal Year 2013 Highlights

## **Lacey Act**

Raymond Carroll Webb, of Whitestone, VA, and his company, Peak Enterprises, were both sentenced to a three-year term of probation and were ordered to pay a \$3,000 fine and \$1,000 in restitution to the National Oceanic and Atmospheric Administration (NOAA) for trafficking in illegally-harvested striped bass. The \$3,000 fine was directed to the Lacey Act Reward fund account which provides rewards to persons who report wildlife crime to law enforcement. Webb and Peak Enterprises were ordered to maintain a Vessel Monitoring System (VMS) unit on any vessel if used for charter fishing during the term of their probation. The VMS unit will allow law enforcement officers to track the vessel in real-time.

Final sentencing in the Virginia Beach charter boat investigation occurred; Nolan Agner and Agner Inc. was sentenced. He pled guilty to possession in the EEZ, a Lacey Act misdemeanor. Nolan Agner was fined \$3500 and received three years of probation, during which time he must have a VMS unit on all boats operated by Nolan Agner and engaged in fishing, with a Federal permit and record requirements met. Agner Inc. received three years of probation during which time it must have a VMS unit on all boats owned by Agner Inc. and engaged in fishing, with a Federal permit and record keeping requirements met.

An Enforcement Officer conducted inspections at the Calais Port of Entry this reporting period. One truck with 160 crates of live lobster going to Maine Lobster Outlet, in York, Maine, was inspected. 10 crates were inspected with 6 egg bearing lobsters and 10 undersized lobsters being seized. The Enforcement Officer telephonically presented his investigation into this Company for shipping egg bearing lobster and undersized lobster into the United States to Northeast General Counsel Enforcement Section (GCES).

## **Marine Mammal Protection Act**

An OLE agent worked at Boston Logan International Airport with Custom Border Patrol and seized one whale sausage and one whale meat jerky from an inbound flight from Iceland.

An OLE agent was notified of a Right Whale disentanglement performed by a Virginia Beach charter boat captain and his first mate, without notifying NOAA or the authorized stranding center. A Hotline call was placed by the captain approximately 36 hours later. The agent worked with Atlantic Whale Entanglement Response Coordinator on the issue. The captain and first mate were interviewed. The charter vessel was approximately 50 miles offshore when they noticed poly balls on the surface of the water. The first mate jumped into the water and cut a line which removed the gear from the whale. Although video was taken, it is not clear if the gear was completely removed, nor does it document the type of gear. The first mate stated that all the gear was removed. It was explained to both individuals that although this appears to have been successful and no one was hurt, it is illegal, and could have gone very wrong. The captain and first mate both agreed that in subsequent media interviews they would make it a point to say that no one should do this, and that the NOAA Hotline should be called so that professionals could handle the situation.

An OLE agent investigated an incident in which members of the Kennedy family disentangled a leatherback sea turtle in Nantucket Sound. The agent met with members of the family and acquired the gear for analysis. The matter has gained national interest.

A Special Agent has opened cases on nine foreign flagged vessels for violating the right whale ship strike reduction rule. A total of 123 counts have been identified in Seasonal Management Areas in the Northeast Region.

An OLE officer investigated a complaint received from a sea kayak touring company concerning harassment of seals by Jet Ski operators in the vicinity of Green Island and Black Island in Western Bay on the northwest side of Mount Desert Island. The officer interviewed the complainant, as well as the caretaker for the property where the Jet Skis were located. The officer provided the caretaker with several brochures addressing marine mammal viewing guidelines and explained the regulatory provisions with respect to unlawful take of marine mammals. The caretaker assured the officer that the owner and their guests would be informed as to the proper operation of watercraft in the vicinity of marine mammals. The officer also conducted an at-sea patrol of the area with the National Park Service.

OLE agents responded to a request for service by NOAA Protected Resources Division. The agents worked with New Jersey Division of Fish and Wildlife, New York Department of Environmental Conservation, the US Coast Guard and the Sandy Hook Pilots Association to raise awareness of humpback whales in the vicinity of New York Harbor. Agents assisted in patrol planning and execution to prevent whale harassment by recreational vessels in the Sandy Hook, New Jersey area.

#### **Magnuson-Stevens Fishery Conservation and Management Act**

An interview was conducted with the captain of a New Bedford vessel who landed skate wing overages on two trips in June. The captain admitted his mistake and said he should have checked when the limit changed. After consultation with GCES and due to the small amount of the overages a written warning will be issued.

During a dockside inspection of a general category HMS permitted vessel in Plymouth, an Enforcement Officer discovered several yellowfin and albacore tuna with both heads and tails removed. A check for prior violations revealed the USCG has initiated a case on the vessel for the same type of violation earlier in the year. The Enforcement Officer is working with GCES to move forward with the case.

An OLE agent and officer investigated a Gulf of Maine scallop boat that landed 881lbs. of Atlantic sea scallops at the Portland Fish Exchange. The F/V reported to the Exchange that it made 5 trips and provided 5 vessel trip reports to the Portland Fish Exchange. After comparing dealer trip report copies with VMS and dealer landing data to determine that the vessel only made 3 trips. To cover up the overage above the 200lbs. limit, the F/V filed false trip reports to the Portland Fish Exchange. The agent and officer boarded the vessel in which the operator admitted landing more than he was allowed. Additionally no trip reports were fully completed since the vessel began scallop fishing.

An OLE officer has issued a \$750 summary settlement to a Rhode Island fisherman who cut up three albacore tuna while at sea. He stated he did so because his marina did not have a cleaning station and because he thought the law only applied to bluefin and yellowfin.

An interview was conducted concerning gear conflicts in the New Jersey lobster fishery. Although a background level of conflict is always present in this fishery, the current level of conflict has elevated to verbal threats at sea and shore side criminal mischief. This is the first time since 2004, when OLE agents investigated a fisherman for destruction of fishing gear that a significant risk of gear tampering and violence at sea has materialized.

# Compliance Assistance and Outreach

A recent trend of whale products being imported for personal consumption into the U.S. through various airports has been identified. The international airports at San Francisco, Boston, and Dulles (Washington DC) have seized and abandoned salami, sausage, and jerky containing whale meat. The originating flights have been from Norway and Iceland. The Compliance team is working with various partners to provide information regarding illegal importation of marine mammal parts.

An investigation was conducted into a FV that was reported as not properly declaring through VMS prior to departure. Contact was made with the vessel operator and it was discovered that the operator had not updated the vessel's VMS software for proper declaration codes. The vessel operator was instructed on the differences between declaring through the IVR and VMS program, helping to regain compliance.

An interview was conducted with the captain of a New Bedford clam fisherman who made a Nantucket lightship Habitat Incursion on several recent trips. The captain had the Habitat area plotted into his chart plotter, but it turns out he did not have the correct coordinates. The agent provided him with the correct coordinates and the information was updated.

An OLE officer helped the owner and office manager of Red's best Seafood in Boston, MA obtain an Atlantic Dolphin/Wahoo Dealer Permit. They were unaware that they had to obtain this permit from the Southwest Region and thought that Dolphin/Wahoo was covered under their Northeast and HMS permit.

The OLE Compliance team distributed new regulatory guides to charter fishing captains and owners in New Hampshire, Cape Cod, and elsewhere.

An OLE agent closed three observer safety refusal complaints.. All three complaints involved vessels that failed to meet vessel safety requirements required for carriage of observers. The agent also advised the owners and operators of recent missed required pre-trip notifications to the observer program.

# Joint Enforcement Agreement (JEA)/Cooperative Enforcement

An OLE agent assisted Massachusetts Environmental Police (MEP) with two separate striped bass investigations involving Rhode Island residents selling striped bass commercially in Massachusetts. The commercial season in Rhode Island is currently closed. The majority of the fish appear to have been harvested with a spear gun which is a prohibited method to harvest striped bass in Massachusetts but allowed in Rhode Island.

An OLE Officer and MEP conducted a night time at sea patrol off of Provincetown, MA. One Provincetown based vessel was encountered and allegedly was actively fishing in the EEZ. The officer is discussing the case with GCES and is preparing a case package.

An OLE agent received a call for assistance from Bristol County Sheriff Department concerning the whereabouts of an individual wanted for heroin trafficking. This individual was wanted on an extraditable warrant from Maine. Local law enforcement had searched for weeks along the New Bedford waterfront hoping to capture or at least receive information concerning this wanted individual. However, their efforts netted negative results. The agent working with MEP as well as other local enforcement was able to develop current/specific information which led to the immediate apprehension of this individual. The wanted felon, known to be violent toward law enforcement, was taken into custody with incident.

An OLE ASAC, officer, and agent joined with their counterparts from the Maine Marine Patrol, Fisheries and Oceans Canada, Royal Mounted Police Integrated Border Enforcement, and USCG at a meeting in Ellsworth, Maine to discuss various issues relating to border enforcement initiatives, the disputed waters of Machias Seal Island, lobster fishing, joint patrols and other marine resource issues shared by all these agencies.

Two OLE officers conducted training for about 25 USCG personnel at the New England Regional Fisheries Training Center. The training focused on the relationship between OLE and the USCG, and how the two organizations work together to complete cases.

An OLE agent and DSAC met with the Major and Captain of MEP to further develop working relationships between the two agencies. MEP requested an electronic copy of the Duty Agent rotational schedule. They also briefly met with Rick Cunio, Manager, New Bedford State Pier. Cunio is working with local and State officials concerning the development of future facilities for various Law Enforcement agencies, located on State pier.

The subject of over 250 smuggled narwhal tusks in a narwhal smuggling investigation pled guilty and was sentenced in Canada. This is part of a joint investigation between NOAA OLE, Environment Canada, and USFWS.



# Northeast VMS Program

Northeast Active VMS Vessel Population: 1,005

Northeast-Approved VMS vendors: Boatracs, SkyMate, GMPCS (for Thrane VMS units), CLS America

Population Breakdown by (VMS) Permits held:

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

651 Surfclam/Ocean Quahog (Permit Category 1,6,7)

571 Scallop General Category (Cat. A,B,C)

450 Multispecies (Cat. A,D,F)

330 Scallop Limited Access (Cat. 2,3,5,6,7,8)

80 Herring (Cat. A,B,C)

46 Combination (Multispecies Cat. E)

14 Monkfish (Cat. F)

Note: There are 502 groundfish sector vessels and 116 common pool vessels registered to the NE VMS Program.

# Northeast Observer Program

During this quarter the observer program deployed on 1,223 trips for 3,300 sea days. Approximately 98.0% of all selected or observed trips were completed without a reported enforcement incident. There was a total of 27 reported violation reports received and acted upon this quarter.

The summary below details the status of observer related complaints during the 4<sup>th</sup> Quarter of 2013.

Table 1: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	6 observer refusal complaints: 2 closed under compliance assistance 2 closed under lack of evidence 1 closed as unfounded 1 closed as info only
Assault	None
Harassment/Intimidation	1 observer harassment/intimidation complaints: 1 ongoing
Interference	5 observer interference complaints: 4 closed under compliance assistance 1 added to an ongoing investigation
Vessel Safety	9 vessel safety complaints: 9 closed under compliance assistance
Observer Safety	2 observer safety complaints: 1 closed under lack of evidence 1 ongoing
Failure to provide reasonable assistance	None
Observer gear/sample tampering	None
Observer program notification	4 observer notification complaints: 4 closed under compliance assistance
Miscellaneous	1 training session covering observer enforcement issues was completed this quarter.

# Incident and Case Information

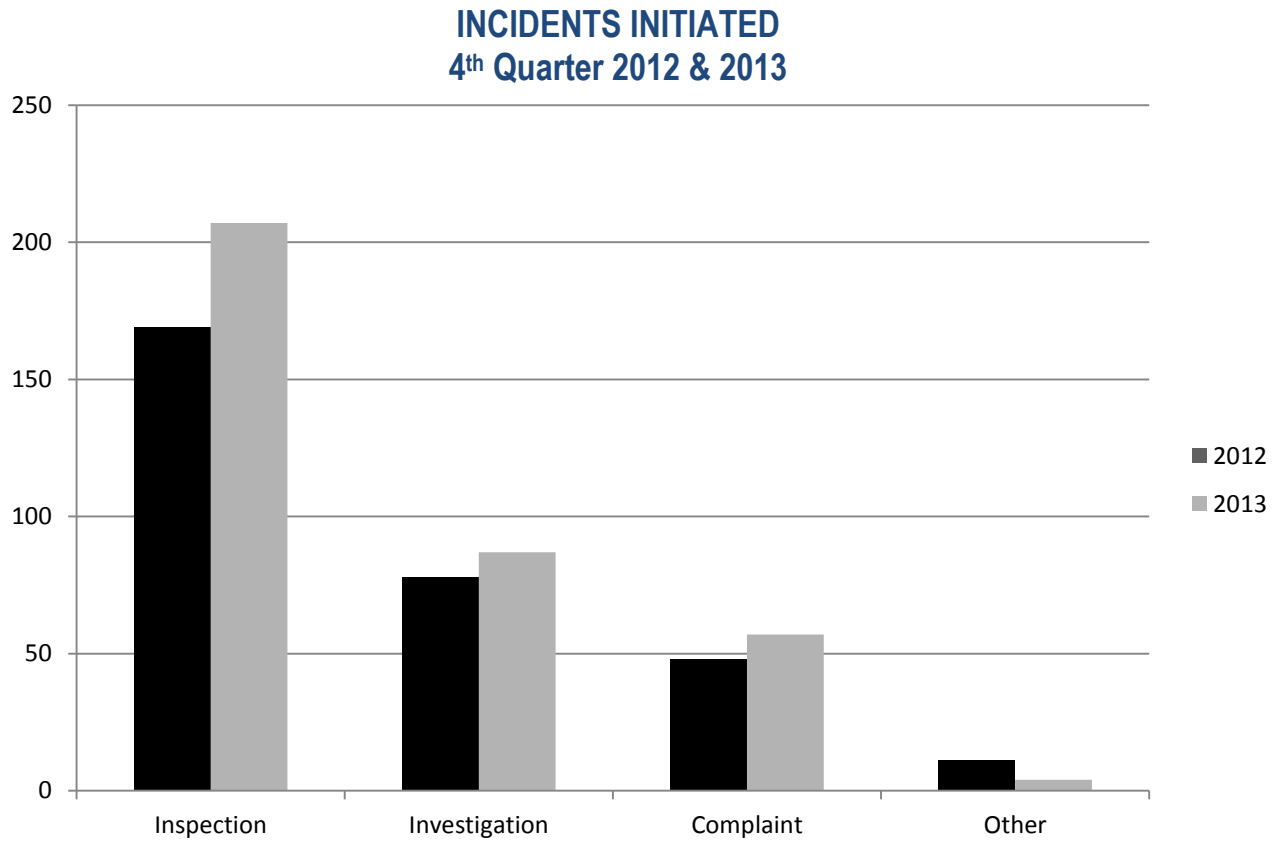


Figure 3. FY2013 4<sup>th</sup> quarter: 207 inspections, 87 investigations, 57 complaints, 4 other. **355 total.**  
FY2012 4<sup>th</sup> quarter: 169 inspections, 78 investigations, 48 complaints, 11 other. **306 total.**

## INCIDENTS DISPOSITIONS 4<sup>th</sup> Quarter 2012 & 2013

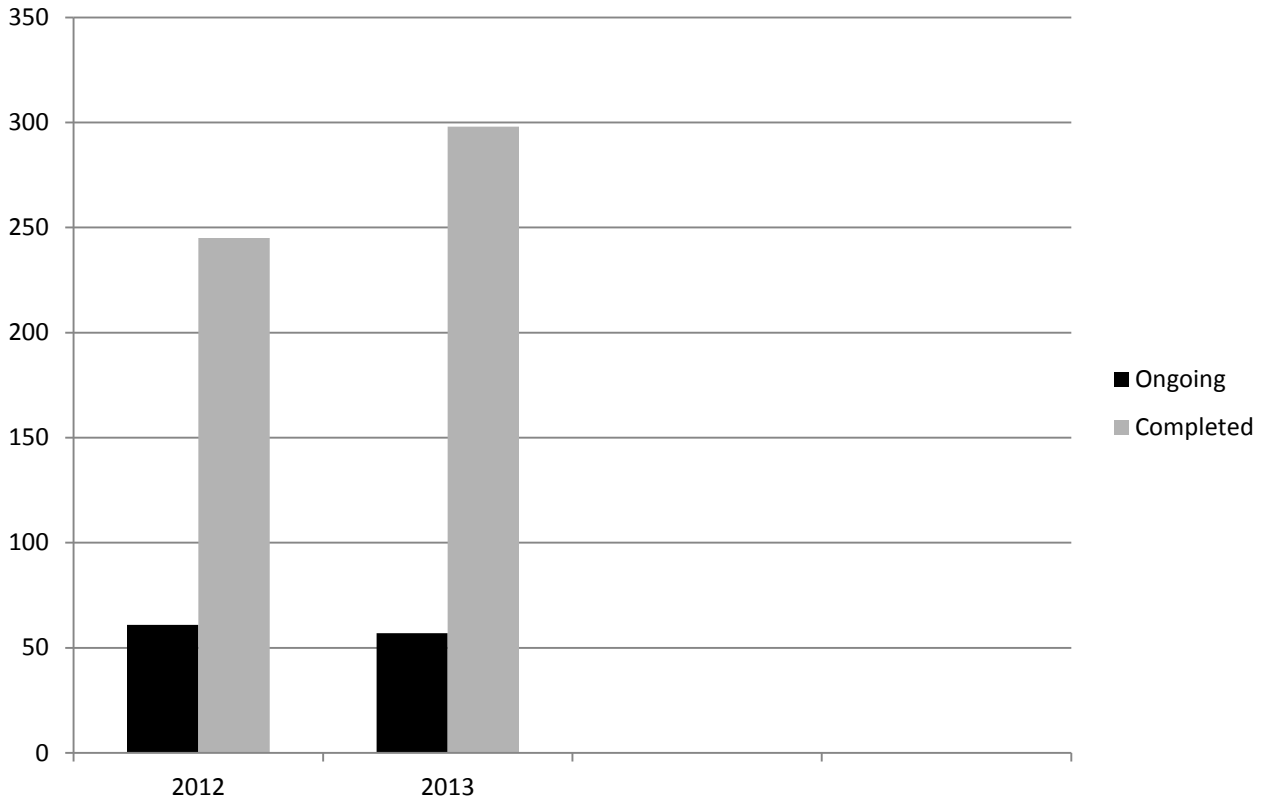


Figure 4. Status of incidents in the 4<sup>th</sup> quarter of FY2012 (245 completed, 61 ongoing) and 4<sup>th</sup> quarter FY2013 (298 completed, 57 ongoing).

## Cases sent to NOAA General Counsel Enforcement Section (GCES)

- 64 cases opened
- 6 summary settlements issued
  - \$11,145.80 collected
- 9 cases forwarded to GCES

Table 2. Cases sent to GCES

Program/Law	Violation
<b>MSFCMA</b> <b>(5 cases)</b>	Failure to carry an observer, expired safety equipment, and expired Safety Examination Decal
	State permitted only vessel fishing in federal waters
	Transiting through WGOM closed area with gear not properly stowed
	Landing skate with a permit and purchasing skate from a non-permitted vessel
	Skate wing overage, Monkfish tail overage, Monkfish liver overage
<b>Lacey Act</b> <b>(3 cases)</b>	Importing undersized and oversized lobster
	Importing and shipping undersized, v-notched, and berried female lobsters
	Importing v-notched lobsters
<b>Atlantic Tuna</b> <b>(1 case)</b>	Observer Notification and Observer Refusal