

NOAA FISHERIES

Council Report –Quarters 2 and 3, FY 2020



January 1, 2020 – June 16, 2020

To Report a Violation Call
800-853-1964

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Introduction

The challenges presented by COVID-19 have impacted us all. On behalf of the NOAA's Northeast Division (NED) of the Office of Law Enforcement (OLE), we thank everyone in the New England and Mid-Atlantic Fishery Management Councils, Industry, Coast Guard and Joint Enforcement Agreement partners, and our NOAA partners for their patience while we all continue to work together under the adverse conditions presented by this unprecedented crisis. While many NED office staff in OLE continue their critical duties from home to help maintain safe and productive fishing for our industry partners, our Enforcement Officers, Special Agents, and others continue to operate in the field utilizing proper social distancing and use of PPE. Like everyone, we look forward to a day when our work and home lives return to normal. Until then, the NED is dedicated to the continued pursuit of the OLE mission to protect marine wildlife and habitat by enforcing domestic laws and international treaty requirements designed to ensure our global resources are available for future generations.

Enforcement Highlights

- Owners of 710 Northeast vessels were required to replace their Omnitrac VMS with another approved unit before the March 31, 2020 deadline when satellite service was terminated. Owners who did not intend to fish after March 31st were allowed to request and receive a Letter of Exemption to power off their VMS while the vessel remained at the dock/mooring. Owners of vessels issued an LOE would have to replace the VMS before the end of the LOE period. The Omnitrac Canada satellite service went 'dark' at 1306 EDT, March 31, 2020. OLE has and continues to track each Omnitrac-equipped vessel with the goal of full compliance.

Only 42 of the original 710 vessels still need to replace their Omnitrac with an approved VMS. Nearly all of them have been issued a Letter of Exemption and are compliant with the power down regulations. We are working with GCES and GARFO SFD to determine the future disposition of these vessels since the regulations require that all vessels, including those on an exemption, have an approved VMS installed. We have also implemented tools to monitor potential trips of noncompliant vessels. The effort made by the NED's VMS Investigative Support (IS) team to work on this issue was extensive and took place over the course of many months. It continues today. In addition to additional outreach with the fishing industry beyond their routine communication as a part of this effort, the team conducted multiple rounds of testing to expedite the approval of the McMurdo OmniCom unit.

- An SA submitted a case on a fishing vessel for nineteen counts of violating the Right Whale Ship Strike Reduction Rule in early January, 2020. In February, an SA opened cases on eight more vessels for possibly violating 94 counts of the Right Whale Ship Strike Reduction Rule. These efforts align with NED Enforcement Priority four under the Protected Resources Strategic Objective.
- Due to increased violations during COVID-19 of vessels selling directly to customers, EOs and others are working more closely with industry to explain regulatory requirements such as those associated with becoming a federally permitted dealer and the obligations of maintaining the permit. Instances of non-compliance increased as the pandemic wore on including examples such as one subject who was selling lobster under a legitimate dealer's permit without the dealer's knowledge or consent. Compliance assistance and EO patrols resolved many, if not all

of these instances to help industry members maximize their harvest profitability while maintaining legal compliance.

- An SA submitted a case documenting false reporting violations as well as discard of legal sized ground fish violations. The investigation determined that on at least three separate trips, observers who were on the fishing vessel when the discarding occurred failed to record the discards in their observer logs. The vessel operator also failed to report the discards on the Fishing Vessel Trip Reports. The vessel operator admitted to agents that on two of the trips, observers actually assisted him in the discarding of legal sized Gulf of Maine cod. The three observers, all of whom were previously decertified by the observer program, as well as the vessel operator, received Enforcement Violation Reports on April 04, 2020.
- A Special Agent submitted an investigative report regarding a foreign flagged fishing vessel that was sighted by the US Coast Guard District 5 while displaying a Vanuatu flag on the high seas near the US EEZ. Based on the investigative efforts by the SA, the OLE analytical team, HQ international SA, USCG intelligence staff and ICCAT liaisons, there was sufficient evidence discovered to support that the FFV is a stateless vessel conducting suspected fishing operations in ICCAT regulated waters with no current permits issued by ICCAT or the IOTC. Based on the OLE investigation, the US Commissioner for ICCAT issued a letter to the ICCAT Executive Secretary proposing that the vessel in question be added to an IUU vessel list for all contracting party countries to take action against. This is the first proposed ICCAT IUU vessel by the United States in the Atlantic. This aligns with Enforcement Priority two of NED's IUU/International Strategic Objective.
- An EO led a proof of concept project to use Remotely Operated Vehicles (ROV) during investigations of offshore lobster gear compliance back in January of this year. The EO partnered with National Marine Sanctuary (NMS) staff to evaluate an ROV utilized at the Stellwagen Bank NMS. An SEO and two EO's conducted the first successful test run inspecting lobster gear with a Remote Operated Vehicle (ROV) in Cape Cod Bay earlier this month. The hope of this effort is to help increase efficiency of compliance checks during boardings at sea while minimizing the disruption to fishing activity. The ROV is property of Stellwagen Bank NMS.

Enforcement and Compliance

Summary

Since the last Council meeting, there were approximately 25 documented patrols, allowing critical face-to-face interaction between our field staff and the industry. There were 58 documented instances of dockside outreach and/or industry compliance assistance (includes phone calls with industry and dock visits), 29 instances of participation in government and 6 public events (trade show attendance, expert panel participation, and school events). The dockside outreach and/or industry compliance assistance listed here does not include the tremendous amount of routine industry communication the Investigative Support staff in the VMS program conduct on a daily basis. In addition, this list does not fully capture the interaction our agents, officers, and support staff regularly have with industry. Specifically, patrols listed in Figure 1, below, are those mentioned explicitly in NED weekly reports and are a subset of actual patrols conducted by EOs and SAs. Last, the figure

does not include effort such as container inspections made primarily to investigate violations under the Lacey Act.

Enforcement Outreach Effort Summary

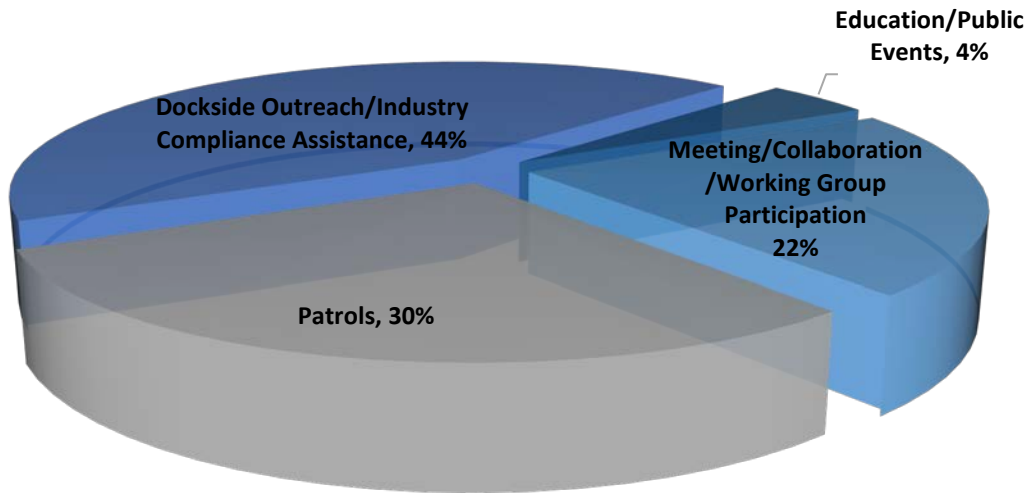


Figure 1: 118 individual events reported from January 1, 2020 through June 10, 2020. The chart is broken down by patrols, education/public events, internal government meeting/collaboration (including with state partners)/working group attendance, and docksides outreach/industry compliance assistance.

FY 2020 2nd Quarter Incident Information

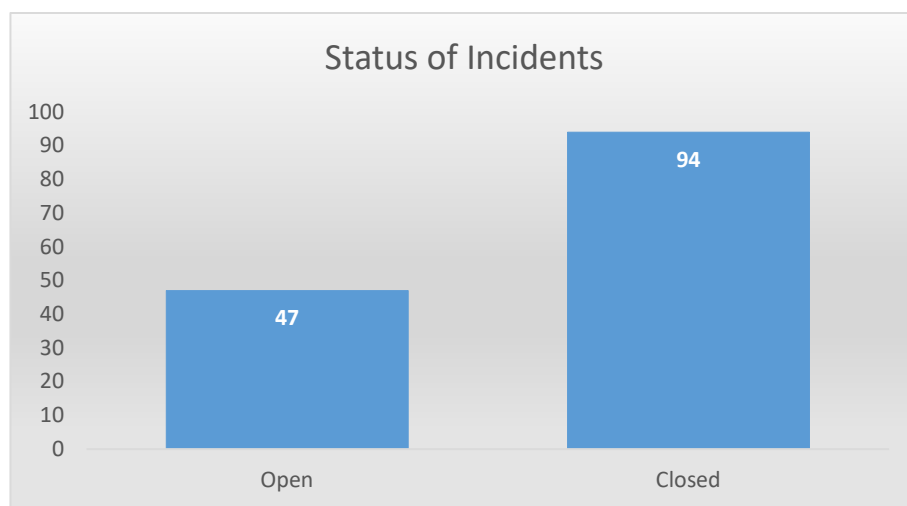


Figure 2. Status of incidents from January 1, 2020 – March 31, 2020 (92 closed, 68 open). The open vs. closed status shown here for the 2nd quarter, FY 20, is as of June 16, 2020.

Table 1: 2nd Quarter, FY20, summary of Incidents by Law/Regulation

Law/Regulation/Program	Incident Totals
ACFCMA	21
Endangered Species Act	9
High Seas Fisheries Compliance Act	1
HMS	7
Lacey Act	5
Marine Mammal Protection Act	18
MSFCMA	88
Other Law	11
Total	160

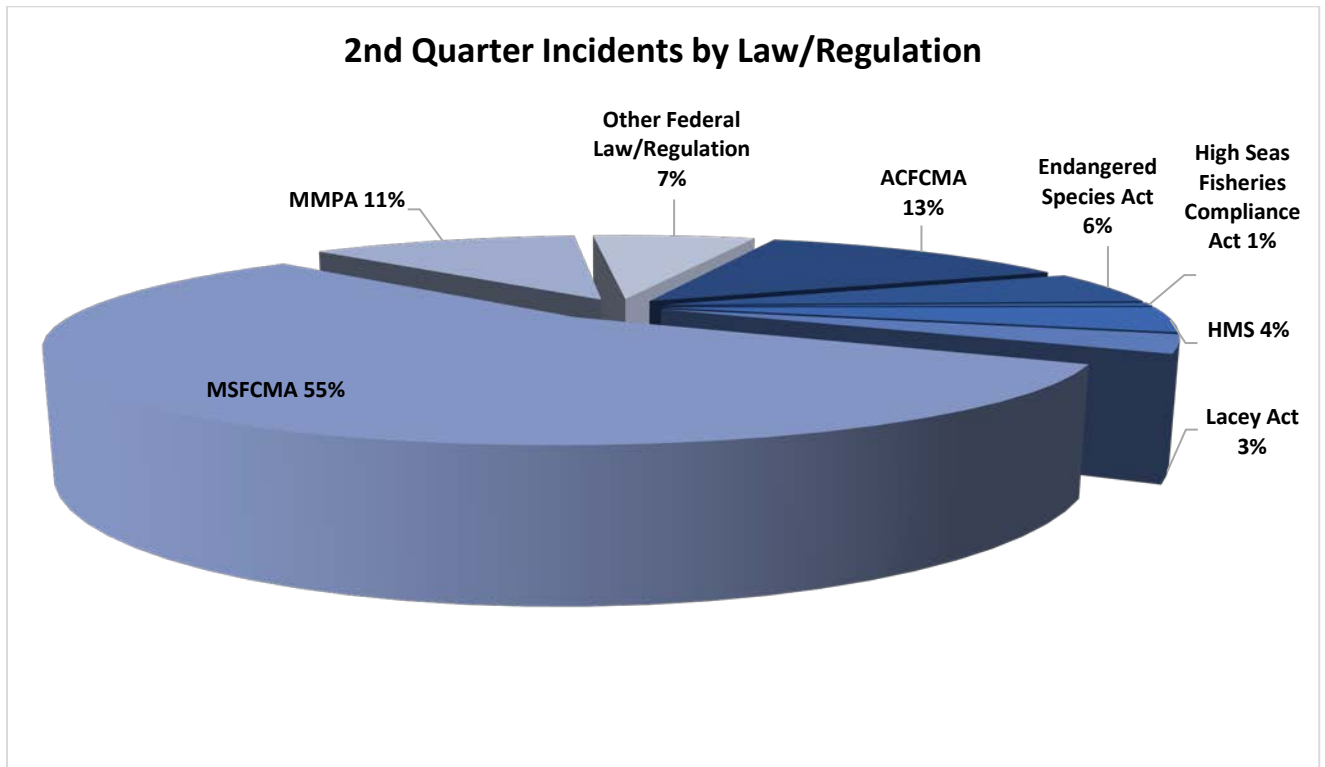


Figure 3: Incidents opened from January 1, 2020 through March 31, 2020. 160 incidents were opened.

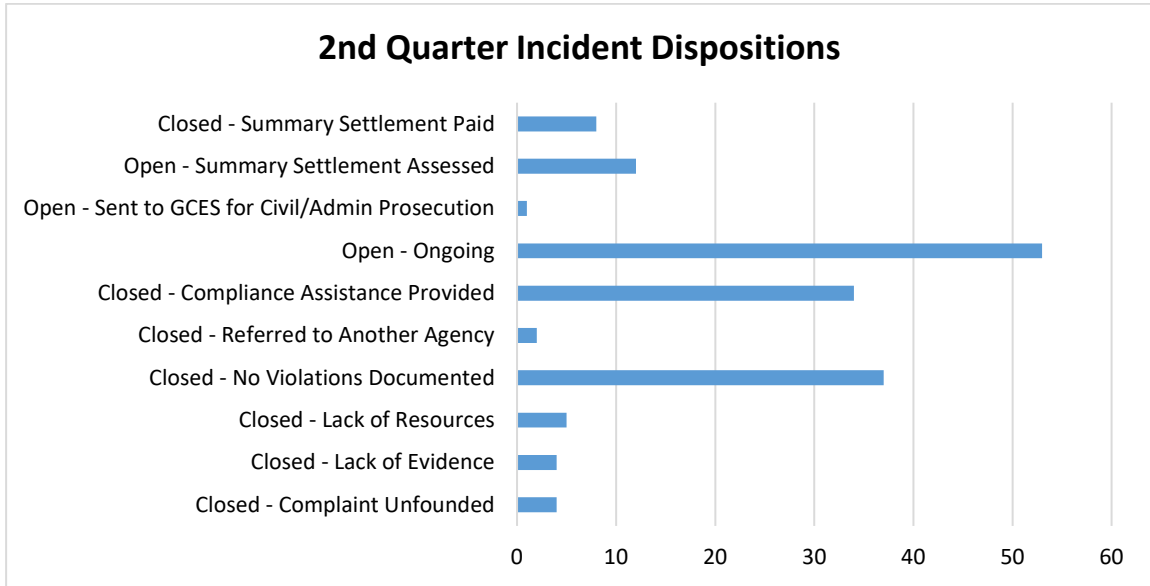


Figure 4. Incident Dispositions from January 1, 2020 – March 31, 2020 as of June 16, 2020.

FY 2020 3rd Quarter Incident Information

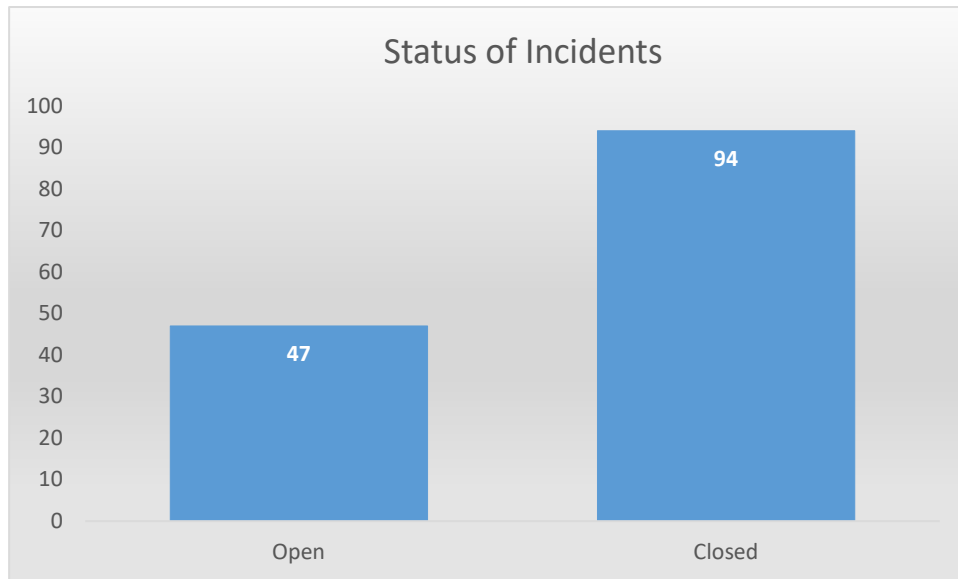


Figure 5. Status of incidents from April 1, 2020 – June 16, 2020 (94 closed, 47 open).

Table 2: 3rd Quarter, FY20, summary of Incidents by Law/Regulation

Law/Regulation/Program	Incident Totals
ACFCMA	2
CITES (ESA)	1
High Seas Fisheries Compliance Act	1

Convention on the Conservation of Antarctic Marine Living Resources	1
HMS	7
Lacey Act	4
Marine Mammal Protection Act	9
MSFCMA	105
Other Law	11
Total	141

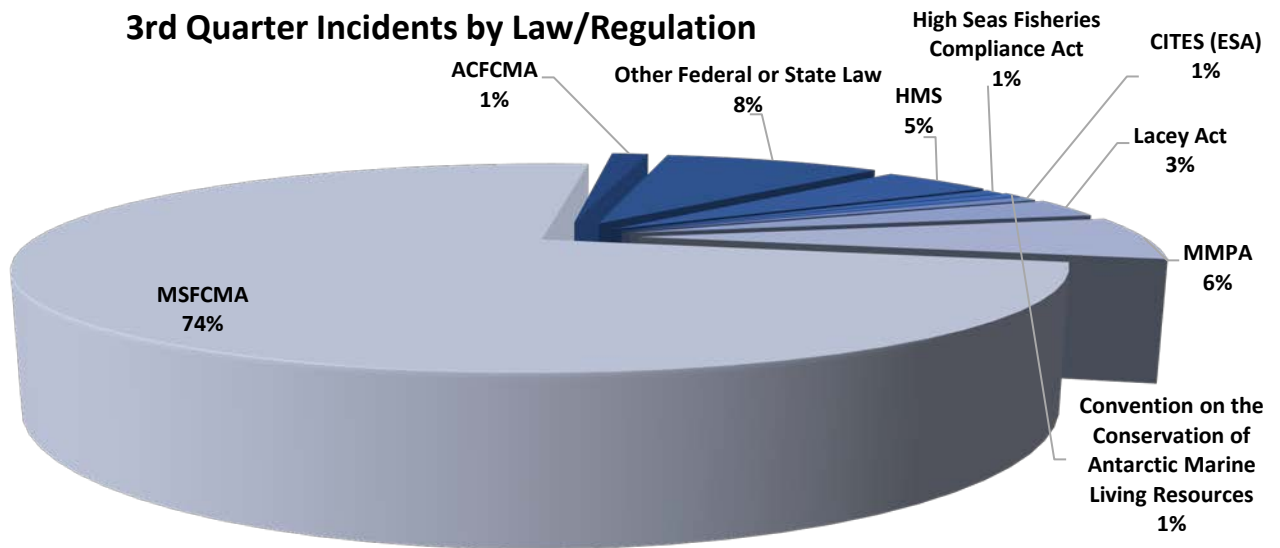


Figure 6: Incidents opened from April 1, 2020 through June 16, 2020. 141 incidents were opened.

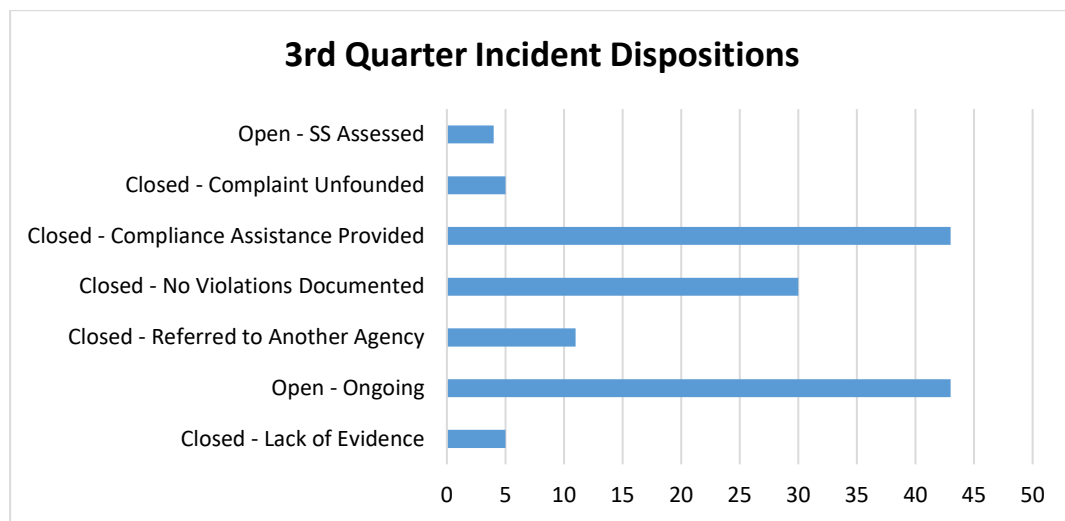


Figure 7: Incident Dispositions from April 1, 2020 through June 16, 2020.

FY 20 2nd Quarter Overview of Summary Settlements

Table 3: Summary of 48 Summary Settlements Issued

Law	Violation	Amount	State
ACFCMA	Fish for Atlantic Striped Bass in the EEZ	\$250.00	DE
ACFCMA	Fish for Atlantic Striped Bass in the EEZ	\$250.00	RI
ACFCMA	Harvest Atlantic Striped Bass in the EEZ	\$250.00	DE
ACFCMA	Lobster Trap Gear Violations	\$500.00	NJ
ACFCMA	Lobster Trap Gear Violations	\$500.00	NJ
ACFCMA	Lobster Trap Gear Violations	\$500.00	NJ
ACFCMA	Oversized Lobster Violations	\$200.00	RI
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$500.00	DE
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$500.00	NJ
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$250.00	RI
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$250.00	NJ
ACFCMA	Possess Atlantic Striped Bass in the EEZ	\$500.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$500.00	RI
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$750.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$500.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$1,500.00	RI
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	RI
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$500.00	NY
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$1,250.00	NJ
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	RI
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$1,000.00	NY
ACFCMA	Retention of Atlantic Striped Bass in EEZ	\$250.00	DE
HMS	Minimum Size Infraction	\$500.00	NJ
HMS	Illegal Mako Retention	\$500.00	FL
MSA	Did Not Properly Report BFT	\$500.00	MA
MSA	Fail to Report in an Accurate and Timely Fashion	\$500.00	ME
MSA	Failing to Make Records Available for SIMP Inspections	\$2,000.00	NJ
MSA	Failing to Make Records Available for SIMP Inspections	\$2,000.00	NJ
MSA	Failure to Properly Display IFTP and Submit Complete and Accurate Entry Information	\$1,000.00	NJ
MSA	Fishing without a Federal Permit	\$250.00	MA
MSA	Importing Yellowfin Tuna without Complete and Accurate Documentation in Advance of Import	\$1,000.00	NJ
MSA	Lobster Trap Gear Violations	\$750.00	NJ
MSA	No IFTP or Proper Documents at Place of Business	\$1,500.00	NJ
MSA	No SIMP Documentation	\$1,000.00	ME
MSA	No SIMP Documentation	\$1,000.00	ME
MSA	No SIMP Documentation	\$1,000.00	ME

MSA	Observer Intimidation and Interference	\$1,000.00	MA
MSA	Observer Refusal	\$2,500.00	CT
MSA	Observer Refusal	\$2,500.00	MA
MSA	Operating a Charter Boat in Federal Waters without a Permit	\$500.00	MA
MSA	Scallop Dredge Gear Violation	\$750.00	NJ
MSA	Scallop Overage on Limited Access Trip	\$3,407.44	MA
MSA	SIMP Documentation Incomplete	\$1,000.00	ME
MSA	SIMP Imports without Proper Reporting	\$1,000.00	NJ
Total		\$38,357.44	-

FY 20 3rd Quarter Overview of Summary Settlements*

Table 4: Summary of 39 Summary Settlements Issued

Law	Violation	SS Amount	State
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$250.00	NJ
ACFCMA	Possess Atlantic striped bass in the EEZ	\$500.00	NJ
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$750.00	NJ
ACFCMA	Possess Atlantic striped bass in the EEZ	\$750.00	NJ
ACFCMA	Harvest any Atlantic Striped Bass in the EEZ	\$750.00	NJ
ACFCMA	Retain any Atlantic Striped Bass in the EEZ	\$0.00	NJ
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$250.00	NJ
ACFCMA	Possess Atlantic striped bass in the EEZ	\$250.00	NJ
ACFCMA	Harvest any Atlantic Striped Bass in the EEZ	\$500.00	NJ
ACFCMA	Retain any Atlantic Striped Bass in the EEZ	\$250.00	NJ
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$500.00	DE
ACFCMA	Possess Atlantic striped bass in the EEZ	\$750.00	DE
ACFCMA	Possess Atlantic striped bass in the EEZ	\$1,500.00	RI
ACFCMA	Possess Atlantic striped bass in the EEZ	\$250.00	RI
ACFCMA	Possess Atlantic striped bass in the EEZ	\$250.00	RI
ACFCMA	Possess Atlantic striped bass in the EEZ	\$250.00	RI
ACFCMA	Possess Atlantic striped bass in the EEZ	\$250.00	NJ
ACFCMA	Harvest any Atlantic Striped Bass in the EEZ	\$0.00	NJ
ACFCMA	Retain any Atlantic Striped Bass in the EEZ	\$0.00	NJ
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$250.00	NJ
ACFCMA	Possess Atlantic striped bass in the EEZ	\$500.00	NJ
ACFCMA	Harvest any Atlantic Striped Bass in the EEZ	\$250.00	NJ
ACFCMA	Retain any Atlantic Striped Bass in the EEZ	\$250.00	NJ
ACFCMA	Fish for Atlantic striped bass in the EEZ	\$250.00	NJ
Lacey Act	Sea Cucumber Import without Valid ITP or Reporting	\$2,000.00	NJ
Lacey Act	Sea Cucumber Import without Valid ITP or Reporting	\$2,000.00	NJ
Lacey Act	Sea Cucumber Mislabeling	\$1,000.00	NJ
Lacey Act	Sea Cucumber Mislabeling	\$1,000.00	NJ
Lacey Act	IFTP Violation	\$1,000.00	CA
Lacey Act	Shrimp Import without Valid IFTP	\$1,500.00	NJ
Lacey Act	Shrimp Import without Valid IFTP Reporting	\$1,500.00	NJ
Lacey Act	Shrimp Import without Valid IFTP or Reporting	\$1,000.00	MD
MMPA	Seal Harassment	\$100.00	NY

MSA	Fishing for Groundfish Multispecies without Proper Permit/Documentation	\$500.00	RI
MSA	Failure to Report Bluefin Tuna	\$1,000.00	MA
MSA	Scallop Fishing without Federal Permit	\$500.00	MA
MSA	Cod Import without Valid IFTP or Reporting	\$1,000.00	ME
MSA	Spiny Dogfish Overage	\$576.00	NJ
MSA	VTR Violation	\$500.00	RI
Total		\$24,676.00	-

*Data shown in Table 3, above, includes FY 2020 3rd quarter data through June 10, 2020.

Northeast VMS Program (2nd and 3rd Quarter Summary, FY 2020)

NE-Approved VMS Vendors and Units:

- SkyMate - I1500 & M1500
- Network Innovations - Sailor Platinum (no longer approved for installation)
- Woods Hole Group - Thorium Leo & Thorium Triton
- AddValue - Wideye iFleetONE

NE VMS Unit Population:

- 932 registered vessels
 - McMurdo.....42* (-64 since the end of the 2nd Quarter)
 - SkyMate.....427 (+33 since last report)
 - Woods Hole Group.....459 (+60 since last report)
 - Network Innovations.....4 (no change since last report)
 - AddValue.....0 (no change since last report)
- 8 vendor test units (installed at NED OLE)

*All must be replaced with an approved VMS. Of the 42 vessels, 41 are on an approved VMS Power Down Exemption and are compliant. The owner of the remaining, non-compliant vessel recently submitted an application to the GARFO Permits Office to place the vessel's permits into Confirmation of Permit History (CPH) at which time the vessel will no longer have a VMS requirement

NE VMS Population breakdown by Permits (Note: The total count below exceeds the VMS population count since most vessels hold multiple permits):

- 364 Multispecies (MUL-A,D,F)
- 47 Combination (MUL-E)
- 15 Monkfish (MNK-F)
- 534 Scallop General Category (LGC-A,B,C)
- 346 Scallop Limited Access (SC-2,3,5,6,7,8)
- 589 Surfclam (SF-1)
- 585 Ocean Quahog (OQ-6)
- 10 Maine Mahogany Quahog (OQ-7)
- 127 Herring (HER-A,B,C,E)
- 124 Mackerel (SMB-T1,T2,T3)
- 221 Longfin Squid (SMB-1A)
- 47 Longfin Squid (SMB-1B)

- 68 Illex Squid (SMB-5)

Groundfish Sector/Common Pool: There are 416 groundfish sector vessels and 121 common pool vessels registered to the NE VMS Program.

Power-Down & Letter of Exemption (LOE) Program: A total of 87 VMS-equipped vessels are on a NMFS -approved LOE; of these, the owners of 28 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 23 vessels with LAGC scallop permits on a Power Down declaration in port.

Industry Contact Log Report:

2nd Quarter, FY 20

The NE Investigative Support (IS) Team addressed 561 industry issues in this quarter and closed 517 issues or 92%. The most-frequently reported issues were (1) Activation/Deactivation; (2) Power Down LOE Request; and (3) Non-Reporting. A total of 56 issues were referred, primarily to: (1) VMS Vendors, and (2) OLE Help Desk.

3rd Quarter*, FY 20

The NE Investigative Support (IS) Team addressed 484 industry issues in this quarter and closed 431 issues or 89%. The most-frequently reported issues were (1) Power Down LOE Request; (2) Activation/Deactivation; and (3) Eforms Compliance. A total of 48 issues were referred, primarily to: (1) VMS Vendors, and (2) GARFO SFD.

*3rd Quarter data is as of June 8th, 2020.

Significant VMS Issues:

MCMURDO OMNITRACS REPLACEMENT*

*See description above listed under Enforcement Highlights on page 3.

MCMURDO OMNICO M TESTING FOR TYPE APPROVAL

OLE testing of this new VMS commenced in mid-January following receipt of the vendor application. The OmniCom uses the Iridium satellite network. We completed the first phase of testing using a desktop simulator, and commenced the second/final phase of software testing the actual OmniCom equipment in mid-March. That testing continued through the remainder of the quarter and was slowed by the requirement for mandatory telework implemented on March 23, 2020.

Following mandatory telework on March 23, the vendor shipped two portable test units to the IS Team in order to resume testing. We found issues with the position timestamps associated with eforms data which required the vendor to make software corrections. We received a software update on June 8 and testing has once again resumed.

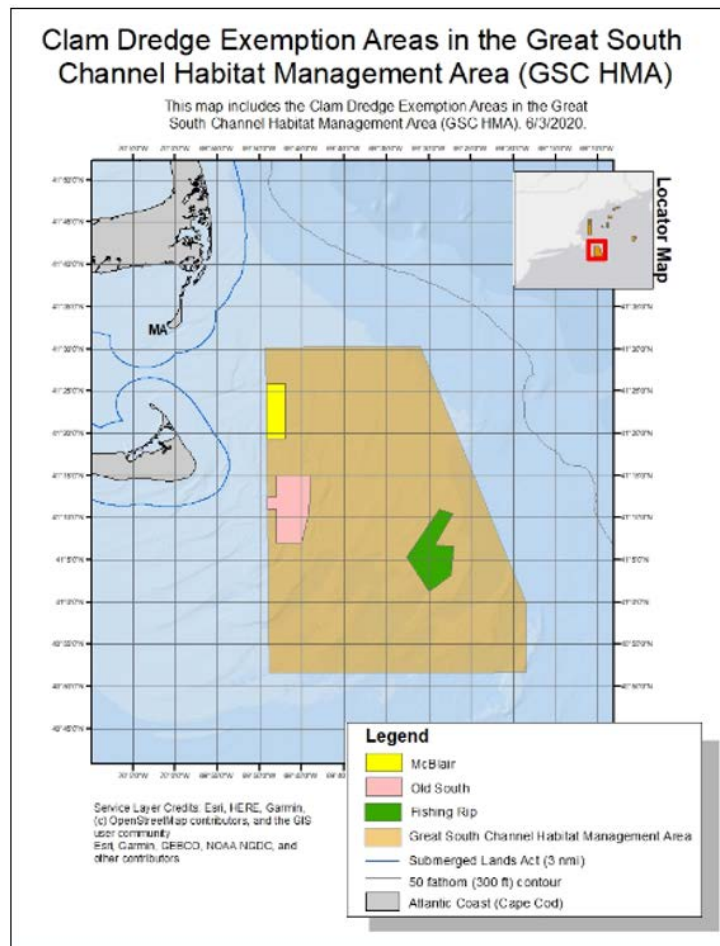
ADDVALUE 'WIDEYE IFLEETONE' VMS FOR TYPE APPROVAL

We tested and OLE approved the first broadband VMS for use in GAR on February 28, 2020. The VMS Vendor, AddValue Technologies, installed a unit at the GARFO on March 26, 2019 for type approval testing by OLE. The iFleetONE VMS is a broadband terminal operating on the Inmarsat network and provides VMS as well as mobile phone, web, text and email capability. Additional information is available at: <https://www.addvaluetech.com/ifleetone-terminal-maritime-communications-system/> and <https://www.addvaluetech.com/vessel-monitoring-system/>.

NEW CLAM DREDGE EXEMPTION AREAS IN VTRACK

The Final Rule that implements the *Habitat Clam Dredge Exemption Framework* is effective 2 weeks from today on June 18, 2020. The new exemption areas (3) have been entered into vTrack. See the graphic below for details.

This rule requires that vessels declared to fish in the exemption areas obtain an LOA. The LOA requires that their VMS report positions every 5 minutes while the vessel is inside the HMA. When a vessel owner applies for the LOA, the GARFO Permit Office will notify the NED IS Team who in turn will work with the VMS vendor to remotely program the vessel's VMS with the coordinates for the GSC HMA *buffer area*. Once the vendor confirms that programming is completed, we will in turn notify the Permits Office so the LOA can be issued. Upon crossing the GSC HMA buffer zone boundary, the vessel's VMS will automatically increase the reporting rate to 5 mins until the vessel exits the buffer zone.



Graphic 1: New clam dredge exemption areas in the Great South Channel Habitat Management Area effective June 18, 2020.

Observer Program Highlights

Observer coverage in the NED was suspended on March 13, 2020 due to COVID-19 concerns. During this quarter the observer program deployed on 705 trips for 2,117 sea days. Six enforcement related Incident Reports were received by the Northeast Division as outlined below in

Table 4. More than 99% of all selected or observed trips were completed without an enforcement incident referral.

Table 5: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	None
Assault	None
Harassment/Intimidation	2 observer harassment and/or intimidation reports received and both are ongoing
Interference	None
Vessel Safety	None
Observer Safety	None
Failure to provide reasonable assistance	2 reports were received; 1 is ongoing and the other was closed after compliance assistance was provided
Failure to provide equal accommodations	None
Observer gear/sample tampering	None
Observer program notification	2 reports were received; 1 is ongoing and the other was closed after compliance assistance was provided
Miscellaneous	A special agent conducted an enforcement training and also participated in an observer support panel during the February 2020 observer training session.