



NOAA FISHERIES

Council Report – June and July, FY 2021



June 2, 2021 – August 5, 2021

To Report a Violation Call
800-853-1964

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Introduction

NOAA Fisheries' Northeast Division (NED) of the Office of Law Enforcement (OLE) continued to conduct essential operations last spring and this summer and will continue those operations as we move towards the close of FY 2021. 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, 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

- An SA coordinated with the Importer of Record, Brokers, Customs and Border Protection and the bonded warehouse to finalize re-exporting 750 cartons containing 17,782 pounds of embargoed Panamanian caught and processed yellowfin tuna. The tuna was returned to Spain.
- Among numerous seaport/airport container shipment inspections so far this quarter, An EO and a U.S. Customs and Border Patrol 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 that had been identified through the use of work product and analysis produced 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 issues.
- 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 assessed penalty.
- There were multiple patrols within NED's area of coverage since the last Council report including two within the Thunder Bay National Marine Sanctuary in Lake Huron. Some details of those conducted along the eastern seaboard include the following:
 - A Supervising EO, two EOs and an SA along with 7 officers from the Virginia Marine Police conducted a three day joint operation in Virginia Beach, VA targeting HMS anglers during a tuna tournament. A combined total of 97 vessels were boarded with 10 State and 7 Federal violations identified.
 - Three EOs conducted a three day operation in Ocean City, MD targeting HMS anglers during a Marlin tournament over the July 4th holiday weekend. Forty vessels were boarded and one federal violation was found.

- An EO conducted a patrol at sea alongside CT Environmental Conservation Police targeting vessels returning from HMS fishing activities. Twelve vessels were boarded. Ten of the vessels were found in violation of bluefin tuna reporting requirements, either by admission, or digital or documentary evidence. Of those ten vessels, two were found in violation of shortfin mako shark regulations and one of those two vessels was also found in violation of recreational Northeast Multispecies regulations.
- An EO completed several patrols of the Penobscot River area on two separate occasions as part of an Atlantic Salmon patrol in support of Spotlight Species efforts. A combination of over 42 anglers and non-anglers were contacted through these efforts.
- EOs were deployed aboard R/V Goodwin on Georges Bank for a three day ROV operation to inspect offshore lobster gear for compliance last month.
- An Assistant Special Agent in Charge and the USCG virtually participated in the Observer Base Training via Google Meets. Members of the observer support team, OLE and the USCG described the support system for conflicts and/or incidents occurring at sea to an incoming observer class.
- With AD Tim Donovan retirement last June, DSAC Jeffrey Ray stepped into the Acting AD role. ASAC Michael Henry continues as Acting DSAC for NED.

Enforcement and Compliance

Since the last Council meeting, there were approximately 27 documented patrols that included a mix of both offshore and land based patrols. There were 6 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 9 instances of participation in various NOAA internal and external government partner meetings and events and 4 seaport container inspections to investigate SIMP/Illegal Unreported and Unregulated fishing violations. NED EOs and SAs initiated 8 investigations based on previously conducted patrols and container inspections. Many of those investigations are ongoing.

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. 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 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 on a single patrol. Patrols may also involve dealer and vehicle inspection.

Enforcement Field Work and Outreach Effort Summary

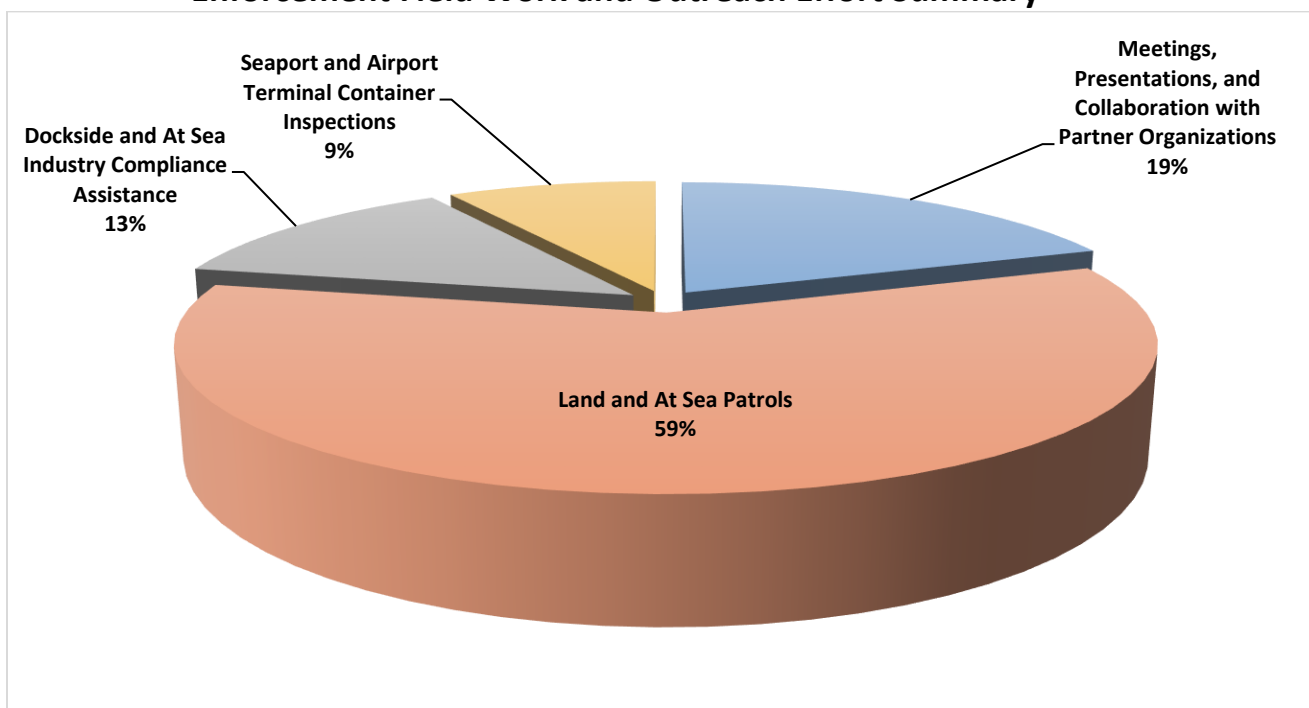


Figure 1: Roughly 46 events took place between June 2nd, 2021 and August 2nd, 2021. The figure is broken down by land and at sea patrols, internal government meetings/presentations/collaborations with partner organizations, dockside and at sea outreach and industry compliance assistance, and Seaport and Airport Terminal Container Inspections.

June and July, 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.

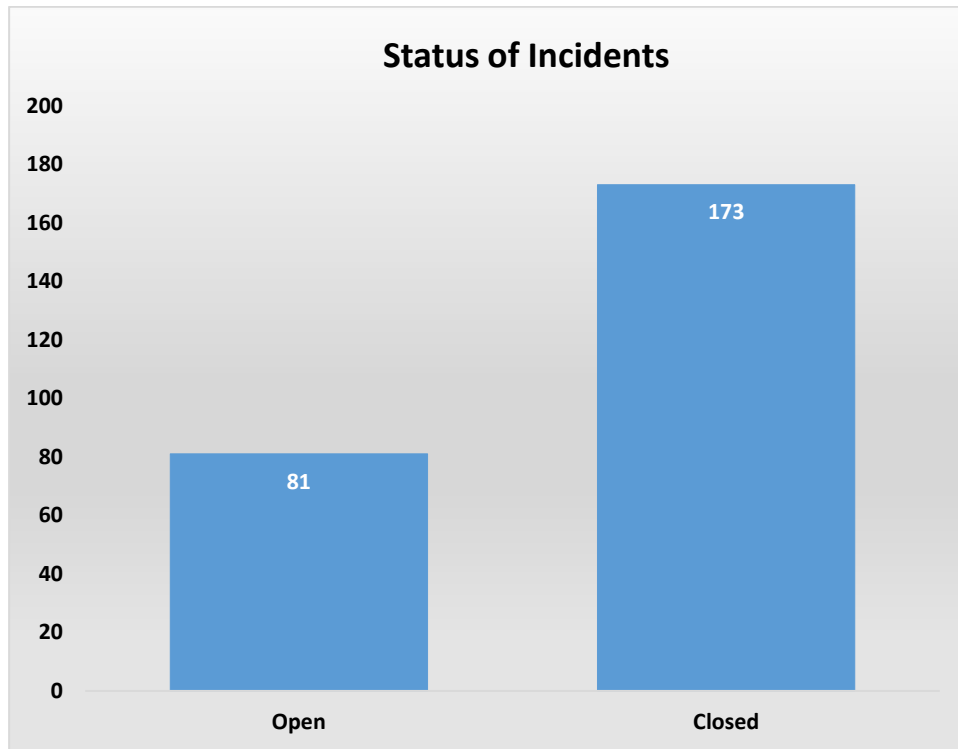


Figure 2. Status of incidents from June 2, 2021 – August 2, 2021 (173 closed, 81 open).

Table 1: June and July, FY21, summary of incidents by law/regulation

| Law/Regulation/Program | Incident Totals |
|------------------------------|-----------------|
| ACFCMA | 11 |
| Endangered Species Act | 16 |
| MSFCMA | 84 |
| HMS | 95 |
| State Law/Regulation | 1 |
| Marine Sanctuaries Act | 3 |
| Marine Mammal Protection Act | 11 |
| International Trade Program | 8 |
| Lacy Act | 1 |
| Other Federal Law/Regulation | 24 |
| Total | 254 |

June and July, FY21 Incidents by Law/Regulation

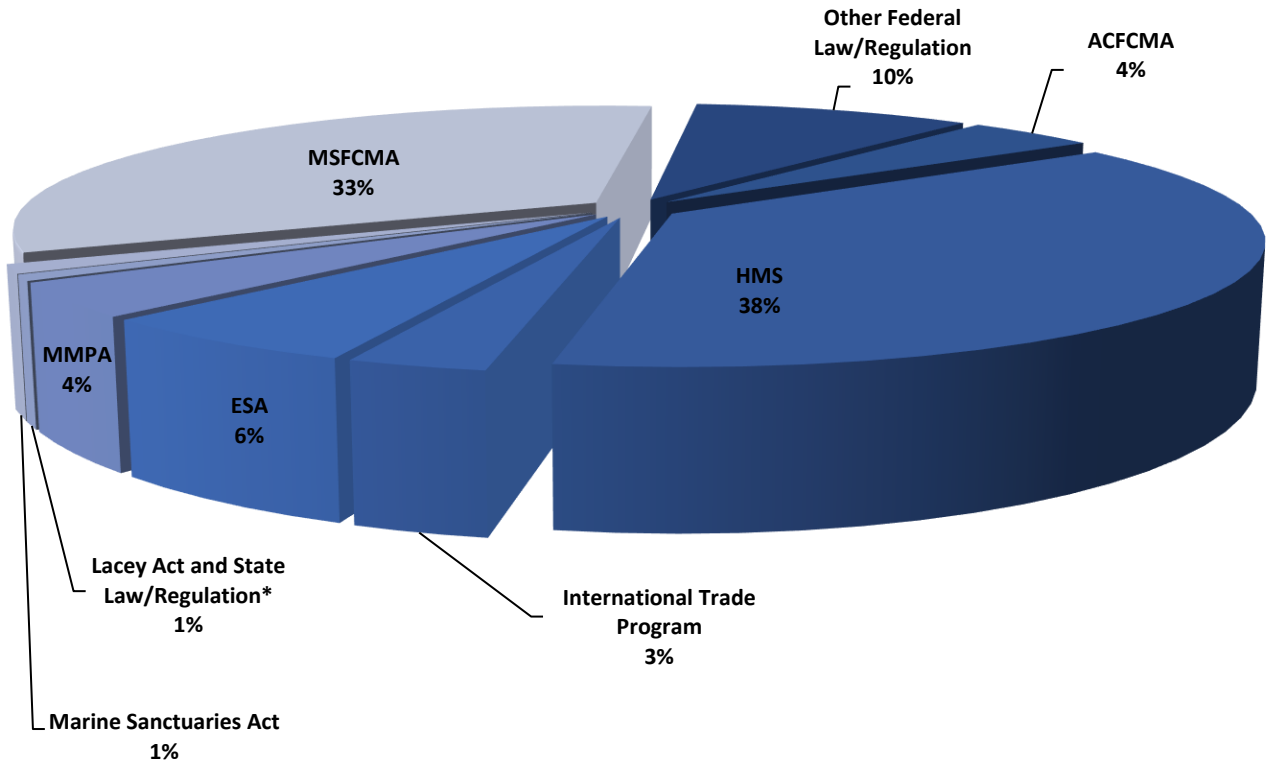


Figure 3: Incidents in Trident broken down by specific law or program between June 2, 2021 and August 2, 2021.

*One Lacey Act violation and one State Law/Regulation were combined to get to the 1% portion shown in Figure 3.

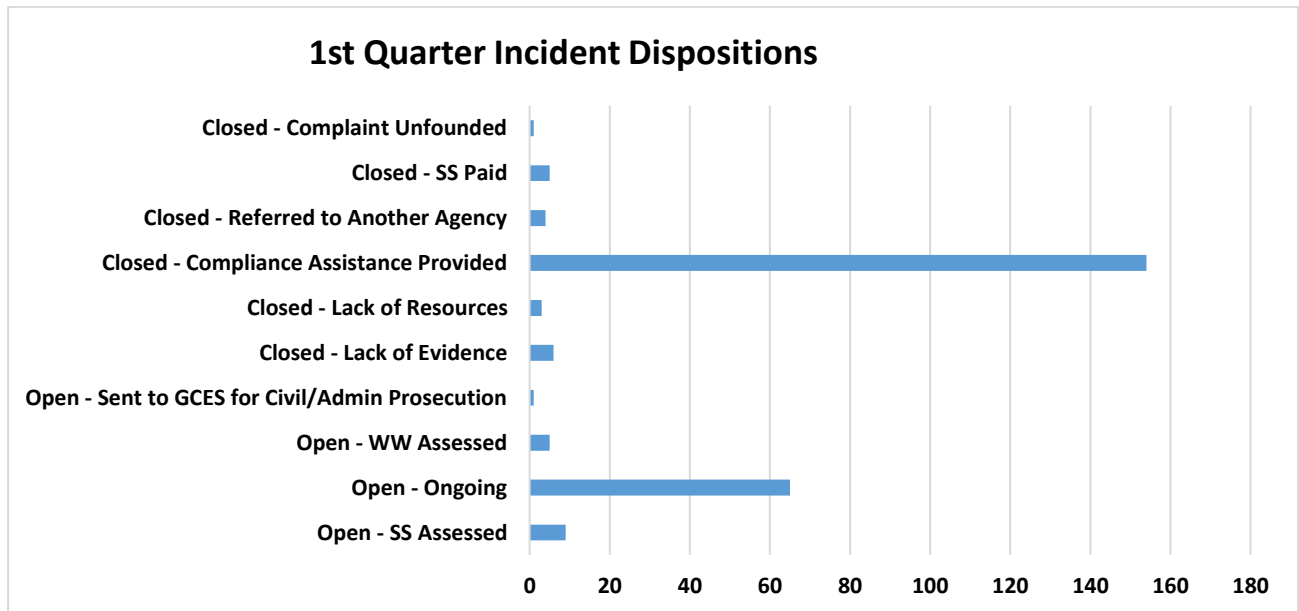


Figure 4. Incident dispositions for incidents in Trident between June 2, 2021 and August 2, 2021.

July and August, FY 2021 Summary of Incidents Involving OLE Partners

A total of 97ⁱ incidents entered into Trident between June 2nd and August 2nd 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.

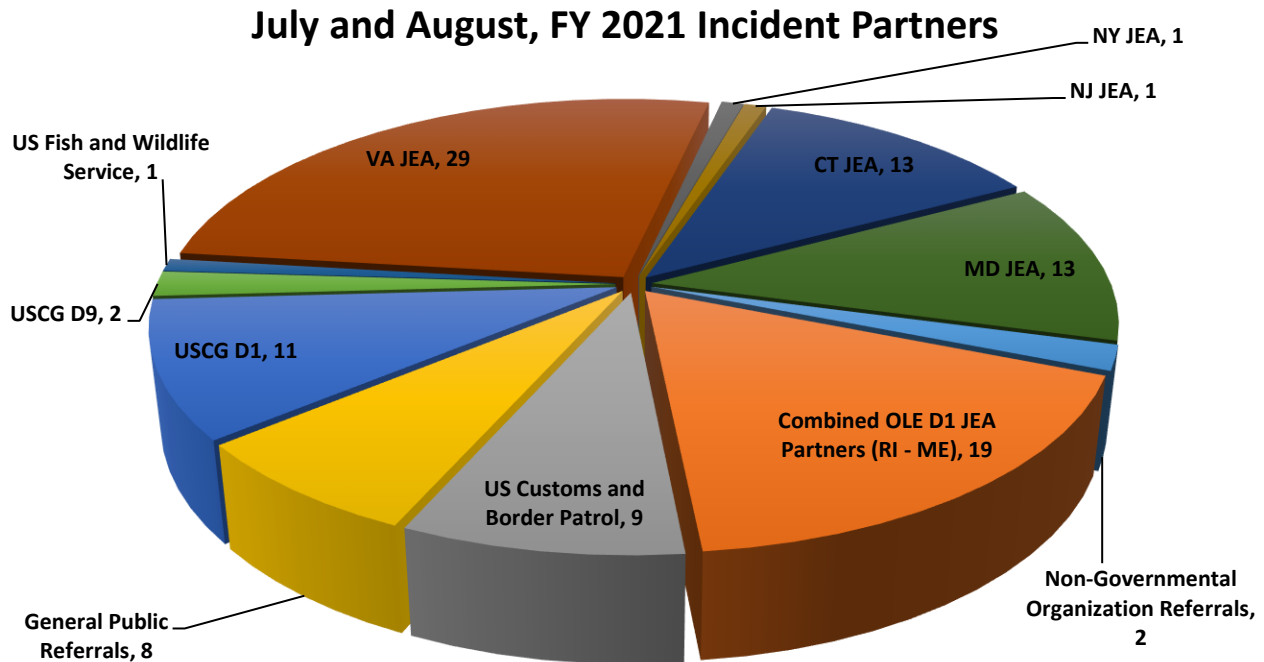


Figure 5. Incidents entered into Trident between June 2, 2021 and August 2, 2021 where one or more federal or state enforcement partner collaborated with NED staff (the number of collaboration events with a specific enforcement partner is listed by “Enforcement Partner, XX”). Non-enforcement partner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

June and July, FY 2021 Overview of Summary Settlements

A total of 27 violations were associated with 19 Incidents with Summary Settlements issued between June 2nd and August 2nd, 2021 at a value of \$15,604.00. Data included in this section also comes from OLE’s case management system, Trident.

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 97 incidents, listed here. In addition, where multiple enforcement partners collaborated on a single incident, those partners were tallied separately in Figure 5, above.

Table 2: Individual Violations Associated with Summary Settlements Issued.

| Law | Violation | SS Amount | State |
|--------------|--|--------------------|----------|
| HMS | Illegal BFT Possession | \$250.00 | CT |
| MSFCMA | Limited Access Scallop Overage | \$2,604.00 | MA |
| ACFCMA | Lobster Trap Gear Violation | \$416.00 | MA |
| ACFCMA | Possess Egg-Bearing Lobster | \$417.00 | MA |
| ACFCMA | Possess V-notch Lobsters | \$417.00 | MA |
| MSFCMA | Incomplete/Inaccurate FVTR | \$500.00 | MA |
| HMS | Failure to Report HMS | \$1,000.00 | MI |
| HMS | Fishing Without Valid Atlantic HMS Permit | \$500.00 | NY |
| HMS | Failure to Report BFT | \$500.00 | NY |
| HMS | Failure to Report BFT | \$500.00 | NY |
| HMS | Illegal HMS Possession | \$250.00 | NY |
| HMS | Illegal HMS Possession | \$250.00 | NY |
| HMS | Illegal Shark Possession | \$125.00 | NY |
| MSFCMA | Illegal Groundfish Possession | \$125.00 | NY |
| HMS | Illegal Shark Possession | \$500.00 | NY |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$750.00 | RI |
| HMS | Failure to Maintain Atlantic BFT in Specified Form | \$666.00 | RI |
| HMS | Illegal BFT Possession | \$667.00 | RI |
| HMS | Failure to Report BFT | \$667.00 | RI |
| ACFCMA | Possess Atlantic Striped Bass in the EEZ | \$250.00 | RI |
| HMS | Failure to Maintain Atlantic BFT in Specified Form | \$750.00 | RI |
| HMS | Failure to Maintain Billfish in Specified Form | \$750.00 | RI |
| HMS | Failure to Report BFT | \$625.00 | RI |
| HMS | Failure to Maintain Shark in Specified Form | \$625.00 | RI |
| MSFCMA | For-Hire Fishing Without Valid Operator's Permit | \$500.00 | VA |
| MSFCMA | For-Hire Fishing Without Valid GARFO Permit | \$500.00 | VA |
| HMS | Illegal HMS Possession | \$500.00 | VA |
| Total | | \$15,604.00 | - |

Northeast VMS Program (June and July Summary, FY 2021)

*Updated August 5th, 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:

- 930 registered vessels
 - Woods Hole Group 467
 - SkyMate 453
 - Network Innovations 4*
 - MetOcean 3
 - AddValue 0
- 3 Canadian Transshipment vessels*
- 8 vendor test units (installed at NED OLE)

* see the 'Significant VMS Issues' (next page)

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

- 594 Ocean Quahog (OQ-6)
- 594 Surfclam (SF-1)
- 535 Scallop General Category (LGC-A,B,C)
- 365 Multispecies (MUL-A,D,F)
- 347 Scallop Limited Access (SC-2,3,5,6,7,8)
- 225 Longfin Squid (SMB-1A)
- 126 Herring (HER-A,B,C,E)
- 123 Mackerel (SMB-T1,T2,T3)
- 69 Illex Squid (SMB-5)
- 46 Longfin Squid (SMB-1B)
- 47 Combination (MUL-E)
- 15 Monkfish (MNK-F)
- 11 Maine Mahogany Quahog (OQ-7)

Groundfish Sector/Common Pool:

There are 295 groundfish sector vessels and 122 common pool vessels registered to the NE VMS Program.

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

A total of 34 VMS-equipped vessels are on a NMFS -approved power down letter of exemption; of these, the owners of 8 vessels have deactivated their VMS with their vendor during the LOE period. Additionally, there are 22 vessels with LAGC scallop permits on a Power Down declaration in port.

Industry Contact Log Report:

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

To date, in the 4th quarter FY21, the NE IS Team addressed 79 industry issues and closed 69 issues or 87%. The most-frequently reported issues were (1) Declarations/Forms Assistance, (2) Activation/Deactivation, and (3) eForms Compliance.

Significant VMS Issues:

Program Manager Retires: Bill Semrau retired on July 29, 2021. We wish Bill all the best in retirement and thank him for all that he has done for serving his country in the United States Coast Guard and working with NOAA OLE to build a robust VMS and Investigative Support program. A backfill for his position will be announced in the coming months.

Canadian Salmon Transshipment: NMFS Office of International Affairs issued a foreign fishing vessel permit in December 2020 to 4 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, two vessels, Atlantic Bay and Ocean Provider 1 have taken several trips and reported their position and activities via VMS as required by their permit. A third vessel, Ronja Carrier, has activated its VMS, but has yet to take its first trip.

Enforcement Technician Vacancy: A job posting for a backfill Enforcement Technician is posted on USA Jobs and is scheduled to close on August 9. A previous announcement did not result in a hire.

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 a few vessels have these units 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 Highlights (3rd Quarter Summary, FY 2021)

From April 1st through June 30th, 2021, 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 investigationⁱⁱ. 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 |

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

| | |
|--|---|
| | 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. |
| 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 August 5th. 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.