



# NOAA FISHERIES

## 3<sup>rd</sup> Quarter 2018 Council Report Northeast Enforcement Division

April 1, 2018 – June 30, 2018



## Council Report

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

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# Enforcement and Compliance

## Summary

Since the last Council meeting, there were 147 documented patrols, allowing critical face-to-face interaction between our field staff and the industry; 121 documented instances of outreach (not an exhaustive list; includes phone calls with industry, dock visits, trade shows, presentations, etc.); and 13 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.

## Enforcement Effort Summary

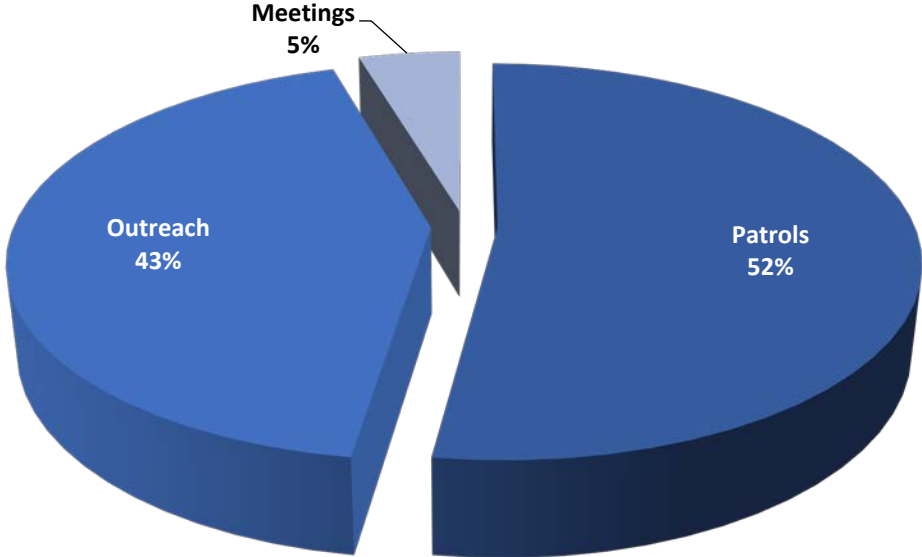


Figure 1: 524 incidents reported from April 1, 2018 through June 30, 2018. The chart is broken down by patrols, outreach, and meetings.

Table 1: Summary of Incidents by Law/Regulation

Law/Regulation/Program	Incident Totals
ACFCMA	41
CCAMLR	2
Endangered Species Act	24
HMS	29
Lacey Act	45
Marine Mammal Protection Act	48
MSFCMA	328
Other Federal Law	1
State Regulations	6
<b>Total</b>	<b>524</b>

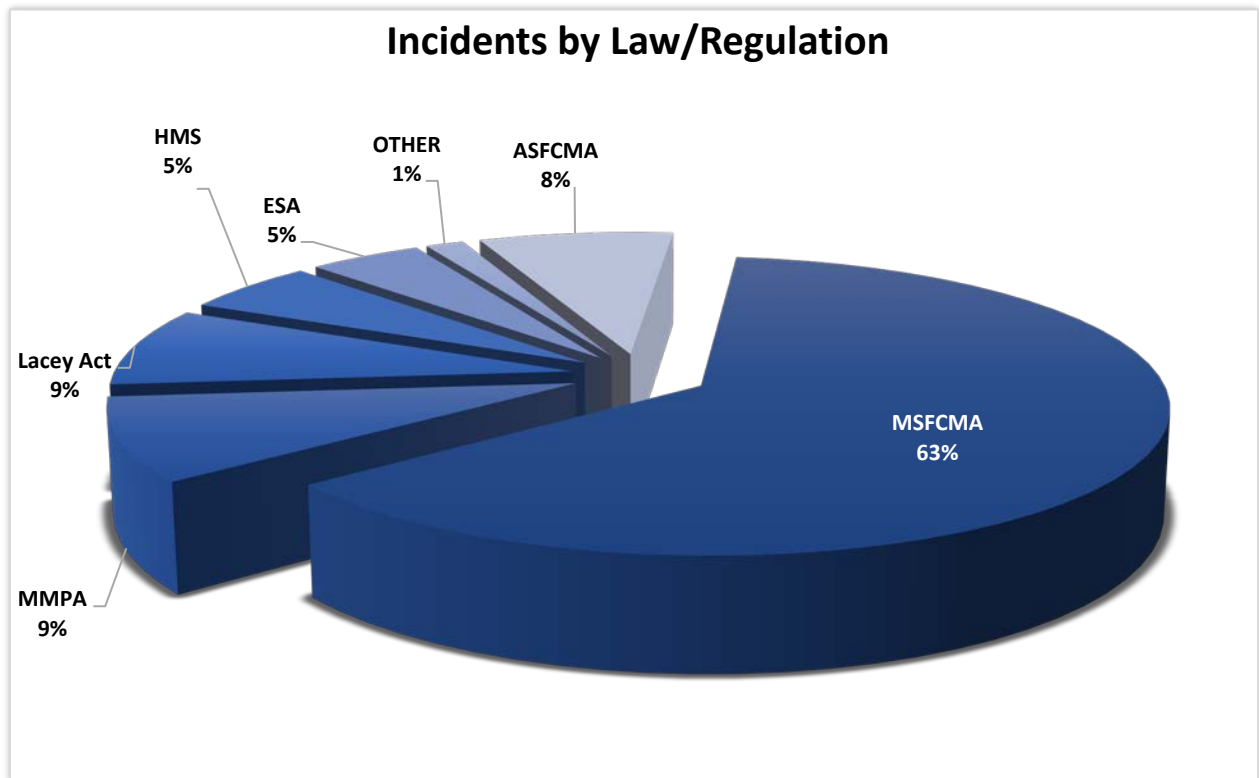


Figure 2: Incidents opened from April 1, 2018 through June 30, 2018. 524 incidents were opened.

# Incident Information

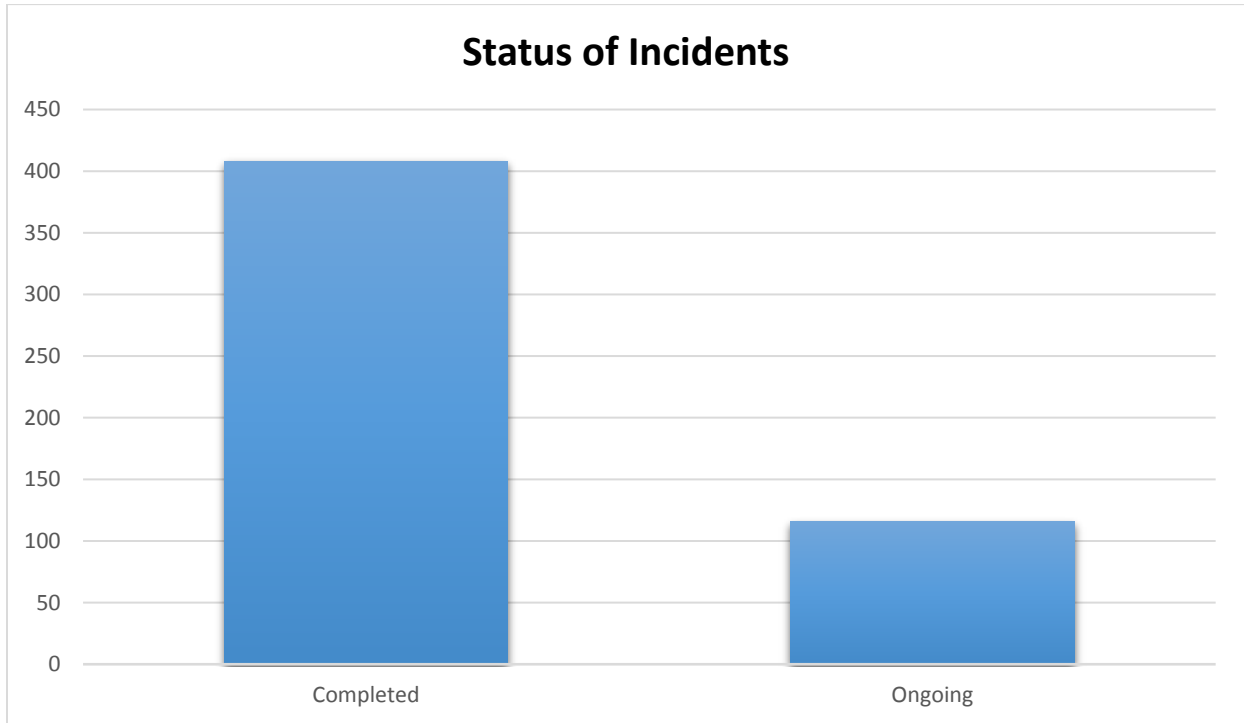


Figure 3. Status of incidents from April 1, 2018 – June 30, 2018 (408 completed, 116 ongoing).

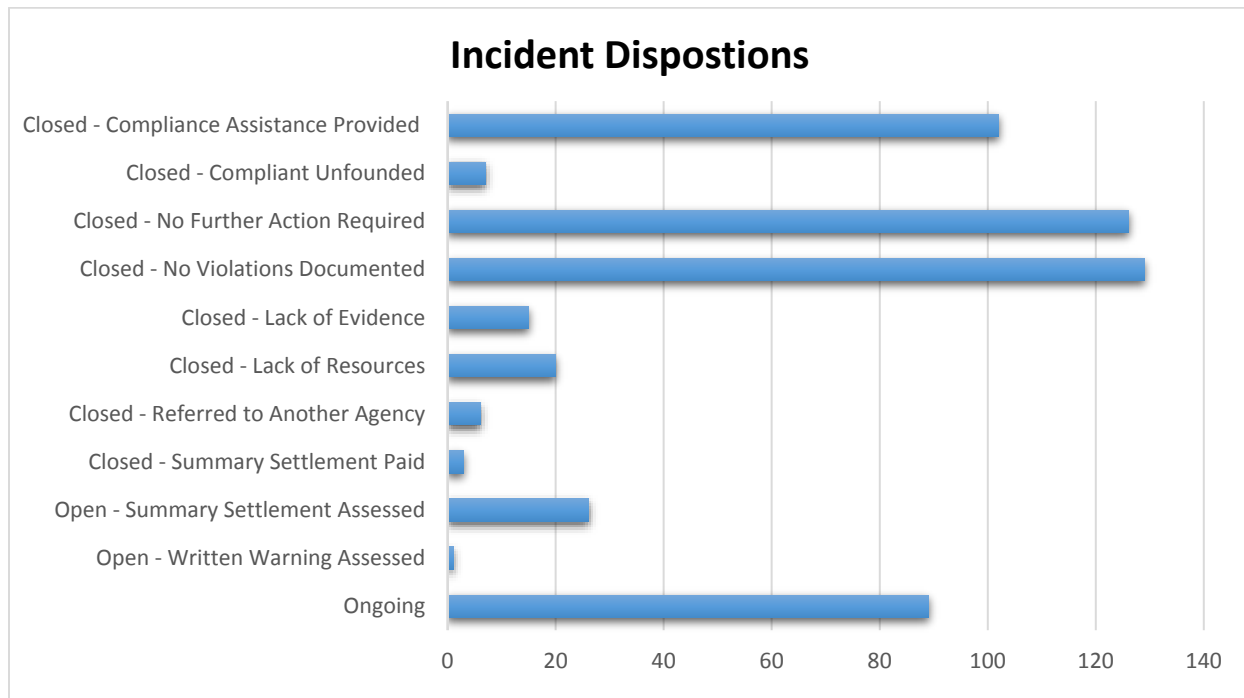


Figure 4. Incident Dispositions from April 1, 2018 – June 30, 2018 (408 completed, 116 ongoing)

# Enforcement Highlights

## Right Whale Outreach

An OLE officer responded to a situation involving right whales in close proximity to a popular Massachusetts beach. The officer conducted outreach on multiple violations of the 500 yard approach rule. The officer partnered with the Protected Resources Division to hold an outreach event on site. Hundreds of questions were answered and a lecture was provided to a fifth grade class of about 50 students. The event was featured in a local paper and WCVB evening news.

## Whale Teeth Smuggling

John “Jake” Bell, pleaded guilty to one count of wildlife trafficking in violation to the Lacey Act. Bell, who was living in the Ukraine from about 2008 until his arrest at JFK Airport in December 2017, trafficked teeth from endangered sperm whales and sold them to customers in the United States.

# Focused Operations

## Observer Refusal Operation

In April 2018, the National Marine Fisheries Service, Observer Program requested OLE’s assistance in targeting coastal Virginia for a focused effort on observer compliance. The request indicated that there was a high rate of observer refusals projected to occur in May 2018. OLE staff worked cooperatively with the observer program coordinators in the Mid-Atlantic to develop a plan to conduct outreach related to observer coverage requirements, safety requirements, and address any potential violations detected during operational patrols.

The operation began on April 18, 2018 and ran until May 31, 2018. The primary locations for patrols were Chincoteague, Virginia Beach, Newport News and Hampton, Virginia. The majority of the vessels contacted were participating in the gillnet fishery, targeting spiny dogfish. The operation included an outreach meeting with a group of commercial captains in Lynnhaven, Virginia. During the course of the operation 5 violations were detected; 2 of the violations are ongoing and 3 were addressed through compliance assistance.

Table 2. Summary of Operation

Vessels/businesses contacted	10
Vessels with violations	5
Total Violations	5
Compliance Assistance Provided	3
Summary Settlements Issued	0
NOVAs referred to GC	0
Ongoing	2

Table 3. Summary of Violations

Violation	Enforcement Action
Observer Refusal	2 Incidents of Failure to report Bluefin Tuna - 1 closed with compliance assistance - 1 ongoing
Failure to provide safe conditions to an observer	3 Incidents of fishing without HMS permit onboard - 2 closed with compliance assistance - 1 ongoing

**Mid-Atlantic Atlantic Large Whale Take Reduction (ALWTRP) Operation**

With the increase in deceased whales showing up on the Mid-Atlantic shoreline, ensuring compliance with ALWTRP regulations is important and necessary in reducing the amount of mortalities caused by gear entanglement. This year, New Jersey Fish & Wildlife purchased an off-shore patrol vessel capable of hauling pots/traps, which will aid in ensuring ALWTRP regulations are enforced appropriately in the future.

The operation began on April 9, 2018 and ran until May 31, 2018. The primary locations for patrols were LMA 4 and 5, while dockside inspections took place in Point Pleasant Beach, NJ. The majority of the vessels contacted were participating in the pot/trap and gillnet fisheries. During the course of the operation 84 violations were detected.

Table 4. Summary of Operation

Vessels/businesses contacted	13
Vessels with violations	5
Total Buoys Inspected	86
Total Weak Links Inspected	69
Total Buoy Lines Inspected	47
Total Violations	84
Compliance Assistance Provided	3
Summary Settlements Issued	0
NOVAs referred to GC	0
Ongoing	81

Table 5. Summary of Violations

Violation	Number of Violations
Improper Buoy markings	19
Improper Line markings	25
Failure to utilize Weak links	27
Failure to properly ID Pot/trap gear	5
Incomplete/Inaccurate FVTR	1
State lobster pot violations	6
Failure to possess LOA to retain skate bait	1

### **Great South Channel ALWTRP Operation**

The annual Great South Channel restricted area ran from April 1 – May 2, 2018. The area is expansive and located approximately 8.5 nm East of Chatham at the most Western point. The Protected Resource Division at GARFO expressed concern to OLE that gear was likely in the area based on historical data. There was also no focused enforcement of this area in the past. Additionally, a quarter of the critically endangered north atlantic right whale moved into the waters off Massachusetts around the same time. In order to enforce the offshore closure, OLE coordinated with the USCG, who agreed to collaborate by offering surface and air support.

Operations were conducted during the 3-month period that the Great South Channel Restricted Area was closed to trap/pot gear in accordance with the ALWTRP. This area is closed to fixed gear for a period of time to mitigate increasing numbers of large whale entanglements, particularly the critically endangered, North Atlantic right whale. The patrols observed 100% compliance during the operation.

Table 6. Summary of Operation

Surface patrol missions (cutters)	3
Surface patrol time within area	3.5 Days
Aircraft sorties	10
Flight time over area	15 hours
Total Violations	0

### **Northern Gulf of Maine (NGOM) Scallop Operation**

The operation was in preparation for the competitive and derby style NGOM Scallop season. The NGOM scallop season ran from April 1 – May 2, 2018 and the operation lasted for the duration of the season. The primary landing port was Gloucester, MA, with some landings in Portsmouth, NH, Newburyport, MA, and Scituate, MA. The majority of the participating vessels were transient, relocating from Maine to Gloucester for the fishery. The fishing grounds were almost exclusively in an area of Stellwagen Bank National Marine Sanctuary known as 'Middle Bank', about 25 nm Southeast of Gloucester. The regulations were modified this year, which prevented the limited access vessels from participating in the fishery. This appeared to reduce the number of complaints received and some of the competitiveness of the fishery.

Thirty four of the 37 vessels participating in the fishery were boarded, resulting in a 92% contact rate. A total of 18 violations were documented on 16 vessels throughout the 52 boardings. Most violations were minor and handled with compliance assistance. Only one \$500 SS was issued for failure to renew permit. This is the first year since the inception of the fishery where a Notice of Violation and Assessment (NOVA) was not issued.

Table 7. Summary of Operation

Vessels/businesses contacted	34
Vessels with violations	16
Total Violations	18
Compliance Assistance Provided	17
Summary Settlements Issued	1
NOVAs referred to GC	0
Total Summary Settlement Fine Amounts Issued	\$500



Table 8. Summary of Violations

Violation	Number of Violations
Incomplete/Inaccurate VTR	4
Failure to submit VMS Preland	1
VMS Software Upgrade	1
Scallop Overage	7
Fishing Outside of NGOM area	1
Permit not readily available	1
No Permit	2
No IFQ available	1

# Overview of Summary Settlements

Table 9. Summary of 34 Summary Settlements Issued

Law	Violation	State	Amount
ASFCMA	Possession of Striped bass in the EEZ	NJ	\$500
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ASFCMA	Possession of Striped bass in the EEZ	NJ	\$500
ASFCMA	Possession of Striped bass in the EEZ	NJ	\$500
ASFCMA	Possession of Striped bass in the EEZ (2 counts)	NJ	\$1,000
ASFCMA	Possession of Striped bass in the EEZ (2 counts)	NJ	\$1,000
ASFCMA	Possession of Striped bass in the EEZ (2 counts)	NJ	\$1,000
ASFCMA	Possession of Striped bass in the EEZ (3 counts)	NJ	\$1,500
ASFCMA	Possession of Striped bass in the EEZ (4 counts)	NJ	\$1,500
ASFCMA	Possession of Striped bass in the EEZ (4 counts)	NJ	\$2,000
HMS	Failure to report Bluefin tuna	NC	\$500
MMPA	Level A Marine Mammal Harassment	MA	\$100
MMPA	Marine Mammal Take	VA	\$500
MMPA	Non-compliant ALWTRP gear - weak links (3 counts)	NJ	\$1,500
MSFCMA	Possession of Atlantic Cod (2 counts)	MA	\$1,000
MSFCMA	Possession of undersized Haddock ( 2 counts)	MA	\$200
MSFCMA	Monkfish Overage	MA	\$2,247.74
MSFCMA	Scallop Overage	NJ	\$657.57
MSFCMA	Scallop Overage	MA	\$570.88
MSFCMA	Scallop Overage	NJ	\$528
MSFCMA	Fishing for scallops in the NGOM management area without a NGOM permit	MA	\$500
MSFCMA	Incomplete FVTR	VA	\$500
MSFCMA	Failure to report	NJ	\$500
MSFCMA	Closed area incursion into the GOM Cod Protection Area	GOM	\$500
MSFCMA	Closed area incursion into the GOM Cod Protection Area	GOM	\$500
MSFCMA	Failure to submit appropriate VMS activity code for intended activity	NJ	\$250
MSFCMA	Failure to comply with boarding procedures	NJ	\$250
MSFCMA	Expired CFVSE	NY	\$500
<b>TOTAL</b>			<b>\$24,304.19</b>

# Northeast VMS Program

Northeast Active VMS Vessel Population: 981

Population Breakdown by (VMS) Permits held<sup>1</sup>:

642 Surfclam/Ocean Quahog (Permit Category 1,6,7)  
571 Scallop General Category (Cat. A,B,C)  
407 Multispecies (Cat. A,D,F)  
343 Scallop Limited Access (Cat. 2,3,5,6,7,8)  
305 Longfin Squid/Limited Access Mackerel (Cat. 1,T1,3,T3)  
131 Herring (Cat. A,B,C,E)  
46 Combination (Multispecies Cat. E)  
17 Monkfish (Cat. F)

Note: There are 434 groundfish sector vessels and 119 common pool vessels registered to the NE VMS Program. There are 15 sector and 3 common pool vessels on a NMFS-authorized power down Letter of Exemption.

## Significant VMS Issues:

**Next Software Upgrade for Northeast-equipped VMS Vessels.** New software (referred to as 'Format 15') was tested/approved by OLE and released by the vendors in April 2018 to comply with Scallop Framework 29, and the Squid, Mackerel Butterfish and Surfclam/Ocean Quahog FMPs.

**Omnibus EFH Amendment.** New regulatory area updates were made to OLE's satellite monitoring system, vTrack, and monitoring of these areas was effectively implemented as of April 9, 2018.

## VMS Industry Contact Log Report:

The NE VMS Team addressed 634 industry issues this quarter and closed 441 issues. The most-frequently reported issues were Declaration/Forms Assistance, Eforms Compliance, and Declaration Failure. A total of 36 issues were referred, primarily to VMS vendors, Observer Program, and GARFO APSD.

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<sup>1</sup> The total count below exceeds the VMS population count since most vessels hold multiple permits

### VMS - Industry Contact Dispositions

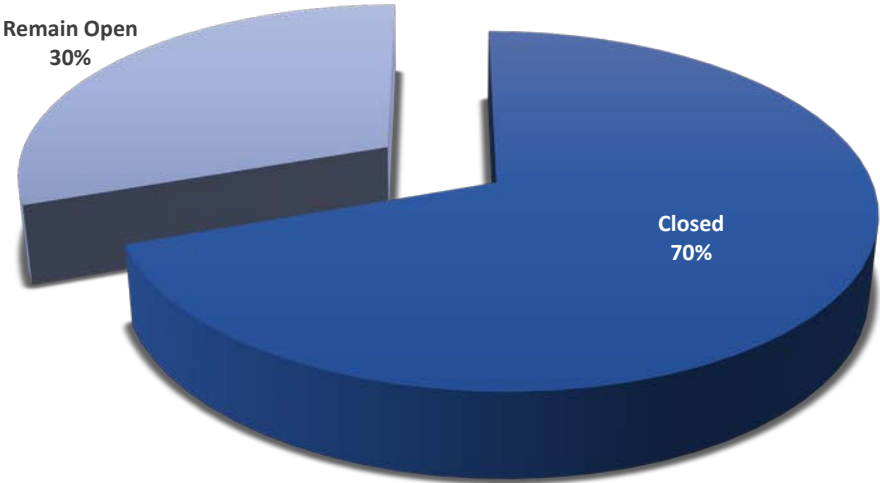


Figure 5: Status of contacts from April 1, 2018 – June 30, 2018 (441 closed, 193 remain open).

# Observer Program Highlights

During this quarter the observer program deployed on 1,095 trips for 2,796 sea days. Approximately 99% of all selected or observed trips were completed without a reported enforcement incident. There were a total of 11 reported violation reports received and acted upon this quarter. The summary below details the status of observer related complaints during the 3<sup>rd</sup> Quarter of 2018.

Table 10: Summary of Observer Program complaints and status

Type of complaint	Number of complaints and status
Refusal	3 observer refusal complaints: 2 closed with compliance assistance 1 ongoing
Assault	None
Harassment/Intimidation	5 observer harassment complaint: 1 closed due to lack of evidence 4 ongoing
Interference	None
Vessel Safety	2 vessel safety complaints: 1 closed due to lack of evidence 1 closed with compliance assistance
Observer Safety	None
Failure to provide reasonable assistance	None
Failure to provide equal accommodations	1 failure to provide reasonable assistance complaint: 1 closed with compliance assistance
Observer gear/sample tampering	None
Observer program notification	None
Miscellaneous	Nothing to report

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

- 15 cases forwarded to GCES

Table 11. Cases sent to GCES

Program/Law	Violation	State
ASFCMA	<ul style="list-style-type: none"> <li>- Retained Striped bass from EEZ (5 counts)</li> <li>- Incomplete FVTR</li> </ul>	RI
HMS	<ul style="list-style-type: none"> <li>- Failure to maintain Swordfish in specified form</li> <li>- Failure to make available for inspection an Atlantic HMS</li> <li>- Make false statements to an officer</li> </ul>	VA
	<ul style="list-style-type: none"> <li>- Failure to maintain Atlantic HMS in specified form</li> <li>- Landing prohibited Shark species</li> </ul>	RI
	<ul style="list-style-type: none"> <li>- Failure to report Bluefin tuna</li> <li>- Retain Bluefin tuna when fishery is closed</li> </ul>	MA
	<ul style="list-style-type: none"> <li>- Fish for Atlantic HMS without the appropriate valid permit</li> <li>- Fish for Atlantic HMS with gear not authorized for the category permit issued to the vessel</li> <li>- Failure to maintain Atlantic HMS in specified form</li> <li>- Failure to comply with any sea turtle conservation measures</li> <li>- Sell Atlantic sea scallops for commercial purposes to a non-permitted dealer</li> </ul>	MA
	<ul style="list-style-type: none"> <li>- Observer Interference</li> </ul>	MA
	<ul style="list-style-type: none"> <li>- Failure to maintain safe conditions for the protection of the observer</li> </ul>	MA
MSFCMA	<ul style="list-style-type: none"> <li>- Possession of 3 Atlantic cod</li> <li>- Possession of 1 undersized Atlantic cod</li> <li>- Failure to present fish for inspection</li> </ul>	Stellwagon Bank
	<ul style="list-style-type: none"> <li>- Engage in fishing in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada</li> </ul>	ME
	<ul style="list-style-type: none"> <li>- Engage in fishing in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada</li> </ul>	ME
	<ul style="list-style-type: none"> <li>- Harvesting Atlantic scallops without a valid appropriate permit</li> <li>- Incomplete FVTR</li> <li>- Failure to present fish for inspection</li> <li>- False statements</li> </ul>	RI
	<ul style="list-style-type: none"> <li>- Fishing for Atlantic scallops during closed season</li> <li>- False FVTR</li> </ul>	MA
	<ul style="list-style-type: none"> <li>- Multiple monkfish overages</li> <li>- Multiple Mackerel, Squid, Butterfish overages</li> <li>- Incomplete FVTR</li> </ul>	RI
	<ul style="list-style-type: none"> <li>- Misreporting</li> <li>- False statements</li> </ul>	MA
	Other Federal Law	<ul style="list-style-type: none"> <li>- Steal fish contained in fishing gear owned by another person, which is located in the EEZ</li> </ul>