New England Fishery Management Council
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# MEETING SUMMARY

## Scallop PDT Meeting

Mariners House, Boston, MA
May 8th, 2018

The Scallop PDT met in Boston, MA on May 8th, 2018 to: 1) continue discussion on the 'monitoring and catch accounting' priority, 2) review and discuss the 'standard default measures' priority, 3) form recommendations re: 2019/2020 Scallop RSA research priorities, and 4) discuss other business.

***MEETING ATTENDANCE:*** Jonathon Peros (PDT Chair), Sam Asci, Tim Cardiasmenos, Dr. Bill DuPaul, Dr. David Rudders Travis Ford, Ben Galuardi, Kevin Kelly, Chad Keith, Danielle Palmer, and Dr. Cate O'Keefe. Vincent Balzano, Chair of the Scallop Committee, was in attendance along with 6 members of the public.

***MEETING MATERIALS***
Doc.1) Meeting Agenda; *Monitoring and catch accounting*: Doc.2a) Discussion Document, Doc.2b) Letter to Regional Office re: real-time IFQ quota transfers, Doc.2c) Letter to Regional Office re: scallop fishery enforcement (if available); Doc.3) Standard default measures discussion document; Doc.4) PDT Meeting Summary – April 26, 2018; Doc.5) 2018 – 2019 Scallop RSA text with PDT edits; Doc.6) Summary of Recent Scallop RSA awards; Doc.B1a) Update on gray meats research presented at SAW 65 from Susan Ingalls.

***KEY OUTCOMES:***

- Based on available information, the actual number of monitored offloads is higher than reported in the LAGC IFQ 5-Year Program Review.
- The PDT recommends that the pre-land notification requirement should be expanded to LA open area trips.
- OLE provided the PDT with suggestion a on how to account for landings overages: both dealer and vessel report the overage and the landings are forfeited. They felt that this concept needed additional discussion, and were open to working with the Council on this issue.
- The PDT reviewed draft alternatives for standard default measures and recommended forwarding them on to the Scallop Committee.
- The PDT developed research recommendations for the 2019/2020 Scallop RSA program.

The meeting began at 10:04 am. Jonathon Peros (PDT Chair) welcomed the PDT and members of the public to the meeting and briefly reviewed the agenda. A special thank you was extended to Tim Donovan (Office of Law Enforcement), Shawn Eusebio (Office of Law Enforcement), and Don Frei (GARFO) for attending the meeting and assisting with discussion around the Council's monitoring and catch accounting priority.

Chad Keith (NEFOP) notified the PDT that NEFOP had recently approved a new company to provide observer services to the fishing industry (MRAG Americas); this is one of four active companies certified to provide observer services to industry.

***MONITORING AND CATCH ACCOUNTING***

Council staff noted that members of the Office of Law Enforcement (OLE) had been invited to assist with discussion on the ongoing monitoring and catch accounting work priority. The overall goal of PDT discussion relative to this priority was to figure out ways to address issues that had been identified so far.

At their April meeting, the Council moved to send two letters to NOAA Fisheries: Letter 1 (drafted and in review)—asking NOAA fisheries to enforce scallop regulations that are already on the books, consider increasing the penalty schedule for VMS pre-land compliance, and to pursue technical solutions to compliance assistance; Letter 2 (send on April 20)—asking NOAA fisheries to implement a real-time quota transfer platform for the LAGC IFQ fishery.

Ben Galuardi (GARFO) presented updated fishery data on landing port trends relative to monitoring objectives. Key points from the presentation included:

- From FY2013-2017, the majority of LA landings were attributed to New Bedford, MA followed by Cape May, NJ. LAGC IFQ landings were distributed across several ports and appeared to follow where this component was operating in a given year (i.e. years with a lot of trips to the MAAA had most landings in NJ, years with trips to the NLS showed an increase in landings on Cape Cod, MA).
- Almost all LA and LAGC IFQ landings were attributed to 5 states: Massachusetts, New Jersey, Virginia, Connecticut, and Rhode Island.
- 90% of all scallop landings are coming in to 10 ports.

*Discussion points*:

- The dealer data used to determine where scallops are landed is verified through a quality control process. Dealer data is generally more accurate than VTRs.
- The 'port landed' is specific to where scallops are sold, not necessarily where the vessel comes to port at the end of a trip (i.e. the port specified in a pre-land report). For example, if a vessel lands a trip in Chatham, MA and trucks the scallops to New Bedford, MA to be sold, those scallops would be attributed to landings in New Bedford. It was suggested that looking at the difference in port landed (i.e. reported in VTR) vs. port sold (i.e. reported in dealer data) could inform the prevalence of this behavior.
- It was suggested that the AP provide input on why a vessel would not file a VMS pre-land report.

Discussion then moved to a list of questions prepared for OLE representatives Tim Donovan, Shawn Eusebio, and Don Frei related to the monitoring and catch accounting priority:

1. *The mechanics of the joint enforcement agreement in the Northeast region. How does it work in practice? Are all states involved? How do states communicate with NOAA? Are there state databases that track enforcement efforts? Are these compatible with NOAA enforcement databases?*

OLE Response: In New England there are 10 joint enforcement agreements (JEAs), including all coastal states from Maine to Virginia. Annual appropriations are distributed by OLE to participating state agencies to support this program. The current Presidential budget being considered has defunded this agreement and translates to an approximate 18 million dollar cut to OLE's budget. The JEA model has recently shifted to base activity and associated state appropriation on OLE priority execution. Specifically, JEA participants must dedicate 75% of effort to enforcing OLE priorities to receive money; this process works on a monthly basis and states must submit reports which detail enforcement activity (i.e. number of boats boarded, number of tickets issued, etc.) relative to OLE priorities. OLE 5-year priorities were organized this year and include a range of fishery enforcement issues that apply to all federal fisheries. Currently, the OLE database is not accessible by JEA participating states; however, efforts are moving towards making enforcement databases consistent across the board so that information may be shared between JEA agencies. North Carolina is part of the Southeast OLE district, but the Northeast OLE office stationed in Virginia does provide some coverage in North Carolina. The OLE database is not currently able to specify enforcement efforts by OLE officers vs. JEA officers.

OLE officers and JEA officers document all monitored offloads that are in violation of fishery regulations. All monitored LA access area offloads are documented regardless of whether they were in violation of NOAA regulations. With LAGC IFQ offloads, officers may not necessarily report every monitored offload that was compliant with the regs; for example, during a saturation effort, officers may board/monitor as many as one hundred vessels in a short time period, making documentation of both compliant and non-compliant cases very difficult. After action reports can summarize both compliant and non-compliant cases; however, compliant cases are not always specified in the database like non-compliant cases are. In other words, OLE records are focused on tracking cases on non-compliance. Due to this, it was suggested that the metric of compliance described in both the LAGC IFQ report and Doc.2a Monitoring and catch accounting discussion document (i.e. the proportion of all monitored offloads reported by OLE that were non-compliant) may be higher than reality and a misrepresentation of overall compliance in the scallop fishery.

2. *Your thoughts on revising the VMS non-compliance penalty schedule. Will this be a deterrent?*

OLE Response: OLE has already prioritized addressing VMS non-compliance and LAGC IFQ vessels fishing without quota. Tim Donovan noted that OLE cannot make a recommendation on adjusting the penalty schedule until these enforcement efforts pan out. NOAA General Counsel (GC) assists with the development of penalty schedules.

How a documented violation translates to the penalty schedule varies on a case by case basis and has a lot to do with officer discretion. For example, there could be a compliance assistance effort

that isn't documented such as a written or verbal warning. In a situation of non-compliance with prior instances of violation(s), cases are usually referred to GC and handled through the notice of violation and assessment (NOVA) process.
Only OLE officers have the authority to issue a NOAA violation ticket. JEA officers and the US Coast Guard must make a recommendation to OLE and then OLE will issue a ticket or refer the case to GC.

3. *Many regulations are developed without direct input from OLE (we often don't ask for input). Are scallop regulations generally enforceable? Are there policies that can be developed to improve enforceability?*

OLE Response: Scallop regulations are generally enforceable and easy to understand, especially compared to groundfish and monkfish regulations. Field officers have noted an increase in compliance over the past several years—this increase in compliance is mostly based on qualitative observations, such as industry actively engaging more with OLE and taking steps to ensure they are following the rules. OLE has held informal 'captains meetings' in recent years to clarify the regulations prior to the start of the fishing year; these workshops are usually well attended and helpful to the industry.
OLE does not make formal recommendations on how to shape regulations that are enforceable. Generally, enforcement activity focused on the scallop fishery has decreased over time because compliance appears to be improving. The scallop fishery is always of interest to OLE because it is a high value fishery and therefore has an increased likelihood of criminal behavior.

4. *There have been several reports of scallop violations on Facebook, and in the news. Are the number of violations consistent with past years, but we are seeing more media coverage? Are scallops more of an enforcement priority?*

OLE Response: The recent increase in reports of scallop violations and enforcement efforts is because of social media and is not an indicator of actual compliance.

5. *Do you have any general opinions on dock-side monitoring, electronic monitoring, and bag tags? Are there issues with any of these concepts that the Council should consider if it wants to take further action?*

OLE Response: OLE representatives support dockside monitoring programs because it is helpful to verify an offload being complete and accurate; however, it was noted that NOAA OLE could not run a dockside monitoring program on its own due to a lack of resources. OLE also noted that dockside monitors in other fisheries are not deputized by OLE. A member of the PDT suggested that if a dockside monitoring program were developed, it could be funded by industry like other Set-Aside programs currently in place (i.e. RSA, Observer).

With regard to ongoing efforts to develop Electronic Monitoring (EM) programs, OLE representatives noted that they are awaiting conclusive results on the effectiveness of this tool before commenting; however, it was noted that having eyes on vessels always helps with compliance.

OLE has had preliminary discussion around developing a self-reporting protocol to help compliance with possession limit overages; similar programs are being used in the Alaska region and seem to be working well. In theory, if a possession limit overage occurs, both the vessel and dealer would report it to OLE and the landings would be forfeited. Though the working details are still being discussed, the goal of a self-reporting program would be to better account for possession limit overages that would otherwise go unreported.

*General discussion*:
Enforcement officers have access to pre-land reports and use them to plan monitoring efforts. In practice, OLE primarily uses the pre-land reports to support ongoing investigations. Limited access vessels are required to submit pre-land reports only for access area trips (i.e. no pre-land requirement for open-area trips). It was suggested that requiring pre-lands for all trips may be helpful for enforcement and ensuring compliance.
Pre-land reports are submitted in real time while dealers are allowed one week after a vessel lands to submit a report. It was noted that misreporting issues are often attributed to dealers. In light of this, an OLE representative suggested that increasing the accountability of dealers in the reporting process may help compliance.

***Key outcomes/PDT recommendations***:

1. Report to the Scallop Committee that the actual number of monitored offloads is higher than reported in the LAGC IFQ 5-Year Program Review.
2. The pre-land notification requirement should be expanded to LA open area trips.
3. OLE will review the pre-land compliance, but in general felt that the current penalty schedule for pre-land non-compliance is robust.
4. Feedback from OLE was that regulations are generally enforceable in scallop fishery.
5. OLE provided the PDT with suggestion a on how to account for landings overages: both dealer and vessel report the overage and the landings are forfeited. They felt that this concept needed additional discussion, and were open to working with the Council on this issue.
6. Compliance and reporting issues in the scallop fishery are consistent with issues in other IFQ fisheries.

***STANDARD DEFAULT MEASURES***
At their April meeting, the Council added developing standard default measures to the 2018 priorities list. There are a wide range of decisions that the Council makes on an annual basis during the scallop specification setting process. Some of the decisions have become fairly routine, and mostly consistent year to year; the goal of this work priority is to streamline the decision-making process and reduce the amount of resources dedicated to developing measures on an annual basis that have fairly predictable outcomes.

The PDT reviewed draft alternatives to streamline the decision-making process (see Doc.3), including:
Default measures:

- Alternative 1.2 - Standardize default open-area DAS for the LA component and LAGC IFQ quota allocation at 75% of the preferred alternative for the previous Fishing Year allocation. Access area trips would not be included in default specifications due to the

nature of rotational management (i.e. access area fishing is directed into different parts of the resource each year). The rationale for this alternative is that it follows an informal precedent set by the Council in recent years and ensures that the fishery is operating at a conservative level between the end of Fishing Year 1 and implementation of updated specifications.

LAGC IFQ access area allocation:

- Alternative 2.2 - Standardize LAGC IFQ access area allocations as 5.5% of the overall access area harvest. This alternative does not standardize where LAGC IFQ access area trips are allocated to. The rationale for this alternative is that it follows the same process already used by the Council to determine LAGC IFQ access area allocations; embedding this into the specifications process will serve to streamline decision making and increase the likelihood of specifications being implemented prior to the start of the fishing year.
- Alternative 2.3 - Standardize LAGC IFQ access area allocation as 5.5% of the total access area allocation and allocate LAGC IFQ trips proportionally to access areas west of 68° 30' W (eastern boundary of Closed Area I Access Area). This alternative employs the same approach as Alt. 2.2 and also standardizes how allocations are distributed among available access areas. The rationale for limiting LAGC IFQ access area fishing to areas west of CAII is that it follows an informal precedent set by the Council in recent years, namely because LAGC IFQ vessels are typically smaller and not designed to fish so far offshore.

Overall, the PDT agreed that standardizing access area allocations to the LAGC IFQ component is a good candidate for streamlining the decision-making process.
With regard to Alt. 2.3, the PDT noted that GARFO is currently considering expanding or removing the current Scallop Dredge Exemption Areas which dictate where LAGC IFQ vessels may fish open trips. If the range of the LAGC IFQ fishery is expanded, the PDT suggested that limiting access area fishing to areas west of CAII may not be necessary as LAGC IFQ vessels would have the ability to fish open bottom to the east.

Part-time access area allocations:

- Part-time limited access vessels are allocated 40% of open-area DAS and access area pounds that are allocated to full time limited access vessels. Though the level of allocation of open-area DAS and overall access area pounds to part time vessels is fixed, the Council must specify the area(s) where part time vessels may fish access area pounds and an associated possession limit in each specifications action.

It was suggested that it may be difficult to streamline where these trips go and the possession limit; however, the PDT agreed that a tasking statement from the Committee on an appropriate range of possession limits or number of trips could be a good way to streamline the decision-making process.

Clarifying the access area allocation timeline (12 months vs. 12 months + 60 days to complete trips):

- Area rotation has evolved considerably over time and in recent years access area boundaries have changed on a fine scale, which has complicated management and administration of access area fishing. Fishery specifications do not 'open' or 'close' scallop rotational areas; rather, rotational access areas are always available, but may only

be fished if allocated to in a given fishing year. Limited access vessels currently have a 14-month window from the beginning of the fishing year (i.e. April 1st) to fish access area allocations. This timeline can be sometimes challenging to manage and administrate in situations where access area boundaries are modified before the end of the 14 months (i.e. if one area is split into several new areas, an area is absorbed into a larger area, or an access area is turned into open bottom). The Council may wish to clarify that when access area allocations are awarded, they can be fished in the first 60-days of the following fishing year, even if the area is not allocated to in the following FY.

- The PDT was interested in learning the original rationale for the additional 60-day period for access area fishing and cited several reasons why this timeline could be problematic. First, this practice began when the start of the fishing year was March 1st—the PDT noted that there is a big difference between the additional 60 days being March/April, when meat yields are beginning to improve, compared to April/May, when fishing conditions are quickly moving towards the best of the year. There may be some unintended consequences of the 60-day window (i.e. vessels shifting access area trips to the next fishing year) that could have implications on management uncertainty and potentially negative impacts on the resource. Similar concerns were expressed for the 10 DAS per year carry forward provision. The PDT noted that in recent years the proportion of landings from access areas (vs. DAS fishing) has increased.

The PDT discussed several ideas that could alleviate these concerns, including:

- Capping the amount of access area pounds that can be fished in the 60-day window.
- Taxing vessels that fish in the 60-day window (i.e. reduce the number of outstanding access area pounds that a vessel could fish after the end of the FY). This would motivate vessels to complete access area fishing before the end of the fishing year but still provide an opportunity to vessels to fish outstanding pounds if an unforeseen complication prevented them from doing so during the FY (i.e. breakdown).
- Eliminating the additional 60-day window or reducing it to 30 days would lessen management uncertainty and make access area fishing easier to administer on an annual basis.

***Key outcomes/PDT recommendations***:

- The PDT supported moving draft alternatives forward to the Scallop Committee for consideration.
- Using a set formula to distribute part-time access area allocations may be difficult. Some streamlining could be achieved if there are specific principles to guide the development of part-time access area allocation options.
- If the Council wishes to address the administration of access area fishing (12 month vs. 12 months + 60 days), it may wish to consider the biological implications of shifting the start of the FY to April 1.

## *2019/2020 RSA RESEARCH PRIORITIES*

The PDT reviewed a working version of 2019/2020 RSA priorities that included revisions based on discussion on the April 26th conference call and through correspondence. (See Appendix I - Draft list of PDT recommendations for 2019/2020 RSA priorities resulting from PDT discussion on May 8th, 2018).

The main takeaways from PDT discussion on this priority included:

- Regarding the timing of SARC 65 and the RSA priority setting process, it was noted that research recommendations from the SARC would not be available in time to integrate into the 2019/2020 RSA priority list; however, the SARC recommendations will be considered in the next several RSA cycles, meaning researchers will have several opportunities to address SARC 65 research recommendations in the future.
- The PDT agreed that keeping research priorities broad would allow researchers more latitude when proposing work and may invite a wider range of research.
- The PDT considered removing the "MEDIUM" and "OTHER" categories and equally weighting priorities that fall under said categories. The rationale for doing so is that all topics are of interest and weighting them equally will allow researchers to make a case for why a particular research topic is important to the scallop fishery. The PDT agreed to follow up on this idea through correspondence.

***OTHER BUSINESS***

No other business was discussed. The meeting adjourned at 3:16 pm.

## Appendix I

## 2019/2020 RSA Priorities – CLEAN with edits accepted. See marked up version below.

**PDT – Please make any suggested changes to this document in track changes.**

Could add text to FFO around top priorities.

2019 and 2020 Scallop RSA Research Priorities (listed in order of importance from HIGH to OTHER)

HIGH

1. Survey Related Research (a, b, and c have equal priority).

Survey results must be available by early August of the year in which the survey is conducted (e.g., survey results that would inform 2020 fishing effort decisions must be available by early August 2019). Successful projects may be asked to provide data in a standardized format.

1a. an intensive industry-based survey of each of the relevant scallop ~~access areas~~rotational areas (Closed
Area I, Closed Area II, Nantucket Lightship, Elephant Trunk and Hudson Canyon) that will provide estimates of total and exploitable biomass to be used for setting fishery catch limits under the rotational area management program. To support these area management decisions, survey data and biomass estimates must be available by early August of the year in which the survey is conducted (e.g. survey results that would inform 2020 fishing area decisions must be available by August 2019). Areas proposed to be open in the following fishing year generally have a higher priority than other areas.

1b. an intensive industry-based survey of areas of importance (i.e., open areas with high scallop recruitment or areas of importance to the fishery). For 2019, the priority areas are likely to be the HAPC in Closed Area II and surrounds, the area south of Closed Area II (formerly part of Closed Area II Extension), Delmarva, ~~and~~ areas off Long Island, ~~.~~ ~~Priority areas also include portions of~~ and areas of the ~~the~~ Gulf of Maine that have recently been or are likely to be fished.

1c. a resource wide industry-based survey of scallops within Georges Bank and/or Mid-Atlantic resource areas. The survey or surveys do not need to be carried out by a single grant recipient. The primary objective of these surveys would be to provide an additional broad scale biomass index in addition to the federal survey to improve the overall precision of the scallop biomass estimate produced by the Scallop Plan Development Team. ~~Survey results must be available by early August of the year in which the survey is conducted (e.g., survey results that would inform 2020 fishing effort decisions must be available by early August 2019). (A broad, resource wide industry-based dredge survey of the Mid-Atlantic resource area, including Delmarva, Elephant Trunk, and Hudson Canyon, was funded for 2018 through the 2017/2018 Scallop RSA process.)~~

**Commented [JP1]:** Moved up from 1c because this applies to all survey priorities.

**Commented [JP2]:** NEW: proposed language to ensure there that PDT gets data/outputs in a format that is useful. Most groups are already doing this.

**Commented [JP3]:** Not applicable this year.

MEDIUM (in order of importance)

2. Investigation of variability in dredging efficiency across habitats, times, areas, and gear designs to improve dredge survey estimates. Research may focus on analyses of existing data sets.

3. Bycatch research: Identification and evaluation of methods to reduce the impacts of the scallop fishery with respect to bycatch of small scallops and non-target species. This would include projects that determine seasonal bycatch rates of non-target species, characterize spatial and temporal distribution patterns, collect and analyze catch and bycatch data on a near-real time basis, as well as the associated discard mortality rates of key bycatch species. Research efforts focusing on non-target bycatch should provide results that would help the scallop industry avoid pending or potential implementation of accountability measures. Projects should consider the enforceability and feasibility of regulations in the commercial fishery.

4. Scallop meat quality research: Research aimed at describing the occurrence of disease and parasites, as well as understanding the mechanisms and processes (including the life cycle, distribution and transmission, and relationship to sea turtles) that affect scallop product quality; research aimed at evaluating the impact of density dependence and the potential impacts of area rotation on scallop product quality, marketability, meat weights, and seasonal monitoring would be particularly useful. ~~This priority also includes research on natural mortality, such as scallop predation (e.g., starfish, crab, snails, and dogfish).~~

5. Research to support the investigation of turtle behavior and its potential impact on the scallop fishery in the Mid-Atlantic and Georges Bank (via satellite tagging or other means). This could include research to understand their seasonal movements, vertical habitat utilization, and the status and range of the population.

OTHER (of equal importance)

6. Research that evaluates the effectiveness of current management procedures for achieving management objectives and simulates alternative procedures based on a range of performance criteria (i.e. Management Strategy Evaluation), including evaluating biological, social and economic impacts and associated long-term consequences of rotational management and the overall scallop management plan.

7. Research on scallop biology, including studies aimed at understanding recruitment processes (reproduction, timing of spawning, larval and early post-settlement stages, age and growth, and yield), examination of environmental stressors on reproduction and growth, and research related to scallop spat and seeding projects. This priority also includes research on natural mortality, such as scallop predation (e.g., starfish, crab, snails, and dogfish) and juvenile mortality events~~).~~ This priority includes research on scallop biology in the Gulf of Maine region.

**Commented [JP4]:** Need PDT input on ranking: HIGH and OTHER vs. HIGH, MEDIUM, OTHER. Also ranking within categories.

**Commented [JP5]:** Could add this to several priorities.

**Commented [JP6]:** Could be cooperative research, not just new field work.