

1.0 MONITORING AND CATCH ACCOUNTING

The following information was provided to the NEFMC in Document #2 for their April 2018 meetings. The Scallop PDT will be discussing this topic in detail at its meeting on May 8, 2018 at the Mariners House in Boston, MA.

1.1 Updates:

The Council passed two motions in April 2018 to send letters to NOAA Fisheries:

SCALLOP COMMITTEE

11. Mr. Balzano moved on behalf of the Committee:
that the Council send a letter to NOAA suggesting that NOAA complete development and implement real-time online IFQ quota transfers.

The motion *carried* on a show of hands (16/0/1).

12. Mr. Balzano moved on behalf of the Committee:
that the Council send a letter to NOAA that makes the following suggestions:
NOAA should enforce regulations that are on the books;
Request that NOAA review penalty schedules and consider an increasing penalty schedule for VMS pre-land non-compliance;
NOAA pursue technical solutions to assist with quota compliance (e.g.: automatic notifications, updates on quota balance when vessels go to make declarations/part of new PTNS system).

The motion *carried* on a show of hands (14/0/3).

1.2 Discussion

The genesis of this work priority came from a narrowly defined issue of low VMS reporting compliance among LAGC IFQ vessels which came up during the LAGC IFQ 5-year program review. Since the Council voted on 2018 priorities (December 2017), NOAA fisheries has moved forward a civil case against Carlos Rafael that alleges several scallop violations. These violations include failing to report the purchase of scallops, falsifying vessel trip reports, providing false information to NOAA on a broken trip adjustment sheet, and failure to transmit vessel position twice per hour through VMS. Following the announcement of civil case, the F/V Dinah Jane was cited by the Massachusetts Environmental Police for illegally possessing scallops over the trip limit.¹

Several other monitoring initiatives are currently underway within the Council process (i.e. industry funded monitoring amendment, groundfish Amendment 23, fishery dependent data workshop).

¹ <http://www.savingseafood.org/news/enforcement/another-new-bedford-scallop-boat-affiliated-carlos-rafael-caught-cheating-scallop-landings/>

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To help guide work on this *scallop priority*, the Council may wish to consider developing:

1. Problem statement(s)
2. Goals and objectives to address perceived problem(s), potentially develop tactics/measures
3. Common set of 'facts' around monitoring and catch accounting (related to #1 & #2)
4. Tasking for PDT to gather additional information

Potential areas of focus:

1. Compliance with VMS hail requirements
2. Compliance with LA and LAGC trip limits
3. Compliance with IFQ allocations (e.g.: fishing when vessel does not have quota)
4. Unknown (unaccounted for) fishery landings

Potential vehicles/steps the Council could take:

1. Initiate formal communications with NOAA fisheries (i.e. write a letter)
2. Develop measures as part of a multi-year Framework action
3. Develop measures as part of an Amendment

Table 1 - Strawman of Monitoring Problems, Goals, Objectives, and Measures

Problem (for discussion)	Why do we think this is a problem? (Supporting data/information)	Goal	Objective	Tactic/Measure
Poor compliance with VMS hail requirements	LAGC IFQ Program Review, June 2017. Data from OLE re: VMS compliance	100% compliance with VMS hail requirements	Improve VMS hail compliance from 2015 levels	Council: Send letter to NMFS recommending technical solutions.
Lack of adherence to trip limits and allocations Unknown removals from fishery	NOAA civil penalties against Carlos Rafael, et al. Counts 21 – 35 January 10, 2018 MA Environmental Police report of F/V Dinah Jane overage.	100% compliance with landings limits. Equity among fishery participants. Precise accounting of total removals from fishery. Dealer reports are a true census of landings.	Full compliance with scallop regulations.	
IFQ vessels participating in fishery with a negative quota balance.	OLE reminder to permit holders on 2/20/18: 50 CFR 648.14(i)(4) states that it is unlawful to possess or land scallops in excess of a vessel's IFQ, or fish for scallops without IFQ	Equity among fishery participants. 100% compliance with regulations.	Full compliance with scallop regulations.	Council: sends letter to NMFS recommending technical solutions.

1.2.1 Questions sent to Tim Donovan ahead of May 8, 2018 PDT meeting:

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?
2. Your thoughts on revising the VMS non-compliance penalty schedule. Will this be a deterrent?
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?
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?
 - a. Can the Council do something to prevent issues that are coming up in the news (scallop overages)?
 - b. Are scallops violations more prevalent than violations in other fisheries (number)?
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?

1.2.2 Key Points from PDT discussion on Feb. 28, 2018:

- The PDT is looking for guidance on how to proceed with this priority.
 - Is this a monitoring issue, an enforcement issue, or both?
 - There may be some benefit from having OLE provide input on this issue.
- Consider the ability of OLE to implement and enforce measures, and the capacity of enforcement.
 - For example, NMFS has 6 uniformed officers from ME to NC and cannot be expected to monitor every offload.
- Open ended questions for consideration:
 - What management measures could help enforcement in the scallop fishery?
 - Are there ways to make existing rules more enforceable?
 - Can OLE potentially identify regulations that are difficult to enforce?
 - Are there weak points that people use to cheat the system? (see potential areas of focus)
 - Is there a need to revisit the idea of broken trips?

1.2.3 Key Points from PDT discussion on March 12, 2018:

- Regarding IFQ Quota Overages:
 - Regulations state that you need IFQ to fish for scallops, and a LAGC IFQ vessel is in violation of current regulations if they are negative on quota and declare a trip.

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- Fishing without quota creates an equity issue among participants (e.g.: if vessels fish when prices are high and correct negative balance when lease prices are low).
- This may be an issue where a letter from the Council may be more appropriate vs. developing measures. Are there management measures that are not clear that could be addressed?
- FishOnline is linked other databases, updated once a week.

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1.2.4 IFQ Quota Overage information from LAGC IFQ program review:

The LAGC IFQ program review looked at the total number of LAGC IFQ MRI's with quota overages, and the total overage by fishing year.

Table 2 - Number of scallop LAGC IFQ MRI's with quota overages, and total overage by FY.

FY	Total MRI	Overage Total
2012	23	17,507
2013	14	35,118
2014	19	38,760
2015	6	5,426
Total		96,811

Potential areas for follow-up on quota overages:

1. Expand the time series. Update the data for 2016, and 2017 when it becomes available.
 - a. Are the two most recent years similar to the overages in 2015? Are trends emerging in number of overages and total quota overages?
 - b. Consider the geographic distribution of where overages are occurring? Is this a port problem?

1.2.5 Concentration of Scallop Landings by Top 10 Ports

Note: The following information was discussed by the PDT on February 28, 2018, and presented to the Committee on March 22, 2018.

- The majority of scallop landings (~90%) are landed in the “top 10” ports (ranked by landings) since 2010.
- Landings ports may vary depending on rotational management.

Table 3 - Percentage of scallop harvest landed at 'top 10' ports (ranked by landings).

FY	Top 10 ports landing %	Other ports landing %
2006	83%	17%
2007	87%	13%
2008	86%	14%
2009	86%	14%
2010	91%	9%
2011	89%	11%
2012	90%	10%
2013	90%	10%
2014	91%	9%
2015	90%	10%
2016	89%	11%
2017	92%	8%

1.2.6 Number of Ports where Scallops are Landed

Note: The following information was discussed by the PDT on February 28, 2018, and presented to the Committee on March 22, 2018.

- The PDT used VTR reports to tabulate the total number of ports where scallops are landed, and the number of ports where fewer than three vessels reported landing (
 - The total ports where scallop landings were reported ranged from 59 – 77 since 2010 (High: FY2016).
 - The number of ports where less than 3 total scallop vessels reported landing ranged from 37 to 52 during the same time period (High: FY2016).

Table 4 - Total number of ports with scallop landings (VTR records) from 2006 - 2017.

FY	Total Ports	Ports under 3 vessels
2006	43	26
2007	83	53
2008	73	45
2009	42	24
2010	61	42
2011	59	37
2012	59	41
2013	59	37
2014	66	41
2015	67	43
2016	77	52
2017	63	42

1.2.7 VMS Pre-Land Compliance

Council staff requested data on compliance with VMS hails and notifications for LA and LAGC IFQ components from the enforcement group at the Greater Atlantic Regional Office. The PDT has not reviewed yet, and will discuss in detail on May 8, 2018. The following information was presented to the Committee on March 22, 2018.

The following figures are intended to describe the percentage of LA and LAGC IFQ trips that were non-compliant with VMS pre-land notifications. Trips are considered non-compliant if they did not send their pre-land notification. The report provided to Council staff included data from 2012 – 2017. The 2017 compliance rate is not shown in the following figures because the FY was not complete when this report was run, and is subject to change.

Figure 1 – LAGC IFQ Pre-Land Notification Non-Compliance for Access Area Trips (2012 – 2017).



Figure 2 - LAGC IFQ Pre-Land Notification Non-Compliance for Open Area Trips (2012 - 2017)



Figure 3 - LAGC IFQ Pre-Land Notification Non-Compliance for All trips (2012 - 2017)

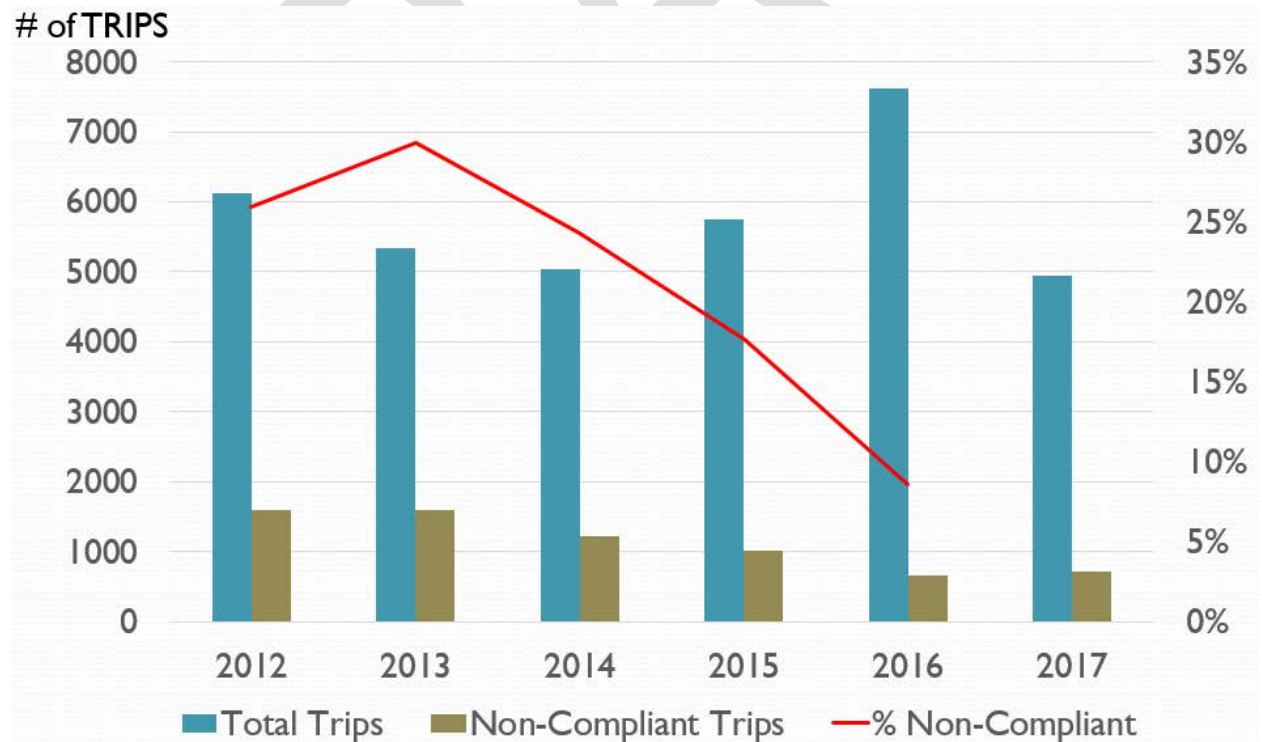


Figure 4 – Limited Access Pre-Land Notification Non-Compliance for Access Area Trips (2015 – 2017).

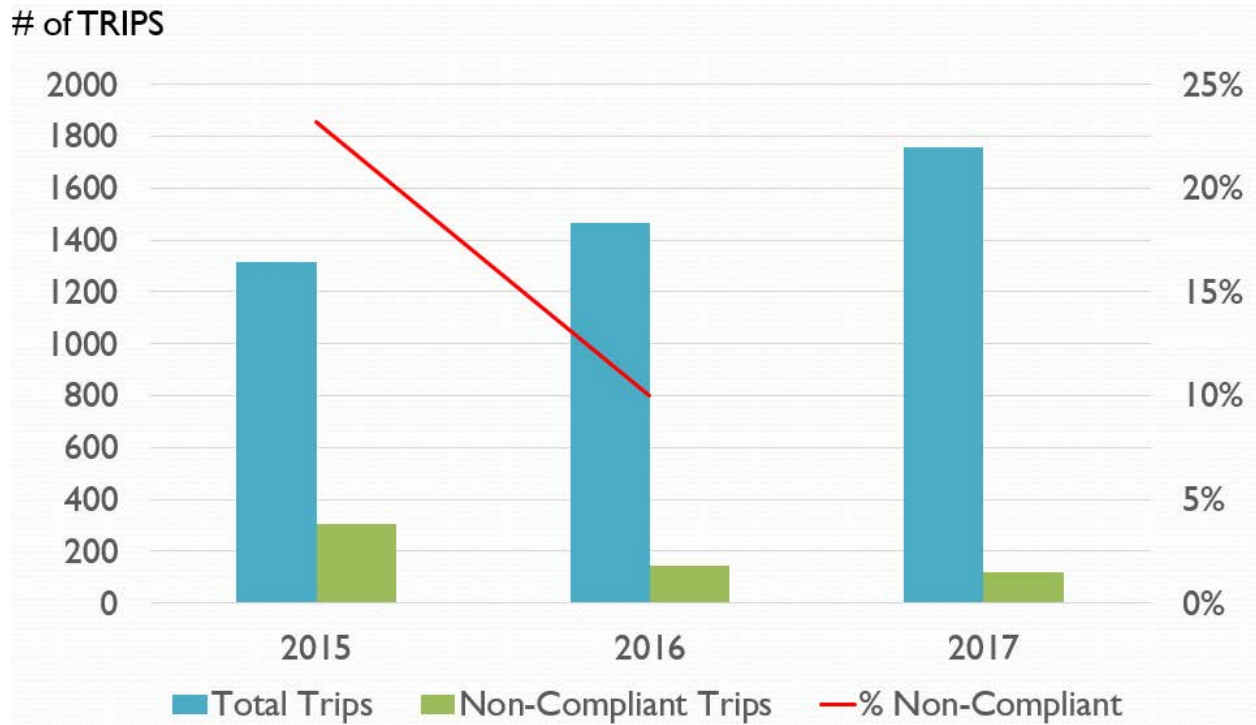


Figure 5 - Comparison of LA and LAGC IFQ pre-land notification non-compliance for access area trips (2015 - 2017).

