

## **1.0 DEVELOPING STANDARD DEFAULT MEASURES**

The following information was provided to the Council in Document #2 at the April Council meetings. The Council added developing standard default measures to the 2018 priorities list at the April Council meeting. The Scallop PDT will be discussing this topic in detail at its meeting on May 8, 2018 at the Mariners House in Boston, MA.

## **2.0 BACKGROUND:**

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, such as setting default measures for the following fishing year, or how many total access area trips the LAGC IFQ component is allocated. There may be some opportunity to streamline the specifications process such as prescribing a formula to follow for setting default measures, the total number of LAGC IFQ access area trips, and part-time allocations for access areas.

- At the November 2017 AP and Committee meetings, members of the Scallop AP and Committee expressed interest in reducing the number of decisions made on issues that are addressed every year. Are we over-specifying to the point where there is only marginal benefit for the effort that is put in for analysis and decision making?

## **3.0 DRAFT ALTERNATIVES:**

There are multiple areas where the Council could opt to be more formulaic on during the specification setting process, such that alternatives would not need to be developed in every action. These include:

### **3.1 Default measures**

The Scallop FMP allocates fishery specifications on an annual basis including open-area DAS and access area trips for the limited access component, IFQ to qualifying LAGC IFQ vessels, and access area trips to the LAGC IFQ fleet. Default measures have been developed in this annual process so that the fishery may continue to operate at a conservative level if updated specifications are not in place by April 1 (start of the fishing year). For example, Framework 28 to the Scallop FMP allocated 30.41 DAS and 72,000 lbs to access areas for FY2017 for full time limited access vessels, and 21.75 DAS and 18,000 access area lbs under default measures for FY2018. The following action with FY2018 specifications, Framework 29, was not implemented until April 19<sup>th</sup>, 2018; therefore, between the end of FY2017 (March 31<sup>st</sup>, 2018) and the implementation of FW29, full time limited access vessels were able to fish under the FY2018 default specifications allocated through FW28.

Though the approach to setting default measures for both the LA and LAGC components has been relatively consistent in recent years, default measures are developed as a stand-alone alternative in Council actions, meaning the Council must consider, deliberate, and select a preferred alternative. The Council has expressed interest in standardizing default measures to streamline the specifications process and reduce the amount of resources dedicated to developing measures on an annual basis that have fairly predictable outcomes.

### 3.1.1 Alternative 1 - No Action

Under Alternative 1 (No Action), default measures for the LA and LAGC components would continue to be specified in the annual specifications process. For the limited access component, default open-area DAS and access area allocations would be specified for full time, part time, and occasional permit types. Default IFQ and fleetwide access area trip allocations would be specified for the LAGC IFQ component.

*Rationale:* Allocation to the scallop fishery varies from year to year and is dependent on changing resource conditions and areas of the resource that are available to the fishery. The dynamic nature of the resource is a main driver for both the annual specifications process and for developing conservative default measures. Because the resource is surveyed on an annual basis, the Council is able to consider the most recent assessment of the resource and adjust specifications.

*Background:* Generally speaking, in recent years (i.e. FY2013-FY2018), default measures have been allocated at a conservative level compared to Fishing Year 1 allocations and have varied based on the overall allocation to the fishery. With the exception of FY2016, default open-area DAS allocations have been 84% or less of Fishing Year 1 specifications for all limited access permit types (Table 1). Default access area allocations have been 33% or less relative to Fishing Year 1 allocations for full time vessels, 50% or less for part time vessels, and up to 100% for occasional vessels (Table 2).

In the LAGC IFQ fishery, default measures were the same or exceeded Fishing Year 1 allocation between FY2013 and FY2016, and have been 75% or less of Fishing Year 1 allocation in FY2017 and FY2018.

*Table 1. Open-area DAS allocations (FY1), open-area DAS default measures (FY2), and default measures as a percentage of FY1 allocation for limited access permit types from FY2013 to FY2018.*

FY	LA full time			LA part time			LA occasional		
	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1
2013	33.00	23.00	70%	13.00	9.00	69%	3.00	2.00	67%
2014	31.00	17.00	55%	12.00	7.00	58%	3.00	1.00	33%
2015	30.86	26.00	84%	12.94	10.40	80%	2.58	2.17	84%
2016	34.55	34.55	100%	13.82	13.82	100%	2.88	2.88	100%
2017	30.41	21.75	72%	12.16	8.69	71%	2.54	1.91	75%
2018	24.00	18.00	75%	9.60	7.20	75%	2.00	1.50	75%

Table 2. Access area allocations in pounds (FY1), default access area pounds (FY2), and default access area pounds as a percentage of FY1 allocation for limited access permit types from FY2013 to FY2018.

FY	LA full time			LA part time			LA occasional		
	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1
2013	26,000	0	0%	10,400	0	0%	2,080	0	0%
2014	24,000	0	0%	9,600	0	0%	2,000	0	0%
2015	51,000	17,000	33%	20,400	10,200	50%	4,250	1,420	33%
2016	51,000	17,000	33%	20,400	10,200	50%	4,250	1,420	33%
2017	72,000	18,000	25%	28,800	14,400	50%	6,000	6,000	100%
2018	108,000	18,000	17%	43,200	14,400	33%	9,000	9,000	100%

Table 3. Annual quota allocation (FY1), default quota allocation (FY2), and default quota allocation as a percentage of FY1 allocation for vessels with an LAGC IFQ permit only, vessels with an LA and LAGC IFQ permit, and the total LAGC IFQ component from FY2013 to FY2018.

FY	LAGC IFQ			LA/LAGC IFQ			Total LAGC IFQ		
	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1	FY1	FY2 (default)	FY2 % of FY1
2013	2,227,142	2,521,026	113%	222,714	252,103	113%	2,449,856	2,773,129	113%
2014	2,202,859	2,552,105	116%	220,286	255,210	116%	2,423,145	2,807,315	116%
2015	2,700,660	3,406,138	126%	271,168	339,511	125%	2,971,828	3,745,649	126%
2016	4,067,524	4,067,524	100%	405,650	405,650	100%	4,473,174	4,473,174	100%
2017	2,261,940	1,695,353	75%	227,076	169,756	75%	2,489,016	1,865,109	75%
2018	2,806,481	2,105,412	75%	279,987	209,439	75%	3,086,468	2,314,851	75%

3.1.2 Alternative 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

Alternative 2 would standardize default measures into the decision-making process as a fixed percentage of the Council’s preferred specifications alternative for Fishing Year 1. Under Alternative 2, each limited access permit type would receive 75% of Fishing Year 1 open-area DAS and the LAGC IFQ component would receive 75% of Fishing Year 1 quota allocation. This alternative would not allocate default access area trips for the LA or LAGC IFQ component.

*Rationale:* Embedding standard default measures in the specifications process would reduce the number of decisions made by the Council at Final Action, and workload for PDT and staff to develop default measures on an annual basis that have fairly predictable outcomes. Standardizing this process would also provide predictable outcomes for stakeholders. Further, this alternative does not preclude the Council from adjusting default measures each year.

Allocating default DAS and LAGC IFQ quota at 75% of the preferred allocation for Fishing Year 1 would allow the fishery to continue operating at a conservative level if there was a gap

between the end of a fishing year and the implementation of updated fishery specifications. The Council changed the start of the fishing year to April 1<sup>st</sup>, meaning implementation of updated specifications are expected to occur on or close to the beginning of the fishing year; therefore, it is unlikely that the fishery will need to operate under default measures for a sizeable portion of the fishing year. Alternative 2 is also expected to streamline the Council process and therefore increase the likelihood of April 1<sup>st</sup> implementation.

Standardizing default access area trips is challenging because rotational management directs access area effort into different parts of the resource each year. Excluding access area fishing from standard default measures also further ensures that the fishery is operating at a conservative level between the end of Fishing Year 1 and implementation of updated specifications.

### **3.2 LAGC IFQ allocations to access areas (ex: always 5.5% of the access area allocation)**

The LAGC IFQ fishery is allocated a fleetwide total number of access area trips. Individual vessels are not required to take trips in specific areas like access area trips allocated to the limited access fishery. Instead, a maximum number of trips are identified for each area and once that limit is reached, the area closes to all LAGC IFQ vessels for the remainder of the fishing year. The level of allocation can vary and is specified in each framework action. The Council has typically considered a range of access area allocation options for the LAGC IFQ component, as well as several options regarding areas that are open to the scallop fishery in a given year.

#### **3.2.1 Alternative 1 – No Action**

Under Alternative 1, the Council would continue to set the overall LAGC IFQ access area allocation in each specifications action. Each year, the Council would consider the total access area allocation for the fishery, and develop measures to allocate a portion of access area allocations to the LAGC IFQ component, and a corresponding number of fleet-wide trips.

*Rationale:* Because the resource is surveyed on an annual basis, the Council is able to consider the most recent assessment of the resource and adjust LAGC IFQ access area allocations.

#### **3.2.2 Alternative 2 – Standardize LAGC IFQ access area allocations as 5.5% of the total expected access area harvest by the limited access component**

Alternative 2 would standardize overall access area allocations to the LAGC IFQ component by allocating the equivalent to 5.5% of total projected access area harvest by the limited access component. This alternative does not standardize where LAGC IFQ access area pounds are allocated to.

*Rationale:* In recent years (i.e. FY2013-FY2018), the Council has used the same basic approach described in this alternative to determine LAGC IFQ access area allocations. By embedding LAGC IFQ access area allocations in the specifications process, the number of decisions made by the Council at Final Action and workload for PDT and staff to develop these alternatives would be reduced. Standardizing this process would also provide predictable outcomes for stakeholders. Furthermore, by streamlining the decision-making process, it is expected that Alternative 2 may increase the likelihood of specifications being implemented prior to the start of the fishing year. Alternative 2 would not prevent the Council from using an ad hoc approach to adjust LAGC IFQ access area allocations in the future.

3.2.3 Alternative 3 - Standardize LAGC IFQ access area allocation as 5.5% of the total expected access area harvest by the limited access component and allocate LAGC IFQ trips proportionally to access areas west of 68° 30' W (eastern boundary of Closed Area I Access Area)

Alternative 3 incorporates the same approach outlined in Alternative 2 to standardizing LAGC IFQ access area trip allocations and also standardizes how allocations are distributed among available access areas. Under this alternative, the distribution baseline is that the LAGC IFQ allocation to a specific access area be proportional to the total expected harvest from that area by the limited access component. In a scenario that limited access trips are allocated to an area east of 68° 30' W (i.e. the eastern boundary of Closed Area I AA), the proportional number of trips that would have been allocated to the LAGC IFQ fleet in this area would instead be distributed evenly among available access areas west of 68° 30' W.

*Rationale:* The rationale for standardizing LAGC IFQ access area allocations under Alternative 3 is the same as the rationale for Alternative 2 (see Section 3.2.2). Distributing LAGC IFQ trips to available areas proportional to the total expected harvest from those areas by the limited access component is consistent with the approach used by the Council when developing specifications in the past. Redistributing LAGC IFQ trips that would have been allocated to areas east of 68° 30' W among available areas west of 68° 30' W follows an informal precedent set by the Council when considering specification alternatives that allocate limited access trips to Closed Area II Access Area. The Council's rationale for not allocating LAGC IFQ trips to Closed Area II Access Area is that LAGC vessels are typically smaller and not designed to fish so far offshore. Considering this, Alternative 3 limits LAGC IFQ trip allocation to areas west of 68° 30' W, as it is the eastern boundary of Closed Area I Access Area and the farthest-reaching access area that the Council has allocated LAGC IFQ trips to in the past.

### 3.3 Part-time access area allocations

Part-time limited access vessels are allocated 40% of open-area DAS and access area pounds allocated to full time limited access vessels. The 40% rate has been in place since the implementation of Amendment 4 which established DAS management and limited access permit categories in the scallop fishery. Table 4 compares full time and part time allocations of open-area DAS and access area pounds from FY2013 to FY2018. 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. The Council has expressed interest in streamlining the specifications process and has identified part time access area allocations as a potential avenue to do so.

**Commented [cok1]:** What about Occasional (8%)? Are there any active Occ permits remaining?

**Commented [SA2R1]:** There were no active Occ permits in FY2017. All Occ permits have upgraded to PT small dredge.

Potentially removing the Occ permit has been flagged to meet the requirements of EO 13777 - Enforcing the Regulatory Reform Agenda.

Table 4. Open-area DAS (DAS) and access area allocations (AA) to full time and part time limited access vessels from FY2013 to FY2018. Part time allocations are also shown as a percentage of full time allocations.

FY	LA full time		LA part time			
	DAS	AA	DAS	AA	% of FT DAS	% of FT AA
2013	33.00	26,000	13.00	10,400	39%	40%
2014	31.00	24,000	12.00	9,600	39%	40%
2015	30.86	51,000	12.94	20,400	42%	40%
2016	34.55	51,000	13.82	20,400	40%	40%
2017	30.41	72,000	12.16	28,800	40%	40%
2018	24.00	108,000	9.60	43,200	40%	40%

**FOR PDT/AP/Committee: Are measures necessary, or would a tasking statement from the Committee be enough to streamline how we go about setting PT access area allocations?**

**Commented [cok3]:** Just wondering if the 40% allocation for part-time was ever formally included in the FMP? If not, an action to set 40% of FT allocation to PT vessels (8% of OCC) might be useful. Tasking from the Cmt on where those pounds should come from might be enough for streamlining, rather than action to set specific areas.

### 3.3.1 Alternative 1 – No Action

Under Alternative 1 (No Action) the Council would continue specifying the area(s) where part time vessels may fish access area pounds and an associated possession limit in each specifications action.

*Rationale:* The approach to specifying part time access area allocations in this alternative is consistent with the Council process in recent years.

### 3.3.2 Alternative 2 -

## 3.4 Clarifying access area allocation timeline (12 months vs. 12 months + 60 days to finish AA 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 have a 14-month window from the beginning of the fishing year (i.e. April 1<sup>st</sup>) 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).

**Input from PDT/AP/CTE needed:**

- The regulations currently read (CFR 648.59(c)): “a limited access scallop vessel operator may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2017, that vessel may harvest 7,000 lb (3,175 kg) from its 2018 fishing year scallop access area allocation during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2018 (April 1, 2018, through May 30, 2018).”

**Potential alternative:**

Modify regulations to say vessels have the first 60 days of the subsequent fishing year to harvest allocations. Doing this would only require Council input on access area carryover in years when access area boundaries are changed. In other words, vessels would have 14 months to fish access area allocations regardless of what areas are allocated to in the following fishing year. If an updated specifications action is implemented between the end of that fishing year and May 31<sup>st</sup> which changes the boundary of an access area, the Council will consider the manner in which unfished pounds can be harvested.

**Other points to consider:**

- Could we develop a set of standards for treating AA carryover when boundaries shift year to year?
  - EX: ET Flex and MAAA. ET Flex is a “sub-area” of MAAA, becomes MAAA allocation.
- Should there be special consideration for areas that were part of an AA, but will become open bottom?
  - EX: CAI proper... DMV.... Can you finish up access area trips in these areas, or does the allocation shift to another AA? Does it matter? Is it just additional uncertainty?

**Commented [cok4]:** Does this mean that if an area is not open in the next year, then the vessels cannot harvest any remaining pounds in the first 60 days? Is there any “shifting” in our current regs?

**Commented [cok5]:** Do we want to consider revisiting this provision since the fishing year start date changed? Part of the rationale for 60 days was that the fishing year ended on Feb 28. If a vessel had a breakdown and had remaining pounds, it could be difficult to harvest in March due to weather. With a start date of April 1, possibly a 30 day window for carryover would be more appropriate.

**Commented [cok6]:** Related to comment above, is this creating any unintended consequences of fishing effort in the first 60 days of the subsequent year? Maybe AP input could help with this question.

**Commented [cok7]:** Possible concern with shifting allocation from one area to another is creating incentives to wait to fish in a “better” area. This was briefly discussed in relation to the RSA in 2017-2018. People talked about purposely holding off to fish the RSA pounds until new access areas opened that weren’t available in 2017 because the RSA fishing deadline is May 31<sup>st</sup>.

Because this could lead to additional uncertainty, we may not want to include it in default measures – might need to look at this with every spec package.