

CORRESPONDENCE RELATED TO FW 25

- A. FY2012 year-end report (NMFS)
- B. letter regarding FY2012 CA1 trips (Capt. Edwin lee)
- C. email regarding bycatch reporting on VTRs and other issues (Jim Fletcher)

CORRESPONDENCE RELATED TO 2014 PRIORITIES

- D. Empire fisheries
- E. Cameron Miele
- F. Ray Starvish

A.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

C.M. "Rip" Cunningham, Jr., Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

JUL 16 2013

Dear Rip:

My staff have evaluated fishing year (FY) 2012 scallop landings and concluded that no component of the scallop fishery exceeded its sub-Annual Catch Limit (ACL) of scallops in FY 2012. After a thorough review, we have determined the scallop fishery underharvested the overall scallop ACL by around 10% (i.e., the fishery landed 57,460,922 lb of its 63,847,421-lb FY 2012 ACL). In addition, the landings attributed to specific sub-ACLs show that no sub-ACLs were exceeded. However, we have estimated that two components of the fishery exceeded their projected scallop allocations. Incidental Category C permitted vessels exceeded their projected landings by 11,869 lb, and state-waters vessels exceeded their projected landings by 494,966 lb. We recommend that the Scallop Plan Development Team bear this in mind when setting future allocations. Please see the table below for more details.

We used Vessel Monitoring System (VMS) trip declarations, Vessel Trip Reports (VTRs), and dealer reports to allocate landings to the appropriate sub-ACLs. Data quality problems made it difficult to match these reports for all fishing trips; as a result we could not attribute ~1.0% (574,661 lb) of landings to specific vessels or sub-ACLs. However, we are confident that these landings would not cause any sub-ACL or ACL to be exceeded for FY 2012. We continue to work to improve the quality and timeliness of these data. Vessel operators and dealers can help to expedite this process by ensuring that they complete VMS declarations, VTRs, and dealer reports properly and on time. Please contact our Analysis and Program Support Division at (978) 281-9133 if you have any questions regarding these data.

Sincerely,

for John K. Bullard
Regional Administrator



Scallop FY2012 Year-end Summary of Atlantic Sea Scallops

Allocations	Allocated Landings (lb)	Actual Landings (lb)	Difference (lb)
OFL	75,800,000	57,628,655	18,171,345
NGOM TAC	70,000	7,733	62,267
ABC	63,847,421	57,460,922	6,386,499
Incidental Target TAC	50,000	61,869	-11,869
RSA TAC	1,250,000	1,167,316	82,684
Observer Set-Aside TAC	638,470	263,700	374,770
Scallop Fishery ACL	61,908,950	55,968,037	5,940,913
LA sub-ACL (94.5% of ACL)	58,503,960	52,274,515	6,229,445
LAGC IFQ sub- ACL/ACT	3,289,498	3,033,538	255,960
LA Vessels with IFQ sub- ACL	309,455	297,746	11,709
Unattributed catch	NA	574,661	NA
State Waters Landings	160,000	654,966	-494,966



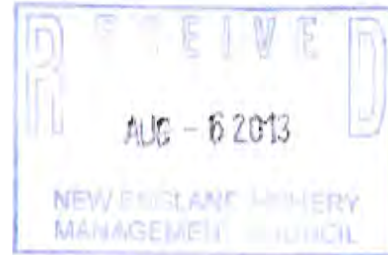
Empire Scallop, LLC.

F/V Furious

B.

322 New Haven Avenue
Phone: (203) 876-8923

Milford, CT 06460
Fax: (203) 877-8263



August 6, 2013

Fax to:
Deirdre Boelke
NEFMC
978-465-3116

Dear Deirdre,

Following is a letter from the Captain/Operator of the F/V Furious. Please review at your earliest convenience and if you have any questions, please contact Joe at Hiddenemp@aol.com to confirm your receipt and find out if he has further instructions for its distribution.

Regards,

Priscilla Wells
Asst. to Joe Gilbert

Date of Trip: Departed: 6/30/13 at 13:20
Landed: 7/12/13 at 16:30

Area Fished: Closed Area I

Vessel: F/V Furious USCG Doc 1204732

Captain/Operator: Edwin W. Lee

My name is Edwin Lee, and I am the Captain Operator of the F/V Furious. I have worked in the fishing industry for twenty-one years.

This letter is in regards to my experience in Closed Area I.

We were catching approximately 2.6 bushels at one-hour tows (This is an overall average). Our scallop catch lbs. per day are as follows: Day 1 through Day 10.75, 200, 100, 600, 750, 500, 400, 300, 350, 250, 150, and 185. Attached is a log of every tow that was made plus daily bag totals. Also included is a copy of my Fishing Vessel Trip Report.

Have you ever received a Christmas present wrapped up elegantly with a pretty bow on top? Your heart starts to pound with excitement and in anticipation. You think perhaps a beautiful cashmere sweater you've seen walking by Macy's window display is inside. You imagine the perfect color and style but to your surprise, you open the present up and there is a piece of coal! What could be worse than a present wrapped up with nothing inside?

Closed Areas were meant to be given to Fishing boats and to allow us the opportunity to harvest a Quota of 18,000 lbs. of scallops. I have a quota of 18,000 lbs. for the Fishing Year of 2012; this trip was from 6/30/13 through 7/12/13. I was able to harvest 4019 lbs. of scallops. The catch of scallops was unbelievably slow. We fished 10.75 days inside Access Area I. We averaged 2.6 bushels in an hour period. Absurdly, I made 212 tows at 1 hour. Let me emphasize again 4019 lbs of scallop meant 12 days since we departed for this trip.

What will I do about the remaining difference of 13,981 lbs. of scallop needed to be harvested to meet my quota? I left the area and we came home because production would not pay for the costs of the vessel; if we kept fishing it would not pay the fuel bill.

I was disgusted with a tow of nothingness. My tows consisted of rocks, empty shells, skates, fish, lobsters, and hardly any scallops. The best fishing was done along the boundary lines of the access area. I was fishing 26 Fathoms and riding the edge of the boundary lines. The stress of holding the line and not crossing over the line was overwhelming. Wind, tides, and sea height reacts on your vessel making it difficult to hold a straight line.

There are many boats, which received Closed Area 1 trips in the fishing year 2013, and I am one of them. I have a quota of 13,000 lbs. of scallops; this will be impossible to harvest. The F/V Chief out of New London fished two days in Access Area I, caught 11 bags of scallops then turned home because there were no scallops to harvest. The F/V Chief fishes with two 15 ft. dredges. We fish with one 10 ft. dredge, please do the Math.

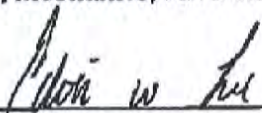
The fishing year consists of 33 open bottom Days plus two closed areas at 13,000 lbs. That is 5 (five) trips approximately for a scallop fishing vessel. If I cannot catch my quota of 13,000 lbs. at CAI (Closed Area I), then I lose a trip by percentage; that is 20-25% of my income that I would lose for the year. With far fewer days to harvest scallop, I cannot lose 20-25% of my income. I have two children at home; one child is in college and the other one in high school.

There is a nickname for Access Areas; people call it the **penalty box**. Why are boats repeatedly sent to Areas where there clearly are no scallops? We never learn from history. I recall Hudson Canyon Closed Area. I believe they did an Emergency Closure and sent boats to fish different Access Areas to harvest their quota. It is clear they must shutdown Access Area I and send boats, for Example to Nantucket Lightship Closed Area. This Lightship has scallops to be harvested. Many scallops are currently dying of old age.

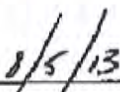
Please answer this, "what is being done?"

I invite any regulatory/ council scallop committee member to take an Access Area I trip with me. If you could see what I see, for example, the poor harvest, carbon footprints, (Bottom Time) fish, lobsters, and senseless killing. Under normal catch rates I could make a trip of 18,000 lbs. with Fishing Vessel Furious in 5-6 days. F/V Furious has a one 10 ft. Dredge. We can be doing far fewer tows with better yields of scallops. Additionally, because of the greater amount of time making tows, there is a higher chance of interaction with sea turtles and a higher chance of catching yellowtail, which we are trying to avoid. Also, Bottom Time fishing destroys the natural habitat.

This problem does not only affect me! Following is a small list of things that are affected: dockside facilities, crew, crew families, restaurants, owners, wholesalers, middlemen, owners, mechanics, environment and natural habitat, and many others.



Captain/Operator
Signature



Date

Ewl\ attachments

Contact Information:
Captain Edwin Lee
Cellular #: 203-927-7113
E-mail#: scalcaptainedwinlee@yahoo.com

FISHING VESSEL TRIP REPORT

11174928

DID NOT FISH DURING MONTH/YEAR ____/____/____

1. VESSEL NAME <u>Fly Furious</u>		2. USCG. DOC. or STATE REG. NO. <u>1204732</u>		3. VESSEL PERMIT NUMBER <u>310994</u>	
4. DATE/TIME SAILED DATE (mm/dd/yy) <u>6 / 30 / 13</u> TIME (24 hrs.) <u>13 : 20</u>		5. TRIP TYPE (CHECK ONE) <input checked="" type="checkbox"/> COMMERCIAL <input type="checkbox"/> PARTY <input type="checkbox"/> CHARTER		6. NO. of CREW <u>6</u>	7. NO. of ANGLERS <u>0</u>

FILL OUT A NEW PAGE FOR EACH CHART AREA OR GEAR OR MESH/RING SIZE FISHED

8. GEAR FISHED <u>DRS</u>		9. MESH/RING SIZE <u>10.5/4"</u>		10. QUANTITY OF GEAR <u>1</u>		11. SIZE OF GEAR <u>10.5 FT</u>	
12. CHART AREA <u>522</u>		14. LATITUDE/LONGITUDE or LORAN LATITUDE <u>N 41° 03</u> LONGITUDE <u>W 68° 59</u> STATION-BEARING #1 _____ STATION-BEARING #2 _____				16. NO. of HALLS <u>212</u>	16. AVERAGE TOW/SOAK TIME <u>1</u> hrs <u>_____</u> mins
13. AVG. DEPTH IN FATHOMS <u>45</u>		17. SPECIES CODE NAME		18. KEPT POUNDS (Comm) COUNT (Rec)		19. DISCARDED POUNDS (Comm) COUNT (Rec)	
20. DEALER PERMIT NO.		21. DEALER NAME		22. DATE SOLD (mm/dd/yy)			
<u>SCAL</u>		<u>3482</u>				<u>2110</u> <u>Whaling Auction</u> <u>7/13/13</u>	
<u>MORBT</u>		<u>210</u>				<u>2110</u> <u>Whaling Auction</u> <u>7/13/13</u>	
<u>SCAL</u>		<u>217</u>				<u>2177</u> <u>Gambardella</u> <u>7-13-13</u>	
<u>SCAL</u>		<u>316</u>				<u>3916</u> <u>Empire</u> <u>7-13-13</u>	

23. PORT and STATE LANDED <u>STONINGTON CT</u>		24. DATE LANDED (mm/dd/yy) <u>07 / 12 / 13</u>		TIME LANDED <u>16 : 30</u>	
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I certify that the information provided on this form is true, complete and correct to the best of my knowledge, and made in good faith. Making a false statement on this form is punishable by law (18 U.S.C. 1001).


25. OPERATOR'S NAME (printed) and PERMIT NUMBER (if required) <u>Edwin W Lee 10015191</u>		26. OPERATOR'S SIGNATURE <u>Edwin W Lee</u>		DATE <u>7/13/13</u>	
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DATE SAILED: 6/30/13 TIME: 13:20
 DATE SET-IN: 7/1/13 TIME: 8:45 AM

①

VTR #: 11174928
 AREA FISHED: CAI

TOW#	SET	HAUL	# BU	COMMENTS
1	8:45	9:45	1	
2	9:57	10:48	1	
3	11:05	11:50	2	
4	12:09	12:45	1	
5	1:00	1:45	2	
6	1:57	2:43	1	
7	2:55	3:40	1	
8	3:55	4:42	1	
9	4:55	5:48	3/4	
10	6:00	6:49	1/2	
11	7:01	7:48	1	
12	8:02	9:02	2	
13	9:15	10:20	2	
14	10:32	10:32	1 1/4	
15	11:48	12:45	2	
16	1:00	1:58	3/4	
17	2:12	3:10	1 3/4	
18	3:25	4:25	1 1/2	
19	4:48	5:45	1 1/2	
20	5:57	6:57	1 1/3	
21	7:12	8:05	3	
22	8:23	9:23	3 1/2	
23	9:39	10:39	2 1/8	
24	11:55	11:55	2 1/8	
25	12:09	1:09	1 3/4	

TOW#	SET	HAUL	# BU	COMMENTS
26	1:23	1:25	2	
27	2:43	3:45	1/2	
28	4:05	4:40	0	29 Folds Average 2
29	4:52	5:47	1/4	1.42 Bushels A Tow
30	5:58	6:59	1/3	
31	7:11	8:10	0	
32	8:21	9:20	0	
33	9:30	10:30	1	
34	10:40	11:47	1	
35	12:00	12:48	1	
36	1:00	1:56	1/3	
37	2:08	3:02	3/4	
38	3:13	4:00	1/4	
39	4:13	4:55	1/4	
40	5:08	5:46	/	
41	5:57	6:52	1 1/4	
42	7:40	8:40	1	
43	8:20	9:08	1	
44	9:32	10:35	1	
45	10:30	11:43	1	
46	12:00	1:00	1	
47	1:13	2:01	1/2	
48	2:15	3:01	2 1/2	
49	3:15	3:57	3 1/2	
50	4:08	4:56	3	

1200
759

60 13

(2)

VTR #: 11174928

TOW#	SET	HAUL	#BU	COMMENTS
51	5:08	5:50	2 1/4	
52	6:03	7:01	2 1/8	
53	7:19	8:17	2	
54	8:31	9:30	4 1/8	
55	9:43	10:36	1 3/4	
56	10:48	11:49	7 1/4	
57	12:00	1:10	6	
58	1:22	2:31	5 3/4	
59	2:48	3:58	9 1/4	
60	4:13	4:58		
61	5:07	5:52	2 1/4	
62	6:04	6:58	3 1/4	
63	7:14	8:15	1 3/8	
64	8:27	9:38	5	
65	9:40	10:40	7 1/2	
66	10:52	1:51	8	
67	12:07	1:06	4 1/2	
68	1:18	2:18	5	
69	2:30	3:30	5	
70	3:45	4:22	2 1/2	
71	5:00	5:52	3 1/4	
72	6:05	7:05	1	
73	7:20	8:20	2 1/4	
74	8:30	9:30	2	
75	9:40	10:44	3 3/4	

TOW#	SET	HAUL	#BU	COMMENTS
76	10:50	11:52	5 3/4	
77	12:02	12:55	7	LOEN 12:1
78	1:06	2:19	3 3/4	
79	2:30	3:24	6 1/2	
80	3:35	4:38	3 1/2	
81	4:49	5:49	7	
82	6:03	7:05	5	
83	7:15	8:18	3 2/3	
84	8:31	9:30	6 3/4	
85	9:40	10:42	3 1/2	
86	11:06	12:01	3 1/2	
87	12:16	1:02	4	
88	1:15	2:12	4 1/2	
89	2:24	3:24	6	
90	3:35	4:33	3 1/2	
91	4:45	5:44	4 1/4	Main 1 gallon
92	6:05	7:05	2	Switch to Core 1
93	7:15	8:15	1 3/8	
94	8:30	9:35	2	
95	9:45	10:44	1	
96	10:55	11:57	2 1/2	
97	12:04	1:05	1	
98	1:22	2:19	3 1/4	
99	2:31	3:34	2	
100	3:36	4:40	2 1/2	

VTR #: 11174928

(3)

TOW# SET HAUL #BU COMMENTS

TOW# SET HAUL #BU COMMENTS

51	4:53	5:48	6 1/2	
52	6:00	7:00	4 1/2	
53	7:10	8:10	3 1/2	
54	8:30	9:30	5	
55	7:45	10:45	2	
56	11:00	11:46	2	
57	12:09	12:49	1 3/4	
58	1:03	1:43	1 3/4	
59	1:54	3:05	3 3/4	
60	3:19	4:20	4	
61	4:32	5:46	4 1/2	
62	6:00	7:00	2 1/4	v
63	7:25	8:15	2	
64	8:30	9:35	2 1/2	
65	9:50	10:50	2	
66	11:00	11:54	1 3/4	
67	12:15	1:05	3	
68	1:37	2:37	4 3/4	
69	2:49	3:49	1 1/2	
70	4:00	4:48	3 3/4	
71	5:00	5:58	4	
72	6:11	7:11	2 1/2	
73	7:25	8:25	2	
74	8:40	9:30	1	
75	9:47	10:47	4	

76	1:00	11:58	2	
77	12:10	1:13	2	
78	1:45	2:46	3 1/4	
79	2:58	3:48	4 1/2	
80	4:00	4:51	1	
81	5:02	5:52	1	
82	6:03	7:00	1 3/4	7/7
83	7:15	8:15	5	
84	8:30	9:30	1 3/4	
85	9:45	10:45	6	
86	10:50	11:50	5	
87	12:02	1:07	1	
88	1:18	2:11	2	
89	2:26	3:15	1	
90	3:27	4:35	2	
91	4:48	5:50	1 1/2	
92	6:05	7:01	4 1/2	
93	7:15	8:15	2	
94	8:30	9:30	2 1/2	
95	9:45	10:40	1 3/4	
96	10:55	11:55	1 1/4	
97	12:02	12:55	6 3/8	
98	1:08	2:08	3 1/4	
99	2:21	3:21	1	
100	3:36	4:26	1 1/2	

4

VTR #: 1174928

TOW#	SET	HAUL	#BU	COMMENTS
201	440	5:42	2 1/2	
202	5:55	6:55	3 1/2	7/8/13
203	7:10	8:20	1 1/2	Monday
204	8:25	9:25	5 1/2	
205	9:45	10:45	2 1/2	
206	11:00	11:51	3	
207	12:03	12:52	1 1/4	7/9/13
208	1:40	2:39	1 1/2	Tuesday
209	2:50	3:43	1 1/2	
210	3:58	4:51	3/4	
211	5:03	5:45	1	
212	5:57	6:52	5	
213	7:15	8:25	1 1/2	
214	8:30	9:30	1	
215	9:45	10:05	3	
216	11:10	12:00	/	
217	12:29	12:27	2 1/4	Gen oil 3/10
218	1:47	2:40	2 3/4	
219	2:54	3:38	2 1/2	
220	3:51	4:45	2	
221	4:58	5:49	2	
222	6:01	7:00	1	
223	7:15	8:15	1	
224	8:30	9:30	1	
225	9:45	10:45	1 1/2	

TOW#	SET	HAUL	#BU	COMMENTS
226	10:55	11:50	1	7/10/13
227	12:05	11:57	5 1/2	
228	1:12	2:11	1 3/4	wed
229	2:27	3:17	1 1/2	
230	3:36	4:37	1 1/2	1 Gallon in Man's
231	5:08	5:55	1/2	
232	6:09	7:09	1 1/2	
233	7:25	8:25	2	
234	8:39	9:39	1 1/2	
235	9:50	10:50	1 1/2	
236	11:00	11:50	1 1/4	
237	12:03	1:10	1 3/4	
238	1:22	2:20	1 1/4	
239	2:31	3:30	1 1/4	
240	3:41	4:41	1 1/4	
241	4:59	5:54	2	
242	6:00	7:00	1	
243	7:15	8:15	1 1/2	
244	8:28	9:30	3	
245	9:45	10:40	1	
246	10:50	11:46	2	
247	11:57	12:53	/	7/11/13
248	1:00	2:00	1/4	Thursday
249	2:18	3:20	2	
250	3:34	4:27	3/4	

5

VTR #: 11174928

TOW#	SET	HAUL	#BU	COMMENTS
201	4:40	5:45	1	
202	5:50	6:50	2	Joe
203	7:05	8:05	2	
204	8:28	9:28	2 1/4	
205	9:40	10:40	1 1/4	
206	10:54	11:48	1 3/4	
207	12:08	1:03	2	
208	1:16	2:13	1 7/8	
209	2:27	3:31	2 1/3	
210	3:43	4:33	1 7/8	
211	4:45	5:45	1 7/8	
212	5:56	6:50	2	
213				
214				
215				
216				
217				
218				
219				
220				
221				
222				
223				
224				
225				

TOW#	SET	HAUL	#BU	COMMENTS
226				
227				
228				
229				
230				
231				
232				
233				
234				
235				
236				
237				
238				
239				
240				
241				
242				
243				
244				
245				
246				
247				
248				
249				
250				

VTR# 11174928

DAY	20/30	10/20	U/12	U/10
1	/	/	/	/
				1
		1		1
				1
4				
2	/	/	/	/
				1
		1		
	/	/	/	/
2				
3		1		1
				2
		2		3
		1		2
12				
				600
4		2		2
		2		1
		1		3
		2		2
15				
				750
5		1		2
				1
		1		1
		1		3
10				
				600
6				1
		1		2
				1
		1		2
8				
7				1
				2
				1
		1		1
6				
8		1		2
				1
				1
		1		1
7				

DAY	20/30	10/20	U/12	U/10
9				2
		1		1
				1
				1
5				
10	/	/	/	/
	/	/	/	/
	/	/	/	/
		1		1
3				
11				1
		20 lbs		1 + 15 lbs
12				
13				
14				
15				
16				

TOTALS

20/30	10/20	U/12	U/10
	24	51	

Grand Total 75 + 2 pieces

C.

-----Original Message-----

From: James Fletcher [<mailto:unfa34@gmail.com>]

Sent: Wednesday, August 28, 2013 3:25 PM

To: Deirdre Boelke; John Whiteside

Subject: for PDT & adviser's MSC question

FUN THOUGHT!

Why hasn't the PDT addressed Viscera and shells not being on VTR ? This is a discard should it be reported? MSC could not certify a fishery with 2/3 discard & potential to "bait" endangered species" May be training dogfish & turtles to feed on small scallops.

The PDT should address the discard of shells & viscera not being on VTR.
HOW MANY TURTLES WERE REPORTED AFTER MATS WERE REQUIRED? {where are cable mats?} Perhaps a Viscera retention study would cause turtles to leave area as no food would be available. Why not have PDT discussion if Viscera is attraction turtles. instead of RSA money for MORE turtle dredge study.

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Thank you,

James Fletcher

United National Fisherman's Association

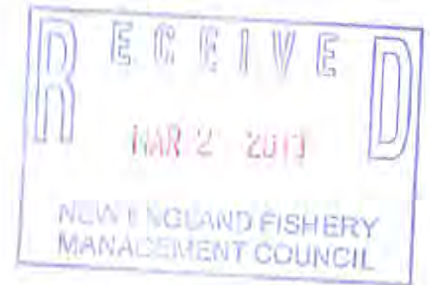
Phone: 252-473-3287

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D.

EMPIRE FISHERIES, LLC
322 NEW HAVEN AVENUE
MILFORD, CONNECTICUT 06460



March 19, 2013

Ms. Mary Beth Tooley
Chairperson Scallop Committee
New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

Dear Chairperson Tooley and Committee Members:

It seems that one segment of the scallop fleet desires to eliminate or cut back in some way another smaller segment of the scallop fleet.

I request the Committee NOT consider any revisiting of where and how the small dredge fleet was established in Amendment 4.

Respectfully,

Joseph Gilbert
F/V Regulus
F/V Furious

a. Council, SC Cte, CBK, DB (3/25)



Email received March 14, 2013

From: Cameron S. Miele [<mailto:cmiele@scallopfishing.net>]

Sent: Thursday, March 14, 2013 1:56 PM

To: Mary Beth Tooley; Mark Alexander; Tom Dempsey; David Pierce; David Preble; John Quinn; Laura Ramsden; Peter Christopher

Cc: John Bullard; Rip Cunningham; Tom Nies; David Frulla; Drew Minkiewicz

Subject: Small Dredge Scallop Fleet

Council Members,

I understand that certain members of the scallop fishery are once again pushing for the elimination (or significant modification) of the small dredge fleet. It is unfortunate that they continue to push for more personal gains at a time when we all need to be focused on priority issues such as bycatch reduction. Since I know that this issue has been raised once again and will be raised at future Council meetings, I wanted to provide the attached brief commentary on the repercussions from the elimination of the small dredge scallop fleet.

Thank you,

Cameron Miele
F/V Kathryn Marie
F/V Hunter

SMALL DREDGE EXEMPTION REMARKS

The repercussions from eliminating the Small Dredge Exemption would be devastating to hundreds of families across New England and the Mid-Atlantic. It would mean a loss of jobs and tax revenue at a time when this country cannot afford to lose either. The Magnuson-Stevens Fishery Conservation and Management Act requires that economic factors be considered when making management decisions. And from an economic standpoint the elimination of the small dredge fleet would be a net economic loss. The only benefit from eliminating the exemption would be to already highly successful boat owners as they would capture additional share of the fishery. In addition, the elimination of the small dredge exemption would not lead to additional conservation of the sea scallop resource.

- 1. Jobs:** Unemployment is the number one issue facing this country. The President, Congress, State and Local Leaders, and the American People are all concerned with the high rate of unemployment. The elimination of the Small Dredge Exemption will put full-time and part-time small dredge operators out of business as the full-time boats will not remain economical as part-time boats and the part-time boats will not remain economical as occasional boats. Total employment loss from the elimination of these boats from the fleet will generate an estimated 300 – 400 newly unemployed commercial fishermen. These boats also support hundreds of shore side support jobs. Job Killing actions by the Council will be extremely unpopular and will face a long and costly political and legal fight.
- 2. Priority Issues:** Fishermen, scientists and regulators need to focus on high priority issues such as: (i) improving safety; (ii) further reductions to bycatch; (iii) better funding for research; (iv) more collaboration amongst fishermen, scientist and regulators; and (v) improved closed area management. In terms of the health and sustainability of the fishery the elimination of the Small Dredge Exemption is an issue of zero importance and therefore does not warrant the Council's attention.

cc: CSA, MB (3/14)

3. **Significant Bank Write-offs and Bankruptcies:** While accurate figures are not available, anecdotal evidence suggests that the vast majority of small dredge owners carry a mortgage on their vessel. Eliminating the Small Dredge Exemption would render these boats and permits near worthless. The majority of owners would not be able to satisfy their bank loans and would therefore be forced to declare personal bankruptcy. These owners and their families would be essentially wiped out and local banks throughout New England and the Mid-Atlantic would be forced to write-off in the neighborhood of \$50 million - \$100 million of bad commercial fishing loans.
4. **Loss of Tax Revenue:** The vessels comprising the small dredge fleet contribute significant tax revenue to the Federal, State and Local governments. The remaining full-time boats that would pick up the incremental poundage would not contribute associated tax revenue sufficient to cover the lost revenue from the small dredge fleet. The elimination of the Small Dredge Exemption is a net loss in tax revenue.
5. **17-Year Precedent:** The Small Dredge Exemption has been in place for approximately 17 years and has been continually re-authorized. The boats of the small dredge fleet have earned the right through hard work and sacrifice to remain in the fishery. Precedence has been established.
6. **Backdoor Consolidation:** The Atlantic Sea Scallop fishery is sustainable. Since the fishery is not overfished there is no reason to eliminate boats from the fleet. This is not a health of the biomass issue, this is a money issue. The only motive of those that support the elimination of the Small Dredge Exemption is to garner additional pounds and force competition out of the fishery.
7. **Abandoned Vessels:** If these small dredge boats become essentially worthless their owners will have no reason to maintain the vessels and/or pay for their dockage. Those who can sell their boats will and those who cannot will leave them tied to the dock and neglected. The ports that formerly housed these working boats will now have to deal with the rusting hulks abandoned and tying up productive dock space.



F.

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C.M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

February 25, 2013

Mr. Ray Starvish
PO Box 231
Fairhaven, MA 02719

Dear Ray:

Thank you for your letter of February 11, 2013 with enclosures. I have forwarded them on to the full Council for review and consideration. As you know, the Council has discussed this specific issue several times in the past when identifying annual Council work priorities every November. I recall one Council member raising this as an issue that merits further evaluation based on previous correspondence from you to the Council. However, each year your request for consideration falls "below the line" when compared to other more important priority issues facing the scallop management program and fishery.

I will hold on to this letter for the fall and include it with meeting materials for the Council priorities discussion and vote next November 2014. I encourage you to attend that meeting and express your concerns again to the Council directly. The last few years have been very busy for the scallop management program with implementation of mandated annual catch limits and accountability measures, actions to reduce Groundfish bycatch and sea turtles, and adjustments to the recently implemented general category IFQ program.

I thank you for your continued interest in fisheries management.

Sincerely,

Paul J. Howard
Executive Director

Raymond Starvick
Fairhaven, Ma. 02719

Dear Paul,

enclosed is a CD I'd appreciate
you listening too. It will help
you understand where I am
coming from.

Regards,
Ray

Feb. 7, 2013

Hi Paul,
on the tapes you heard Richard
Roe (R.A.) at the time, say the staff
would have to write for the Secretary's
review of the justification, rationalization
analysis of the Small Dredge program.

My request is a copy of this
justification, rationalization, analysis
the staff submitted to the Secretary,
also I would like a copy of the
analysis of the economic effects
the Small Dredge program would
have on the fishery.

Regards,
Ray Starvish

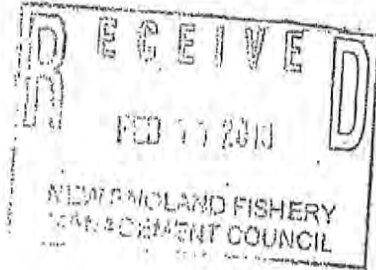
P.S.
E mail Ross STARVISH e

FAIRHAVEN-MA-02719

u:DB(2/12)

RAYMOND STARVISH

P.O. BOX 231
FAIRHAVEN, MA 02719



New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Attention: Council Members

Re: **SMALL DREDGE EXEMPTION PROGRAM**
Scallop FMP Amendment 4
50 CFR § 648.51(e) Adopted 1994

Dear Council Members:

I refer your attention to the Small Dredge Exemption Program and enclose an analysis of the *Program* as implemented in *Amendment 4*.

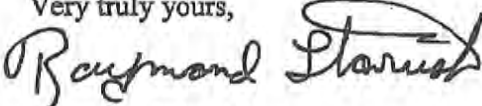
Since the implantation of the Access Area Program in 1999 and the adoption of area based quota management in 2004, the Small Dredge Exemption Program has become a loophole through which scallop vessels that would not qualify as full-time or part-time vessels are permitted to significantly increase their total landings. This is unfair and prejudicial to those vessels that qualify as full-time or part-time access permit vessels.

The Access Area Program assigns small dredge vessels the same total landings as large dredge vessels and places no limit on crew size in violation of New England Fishery Management Council's intention and objective in creating the Small Dredge Exemption Program. Accordingly and for the reasons outlined in the enclosed analysis, small dredge permit holders should be precluded from participating in access area trips because the smaller dredge size does not effectively limit their total landings.

In the alternative, I request that the Council reevaluate the Scallop Dredge Exemption Program pursuant to the Scallop Plan Development Team's recommendation, as described in further detail in the enclosed analysis.

I appreciate your time and attention to this matter. I would like to discuss this matter with you further during an upcoming New England Fishery Management Council Meeting.

P.S.
Please Listen
To The C.D.

Very truly yours,

Raymond Starvish

cc: DB (2/12)

CLINTON & MUZYKA, P.C.

ATTORNEYS AT LAW
88 BLACK FALCON AVENUE, SUITE 200
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ARTHUR P. SKARMEAS**
Of Counsel

October 30, 2012

*Also admitted in RI
**Also admitted in NH
***Also admitted in WA

Mr. Raymond Starvish
P.O. Box 231
Fairhaven, MA 02719

Attention: Mr. Raymond Starvish

Re: **SMALL DREDGE EXEMPTION PROGRAM**
Scallop FMP Amendment 4
50 CFR § 648.51(e) Adopted 1994

Dear Mr. Starvish:

We refer to your request that our office investigate, evaluate, and present you with our analysis of the efficacy of the *Small Dredge Exemption Program* as implemented in *Amendment 4*.

Please take the following as our report on your request.

The Small Dredge Exemption Program was created as part of Amendment 4 to the Scallop Fishery Management Plan in order to assist Maine small boat [single dredge] scallop fishermen in continuing a traditional fishery. Since access to closed areas were opened to scallop fishing in 1999 and the subsequent adoption of area based quota management in 2004, the Small Dredge Exemption Program has become a loophole through which scallop vessels that would not qualify as full-time or part-time vessels are permitted to significantly increase their catch/production/landings. This is unfair and prejudicial to those vessels that qualify as full-time or part-time access permit vessels. Accordingly and for the reasons outlined below, the small dredge permit holders should be limited in their total allowable catch/production/landings as was the original intent in implementing the Small Dredge Exemption Program.

I. The Objectives of the Small Dredge Exemption Program are No Longer Being Achieved.

The NEFM Council's intention in including the Small Dredge Exemption Program into

Amendment 4 was to "allow for a continuation of a traditional fishery."¹ During the Council meeting in Mystic, CT on May 12 and 13, 1993, Council Member Bill Brennan from Maine offered a Motion on behalf of thirty-two to thirty-four [32-34] small dredge Maine scallop vessels to alter Amendment 4 to assist these fishermen. Council Chairman Brancaleone described the issue as follows:

*[The next issue] is at the request of the so-called small scale fishermen, primarily from Maine. A class of vessels that basically has fished at varying levels but have been largely unrecorded in terms of their performance and landings. And largely confined their activities to the Gulf of Maine. We approve, the committee approved, a special authorization – a consideration that would allow them to use a single ten and one-half foot which I believe is the present maximum size dredge allowed in Maine. These individuals would be allowed to move from part-time, if they're so classified, or occasional, to move up one step provided they use this single dredge, only one dredge.*²

Upon the request of Council Member Dick Allen, a third qualification was added that the vessels carry no more than a five [5] man crew.³ Amendment 4 includes the following:

*"Gulf of Maine fishermen commented that their historical practice of scalloping in state waters and occasionally at Fippennies Ledge and Georges Bank with smaller dredge was not taken into account. Furthermore, they argued that incomplete data collection and difficulty in documenting their complete scalloping history would result in mis-classification. The Council responded by modifying the group assignment rules, the gear size restrictions, and the crew limits. Vessels would be allowed to qualify for a single category increase in days at sea allocation if they continue to use the smaller, 10.5 feet dredges throughout the year and carry a crew of no more than five while scalloping."*⁴

The Small Dredge Exemption Program was instituted to allow thirty-two to thirty-four [32-34] small dredge vessels to continue a traditional fishery in the Gulf of Maine. To date, only one [1] of fifty-three [53] full-time small dredge vessels remains in the Gulf of Maine.

Furthermore, the Council believed that by reducing drag size and crew, the small dredge vessel's fishing efforts per day will be less than half of the larger vessels.⁵ The Council estimated that a small dredge vessel with a five [5] man crew will have a shucking capacity of approximately seven hundred to eight hundred pounds per day [700-800lb] as compared to a full-

¹ New England Fishery Management Council, Minutes of Meeting on May 12-13, 1993.

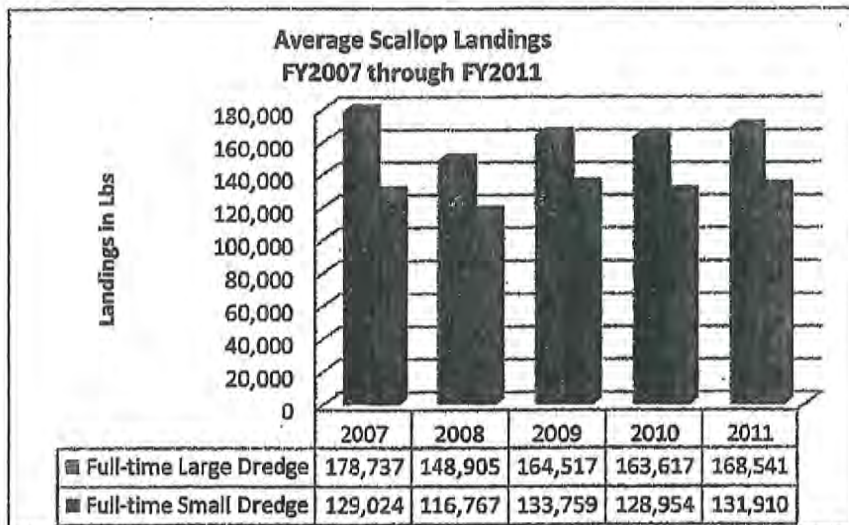
² *Id.*

³ *Id.*

⁴ National Marine Fisheries Service, *Final Amendment 4 and Supplemental Environmental Impact Statement to the Sea Scallop Fishery Management Plan*, pg. 6, 1993.

⁵ NEFMC Meeting Minutes, *supra* at 1.

time large dredge vessel that has a fifteen hundred to twenty five hundred pound [1500-2500lb] shucking capacity. This projected to approximately forty percent [40%] catch/production/landings of a full-time large dredge vessel. However and as confirmed in the chart below, drag size and crew limitations did not have the intended effect on the small dredge vessel's fishing catch/production/landings. Small dredge vessels are now landing greater than seventy percent [70%] of the average landings for a full-time large dredge vessel, a far greater percentage of landings than was originally intended in implementing Amendment 4. See Chart below.



National Marine Fisheries Service, Northeast Region, NOAA, Summary of total and average scallop landings by Full-time Large and Small Dredge vessels, FY2007-FY2011, October 9, 2012

II. The Small Dredge Exemption Program did not Account for the Access Area Program.

The Small Dredge Exemption Program has been codified in 50 C.F.R. § 648.51. As defined below, small dredge permit holders must comply with the regulation when fishing under the DAS program. When the Small Dredge Exemption Program was created in 1994, the scallop access area program, which limits access to closed areas by number of trips and catch totals, was not established.⁷

⁶ National Marine Fisheries Service, Northeast Region, NOAA, Summary of total and average scallop landings by Full-time Large and Small Dredge vessels, FY2007-FY2011, October 9, 2012:

	FY2007	FY2008	FY2009	FY2010	FY2011
Total scallop landings for full-time large dredge vessels from access area trips	27,172,168	21,593,665	19,700,699	10,249,145	18,485,441
Total scallop landings for full-time large dredge vessels from open area trips	18,220,828	15,523,843	21,428,413	24,883,119	23,818,405
Total scallop landings for full-time small dredge vessels from access area trips	5,453,768	4,798,829	4,363,279	3,211,844	3,574,855
Total scallop landings for full-time small dredge vessels from open area trips	1,513,521	1,452,705	2,654,932	3,483,788	3,284,433
Average scallop landings per full-time large dredge vessel from access area trips	107,826	86,591	78,809	84,481	73,847
Average scallop landings per full-time large dredge vessel from open area trips	70,911	62,344	65,714	99,138	94,894
Average scallop landings per full-time small dredge vessel from access area trips	100,898	88,830	82,708	61,768	68,748
Average scallop landings per full-time small dredge vessel from open area trips	28,028	27,937	51,058	67,188	63,182

Report run on October 2, 2012
Source: Data Matching and Imputation System, Northeast Regional Office

⁷ 50 C.F.R. § 648.60.

(e) Small dredge program restrictions. Any vessel owner whose vessel is assigned to either the part-time or

Georges Bank closed areas were opened to scallop fishing commencing in 1999 by Framework 11 (CAII) and later by Framework 13 (CAII, CAI, NLS).⁸ Frameworks 14 and 15 provided controlled access to Hudson Canyon and VA/NC areas.⁹ The following chart outlines the number of Access Area trips allotted to full-time vessels and part-time permit holders that opted to become full-time small dredge vessels. See Chart below.

Table 2. DAS and trip allocations per full-time vessel

Year	Allocations based on the Management Action	Total DAS Allocation (1)	Estimated Open area DAS allocations (2)	Access area trip allocations (3)	DAS charge per access area trip (4)	DAS allocation estimate for access areas (5)
1994	Amendment 4	204	None	None		None
1995	Amendment 4	182	None	None		None
1996	Amendment 4	182	None	None		None
1997	Amendment 4	184	None	None		None
1998	Amendment 4	142	None	None		None
1999	Framework 11	120	80 to 120	3	10	0 to 30
2000	Framework 13	120	80 to 120	3	10	0 to 60
2001	Framework 14	120	80 to 120	3	10	0 to 30
2002	Framework 14	120	80 to 120	3	10	0 to 30
2003	Framework 15	120	80 to 120	3	10	0 to 30
2004	Framework 15	120	42 (MAX, 82)	7	12	84
2005	Framework 16	100	40 (MAX, 117)	5	12	60
2006	Framework 16	112	62	3	12	60
2007	Framework 18	111	31	5	12	60
2008	Framework 19	85	35	5	12	60
2009	Framework 19	97	37	5	12	60
2010	Framework 21	80	38	4	12	48
2011	Framework 22	85	35	4	12	48
2012	Framework 22	82	34	4	12	48

Total DAS allocation per full-time vessel represents a rough estimate for years 2004-12 since DAS is allocated for open areas only. DAS allocation for access areas is estimated by assuming an equivalent 12 days-at-sea charge for each access area trip with a possession limit of 12,000 pounds.

As noted in the table below, there was a dramatic increase in the numbers of full-time and part-time small dredge vessels after the year 2000. This increase in small dredge permit holders corresponds with the introduction of the Access Area Program, where small dredge vessels received the same number of access trips, pounds, *and crew size*, as full-time large dredge vessels. By the year 2010, fifty-four [54] part-time scallop vessels upgraded to full-time small dredge vessels and thirty-five [35] occasional scallop vessels upgraded to part-time small dredge vessels.¹⁰ See Chart below.

Occasional category may request, in the application for the vessel's annual permit, to be placed in one category higher. Vessel owners making such request may be placed in the appropriate higher category for the entire year, if they agree to comply with the following restrictions, in addition to, and notwithstanding other restrictions of this part, *when fishing under the DAS program described in § 648.53*:

- (1) The vessel must fish exclusively with one dredge no more than 10.5 ft (3.2 m) in width.
- (2) The vessel may not use or have more than one dredge on board.
- (3) The vessel may have no more than five people, including the operator, on board, except as follows:
 - (i) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60;
 - (ii) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.
 - (iii) A certified at-sea observer is on board, as required by § 648.11(g).⁷

⁸ Proposed Framework 24 SAFE Report, Appendix I, distributed at the NEFMC Scallop PDT Meeting on August 20-21, 2012.

⁹ *Id.*

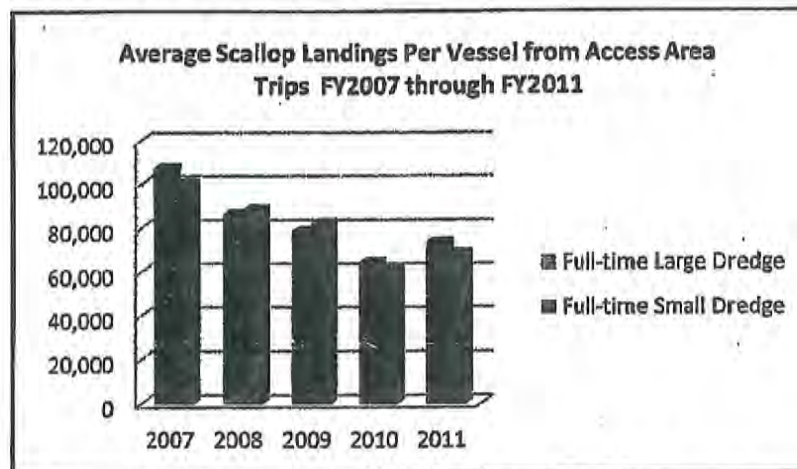
¹⁰ *Id.*

Table 11. Number of limited access vessels by permit category and gear

Permit category	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Full-time	220	224	234	238	242	248	255	268	254	269	262	283
Full-time small dredge	3	13	25	39	49	67	68	63	69	55	54	53
Full-time net boat	17	19	18	18	19	19	14	12	11	11	11	11
Total full-time	240	253	275	293	305	324	328	331	321	326	317	313
Part-time	16	14	14	10	4	3	3	2	2	2	2	2
Part-time small dredge	4	6	8	19	28	30	34	35	32	34	34	32
Part-time trawl	20	18	10	8	3	-	-	-	-	-	-	-
Total part-time	40	36	32	37	35	33	37	37	34	37	36	34
Occasional	4	5	4	3	3	1	2	1	1	-	-	-
Occasional trawl	19	19	15	8	5	5	-	-	-	-	-	-
Total occasional	20	24	19	11	8	6	2	1	1	0	0	0
Total Limited access	300	315	326	342	346	363	367	369	356	361	353	361

Note: The permit numbers above include duplicate entries because replacement vessels receive new permit numbers and when a vessel is sold, the new owner would get a new permit number.

After 2000, part-time and occasional permit holders began taking advantage of the Small Dredge Exemption Program because the reduction in gear size had little effect/impact during Access Area trips. Vessels fishing in closed areas are limited in total allowable catch, not days at sea. Small dredge vessels can fish in access areas *with a full crew* for as long as necessary in order to catch their allocated pounds. Therefore, the only disadvantages to having a smaller dredge during access area trips are the additional trip expenses, such as food and fuel. As indicated on the chart below, the average landings for full-time large dredge and full-time small dredge vessels remains almost the same, and in some cases the average landings per small dredge vessels exceeds those by large dredge vessels. See Chart below.



Summary of total and average scallop landings by Full-time Large and Small Dredge vessels, FY2007-FY2011

The intended plan for the Small Dredge Exemption Program was that by restricting the dredge and crew size, vessels would automatically catch less than the full-time large dredge vessels. Therefore the limit in dredge and crew size would counteract the increase in days at sea and there would not be a significant impact to the scallop fishery. However, the limitation of having a small dredge has very little impact on the total landings of small dredge vessels during

¹¹ National Marine Fisheries Service, Northeast Region, NOAA, Summary of total and average scallop landings by Full-time Large and Small Dredge vessels, FY2007-FY2011, October 9, 2012.

access area trips. The Access Area Program has created a substantial loophole for all part-time and occasional permit holders to increase their days at sea and total landings, despite the fact that the current small dredge fishermen are not the Maine fishermen that the Small Dredge Exemption Program was created to protect.

III. No environmental impact statement was completed for the Small Dredge Exemption Program implemented in Amendment 4

Among each Council's primary tasks is the development and maintenance of a fishery management plan (FMP) for each fishery under its control. The MSA imposes content requirements on these FMPs, which must ultimately be approved by the National Marine Fisheries Service (NMFS), acting on behalf of the U.S. Secretary of Commerce.¹² Under NEPA, an agency is required to evaluate and make public the environmental consequences of its proposed action.¹³ However, the Council failed to evaluate the potential impact that the Small Dredge Exemption Program will have on the scallop fishery.

In 2004, the Scallop Plan Development Team acknowledged the increasing number of small dredge permit holders in a "Scallop management advice" memorandum to the Scallop Oversight Committee:

Another issue related to the changing characteristics of the fishing fleet and capacity is the increasing number of small dredge permits, which have increased from 7 permits in 2000 to 63 permits in 2004 (with a corresponding decrease in part-time and occasional full-size dredge and trawl permits from 55 to 13). More analysis is needed to determine how this change in permits has affected DAS allocations to limited access vessels and fishing mortality, which may be a suitable focal point for the 2005 SAFE Report. More important to this potential re-evaluation would be a determination of the past and present objective of the small dredge permit, so that it can be determined whether the present system is achieving this objective. (underscoring our emphasis).¹⁴

As the total number of small dredge permit holders increased, it became clear that part time permit holders were opting to engage in the small dredge program solely for the greater number of days at sea. The increase in small dredge permits and landings was never reviewed, despite the Development Team's recommendations that the small dredge program be evaluated for its impact on the scallop fishery.

IV. Conclusion

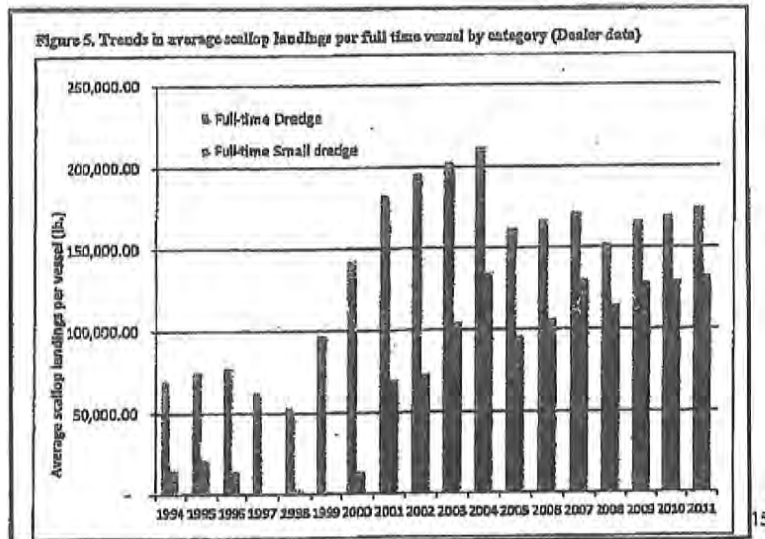
The objective of the Small Dredge Exemption Program was to protect and encourage a traditional fishery in the Gulf of Maine. However, only one [1] of fifty-three [53] full-time small dredge vessels remain in the Gulf of Maine. Furthermore, the objective that a smaller dredge and crew size will reduce the small dredge vessel's catch/production/landings is no longer valid.

¹² 16 U.S.C. §§ 1852, 1853(a)(15), and 1854.

¹³ *Oceana, Inc. v. Locke*, 831 F. Supp. 2d 95, 124 (D.D.C. 2011) citing 40 C.F.R. § 1502.14.

¹⁴ Scallop Plan Development Team Memorandum to Scallop Oversight Committee, dated September 1, 2004.

Full-time small dredge vessels catch approximately seventy percent [70%] or more of their full-time large dredge counterparts. The increase in small dredge vessel landings illustrated in the table below is a result of the implementation of the Access Area Program and subsequent increase in small dredge permit holders. See Chart below.



Proposed Framework 24 SAFE Report

In view of the foregoing and to comply with the intent and objectives of the Small Dredge Exemption Program, we recommend that the small dredge permit holders be exempted from participating in access area trips because the smaller dredge size does not effectively limit their total catch/production/landings. When the Small Dredge Exemption Program was created, the Council envisioned that the small dredge and limited crew will result in less than half of the landings of a large dredge and fully crewed vessel. Clearly the subsequently implemented Access Area Program, which allots small dredge vessels the same total landings as large dredge vessels and places no limit on crew size, violates the NEMF Council's intention and objective in creating the Small Dredge Exemption Program.

In the alternative, we recommend that the New England Fishery Management Council honor the Scallop Plan Development Team's recommendation and reevaluate the Scallop Dredge Exemption Program to determine whether the present system is achieving its original and intended objectives.

We trust the foregoing sufficiently responds to your request to our office. We look forward to the opportunity to discuss this matter with you further upon your return.

If we can provide you with any further evaluation or explanation, please do not hesitate to advise.

Very truly yours,

Thomas J. Muzyka

¹⁵ Proposed Framework 24 SAFE Report, *supra* at 8.

