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

FEB 20 2020

John F. Quinn, PhD
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

I want to bring to your attention our recent determination that the scallop fishery exceeded the incidental take statement (ITS) effort surrogate established in the 2012 Atlantic Sea Scallop Biological Opinion for the 2015-2016 and 2016-2017 periods. The Analysis and Program Support Division performs a data query annually as part of the incidental take monitoring scheme for the 2012 Biological Opinion. The most recent query, which included updates to previous years, found that from May through November 2016, the scallop fleet expended 451,741 hours of scallop dredge effort in Mid-Atlantic waters.[1] Based upon that effort total, the average dredge hours for 2015-2016 and 2016-2017 were 365,500 and 376,717 hours, respectively. The ITS trigger established in the 2012 Biological Opinion is a 2-year average of 359,797 dredge hours. The 2012 Biological Opinion states that, "*If the two-year benchmark average of 359,797 dredge hours is exceeded in the future, then we will reinitiate consultation because we assume the higher level of effort will result in a level of sea turtle take in excess of the levels exempted by the ITS.*"

After investigating this further, we have concluded the circumstances surrounding the dredge hour estimate in 2016 were particularly unusual. In 2016, all scallop access area allocations and effort occurred in the Mid-Atlantic Access Area. During this time, the western portion of the Elephant Trunk Area, which contained the highest density of larger scallops in the Mid-Atlantic Access Area, was not opened for access to increase growth potential. This required vessels to fish in less dense areas on smaller scallops, which resulted in an increase in tow times/dredge hours compared to other years. Furthermore, the fleet was allocated a higher level of days-at-sea (DAS) per vessel compared to fishing years 2015 and 2017. Many of these DAS were likely fished in the Mid-Atlantic open area due to the closure of the Closed Area 2 Extension, which had been a commonly fished open area prior to 2016. We also think that the prevalence and intensity of a nematode in scallop meats, which peaked in 2016 and resulted in unmarketable scallops, may have led to additional fishing to reach vessel allocations in the Mid-Atlantic Access Area.

Based on the current condition of the scallop resource (i.e., location, density, and abundance), we do not expect the scallop fishery to exceed the Mid-Atlantic dredge hour benchmark of 359,797 hours over any 2-year period in the foreseeable future. However, moving forward, Sustainable Fisheries Division staff will work with the Northeast Fisheries Science Center and the New

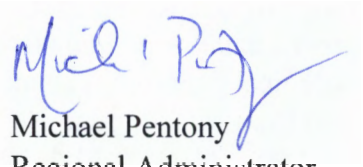
[1] Mid-Atlantic waters are inclusive of NMFS statistical areas between 525 and 700, excluding areas 538, 539, 551, 561, and 562 per the 2012 Scallop Biological Opinion monitoring scheme.

England Fishery Management Council's Plan Development Team to project dredge hours in the Mid-Atlantic using the Scallop Area Management Simulator (SAMS) model. Using the SAMS model in this context will allow the Council to consider projected dredge hours during the development of annual specification alternatives in order to avoid exceeding the dredge hour trigger in the future.

As previously noted, because the 2-year dredge hour benchmark was exceeded, we have reinitiated formal consultation under the Endangered Species Act on the operation of the scallop fishery. Staff and I will update you on the progress of this consultation at the April Council meeting.

Please contact me if you have any questions.

Sincerely,



Michael Pentony
Regional Administrator

cc: Thomas A. Nies, New England Fishery Management Council, Executive Director
Dr. Jon Hare, Northeast Fisheries Science Center, Director