



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 1315 East-West Highway
 Silver Spring, Maryland 20910
 THE DIRECTOR

Jessica

J

10/29/07

W. Peter Jensen, Chairman
 Mid-Atlantic Fishery Management Council
 Room 2115 Federal Building
 300 S. New St.
 Dover, DE 19904

Dear Chairman Jensen:

As you are aware, summer flounder has been under a rebuilding program since 2000. The rebuilding period was extended from 10 years to 13 years by the 2006 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. The most recent stock assessment update indicates that the stock is overfished and that overfishing has occurred in each year of the rebuilding period.

I am particularly concerned with our ability to control and prevent overfishing, given that the recreational fishery has exceeded the established recreational harvest limit in all but 3 years of the rebuilding period. While the magnitude of the overages has decreased as has the overall fishing mortality, the fishery continues to exceed the mortality objectives. The most recent Marine Recreational Fisheries Statistical Survey data for Wave 4 (July-August) indicate that all but 2 states have already exceeded their 2007 targets. Therefore, I encourage you to consider more precautionary approaches to manage the 2008 recreational summer flounder fisheries to ensure that the 2008 recreational harvest and fishing mortality targets will not be exceeded. This is of paramount importance, for if the 2008 mortality target is again exceeded, it is likely that very restrictive measures may be necessary for 2009 and possibly all of the remaining years of the rebuilding period to ensure that the stock is rebuilt on the schedule required by the Magnuson-Stevens Act.

Since 2001, the Mid-Atlantic Fishery Management Council (Council) and Atlantic States Marine Fisheries Commission's (Commission) Summer Flounder Management Board (Board) has recommended, and NOAA's National Marine Fisheries Service (NMFS) has implemented, state-by-state conservation equivalency to manage the summer flounder recreational fishery. While the concept of allowing states to craft management measures designed to achieve the necessary recreational harvest reduction to be equivalent to Federal measures is both appealing and has strong merits, it has not served the rebuilding efforts well, as evident by the fact that the annually established management targets have been exceeded in most years.

I urge you to consider new approaches for 2008 that will better ensure that the recreational targets will not be exceeded. Regional conservation equivalency approaches; coastwide measures; and building more precaution into the analysis to mitigate uncertainty and to account for increases in fish size, angler participation, and fish availability due to stock increases are all examples of tools available to craft measures that have a higher likelihood of success in 2008. Failing to adequately consider such

THE ASSISTANT ADMINISTRATOR
 FOR FISHERIES



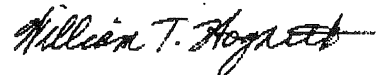
measures may require NMFS to implement measures that unequivocally ensure fishery mortality is constrained within the 2008 target.

The Council and Commission's Monitoring and Technical Committees will meet in November to recommend 2008 recreational management measures to the Council and Board, respectively. I am hopeful that the technical advice provided by these groups will clearly identify uncertainties inherent in their analyses, and provide options for your consideration that would provide for additional precaution to ensure that overfishing does not occur in the 2008 recreational fishery.

Let me stress that if the measures implemented by the states to manage the 2008 recreational fishery are not effective to constraining harvest within the recreational harvest limit, NMFS is prepared to close the summer flounder recreational fishery in the Exclusive Economic Zone (EEZ) if the recreational harvest, when added to the commercial quota, threatens to result in the overall quota being exceeded. In 2007, this would have led to a complete recreational fishery closure in Federal waters after the Wave 3 MRFSS data were made available in mid-August. In addition, such an action may necessitate foregoing any 2009 recreational fishery in Federal waters to ensure that the rebuilding objectives are not further compromised.

I understand the importance of summer flounder recreational fisheries to the Atlantic coastal states, fishery participants, and support-related industries such as bait and tackle shops, charter vessels, and sea side hotels. I also understand that many recreational fishery participants state that there are more and larger summer flounder in the ocean than ever before; that is welcome news and a sure sign that the rebuilding efforts are working. But, while there have been improvements in the stock, it is not yet rebuilt. In the remaining years of the rebuilding period, commercial and recreational measures must be sufficient to end overfishing to ensure that the stock rebuilds to the biomass target. With only 5 years remaining in the summer flounder rebuilding period, it is far more desirable to act with more precaution now, rather than face the need for very significant reductions and highly constraining measures in the final years of the rebuilding period.

Sincerely,



William T. Hogarth, Ph.D.
Assistant Administrator
for Fisheries

cc: Vince O'Shea, Executive Director, Atlantic States Marine Fisheries Commission
Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council