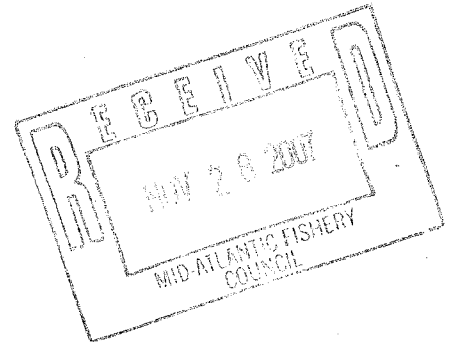




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

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

NOV 26 2007



Dear Pete:

As you are aware, the Mid-Atlantic Fishery Management Council (Council) will meet in early December to recommend management measures for the 2008 summer flounder recreational fishery. I am writing to encourage the Council take into account several issues discussed but not resolved by the Summer Flounder Monitoring Committee during its meeting on November 15, 2007. I do so in the hope that the Council will act with the precaution necessary to ensure that the measures it recommends will assure that the 2008 recreational harvest limit for summer flounder will not be exceeded.

Based on currently available Marine Recreational Fisheries Statistic Survey (MRFSS) data collected through Wave 4 (July-August), all but two states have exceeded their 2007 recreational harvest targets. Some states' overages are already quite high and are expected to increase when data from Wave 5 (September-October) are available. The 2007 state-by-state conservation equivalency management measures have not been effective in constraining harvest and, unfortunately, this is not an uncommon result. The recreational fishery has exceeded the established target in all but 3 years of the summer flounder rebuilding period that began in 2000. Changes in the management approach, or, at a minimum, in the methodology used to derive and estimate the effectiveness of proposed management measures, are clearly needed to ensure that the target is not once again exceeded, further jeopardizing summer flounder rebuilding. This is true whether the Council recommends coastwide measures or conservation equivalency, either regional or state-by-state, for 2008.

Prior to this year, the Monitoring Committee had typically assumed in its calculations that the next year's recreational fishery would behave similarly to the previous year. For example, angler effort, fish availability, average weight of individual fish, and compliance with regulations were all assumed to remain similar to the fishery in the previous year. However, there is ample evidence that these parameters have not held constant, resulting in violations to the assumptions of the Monitoring Committee. The violation of these assumptions is likely a contributing factor in the failure of management measures in recent years to perform as expected. In addition, the Monitoring Committee made no explicit adjustments to account for stock increases in an effort to anticipate increases in the abundance of fish above minimum sizes. The point estimates derived from MRFSS for harvest were utilized with no consideration for the percent standard error around the estimate. The Monitoring Committee discussed making changes to these



assumptions and the resulting data utilized to craft and assess recreational management measures. The changes considered were intended to resolve concerns with the approaches and assumptions utilized in developing management alternatives, in an effort to improve their effectiveness and prevent overages in 2008.

While the Monitoring Committee recognized that many of these assumptions have been routinely violated, and that new approaches are warranted, it failed to provide specific technical advice to the Council on how to address the majority of concerns with the assumptions for 2008. I fully support, and encourage the Council to utilize, a predicted 2008 average fish weight in calculating targets and measure effectiveness. The predicted average fish weight utilized in the Monitoring Committee report should be applied to any recommendation the Council makes, either for coastwide management or incorporated into guidance to the states for crafting conservation equivalency proposals.

The Monitoring Committee stopped short of providing technical advice for how to best address issues such as increasing trends in fish availability, increasing angler participation, and noncompliance rates. I am concerned that the majority of the Monitoring Committee's final recommendations are expected to do little to quantify these remaining parameters that, collectively, have substantial impact on the effectiveness of management measures. The Monitoring Committee made a number of general suggestions for the Atlantic State Marine Fisheries Commission's Summer Flounder Technical Committee to consider if regional or state-by-state conservation equivalency is recommended for 2008, but no specific methodology was provided or recommended. Furthermore, the Monitoring Committee did not even provide a specific recommendation for the Council to consider coastwide management measures or conservation equivalency, either regional or state-by-state based, in 2008. The Monitoring Committee will be forwarding several options for coastwide measures for the Council's consideration without any assurance or consensus that these measures, should they be adopted, would achieve the reductions necessary to constrain the recreational fishery to within the 2008 harvest limit. I believe this is another example of why the Council must make use of an independent Scientific and Statistical Committee (SSC) to review technical information to ensure that sound, impartial technical advice is supplied to the Council for its decision-making processes.

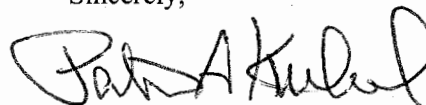
The Council must ensure that increasing recreational angler effort, anticipated stock size increases and resultant fish availability, angler noncompliance, and the percent standard error around point estimates are not only considered when developing management measures, but are adequately compensated for, in order to increase the likelihood that 2008 measures will effectively constrain harvest within the target. In the absence of technical advice from the Monitoring Committee on how to modify management measures so that these issues are addressed, I urge the Council to act with additional precaution when designing 2008 measures. If conservation equivalency is recommended for 2008, I encourage the Council to recommend that states or regions consider their success or failure to constrain harvests within their targets in previous years, applying adjustments to their 2008 targets, as necessary, when their targets have been exceeded. As I stated previously, the assumptions used to predict the effectiveness of proposed

management measures have been repeatedly violated and more precautionary measures are needed for 2008 to ensure that targets are not exceeded next year.

I support the use of coastwide management measures as a means to ensure that the 2008 recreational fishery does not exceed its target. I concur with those members of the Monitoring Committee that stated a 19-inch minimum fish size, 2-fish possession limit, and a year-round season would not be sufficient to constrain harvest within the target. I encourage the Council to consider additional technical and precautionary measures to further enhance the effectiveness of coastwide measures. These measures should be evaluated using the Monitoring Committee projected 2008 average weight, closures during peak fishing months, and should also incorporate additional precautionary adjustments to address the issues outlined above. It would be far better to err on the side of being more precautionary in 2008, rather than incurring another year of recreational overages that would seriously jeopardize rebuilding.

I cannot stress enough the need to ensure that the recreational fishery does not exceed its target in 2008. Recall that Dr. Hogarth, Assistant Administrator for Fisheries, NMFS, has previously indicated that, should the Council not recommend measures with a sufficient level of precaution, it may not be possible to open the EEZ to recreational summer flounder fishing in 2008, or that the EEZ may have to be closed if data indicate that the overall Total Allowable Landings (TAL) appears likely to be exceeded because of recreational fishery overages. Substantial 2008 overages, similar to those we are seeing for 2007, could have grave impacts on summer flounder stock rebuilding and could preclude opening Federal waters in 2009, in order to ensure rebuilding objectives are not further compromised. I look forward to our discussions in December.

Sincerely,



Patricia A. Kurkul  
Regional Administrator

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