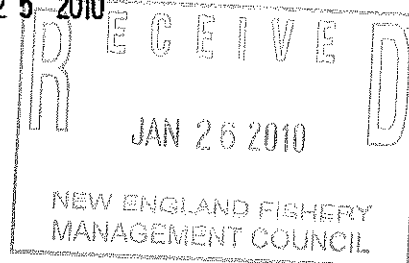




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JAN 25 2010



Paul Howard, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear Paul:

This letter is in regard to the January 15, 2010, memorandum from New England Fishery Management Council (Council) staff to the Chairman of the Scientific and Statistical Committee (SSC), Steve Cadrin, which contains an SSC meeting schedule for 2010 and recommended actions for the SSC. I have some concerns and suggestions regarding the scheduled item "Groundfish: ABCs."

The proposed SSC action to "review GB yellowtail flounder rebuilding strategy and set an ABC based on mid-July TRAC results" is inconsistent with the role of the Transboundary Management Guidance Committee (TMGC) in the process of developing ABCs as described in Amendment 16, as recently approved by the National Marine Fisheries Service. Amendment 16 (pp. 88-89) states that the Council's Plan Development Team (PDT) will develop recommendations for Acceptable Biological Catch (ABC) that will be provided for the consideration of the SSC and the Council (PDT to SSC). Amendment 16 also describes a process for the development of catch levels that pertains only to transboundary stocks, which is analogous to the process described for non-transboundary stocks (i.e., the TGMC to SSC) as follows:

"This process will be modified for those stocks or management units that are subject to the U.S./Canada Resource Sharing Understanding. Assessments of these stocks or management units that are prepared by the Transboundary Resource Assessment Committee (TRAC), a peer-review process as envisioned by the M-S Act. For these stocks, the Transboundary Management Guidance Committee (TMGC) develops recommended catch levels on an annual basis....As a result the recommendations will be reviewed by the SSC to verify that they are consistent with the SSC recommendations for ABCs."

In light of the ABC process as described in Amendment 16, as well as past discussions of the TMGC (September 2009, March 2009, January 2010), I would like to make the following suggestions regarding the timing of the proposed SSC meeting and the pertinent SSC action:

- (1) Coordinate the schedules of the SSC and the TMGC in order to schedule the August/September SSC meeting after the TMGC meeting (traditionally in early September). I realize there are constraints regarding the range of dates over



which the SSC and TMGC can meet; however, I am hopeful that the two committees can work together to develop a feasible schedule; and

- (2) Modify the recommended SSC action to state: "review the TMGC's recommendation for the GB yellowtail flounder ABC, based upon mid-July Transboundary Resource Assessment Committee (TRAC) results" (instead of "review GB yellowtail flounder rebuilding strategy and set an ABC based on mid-July TRAC results").

It is important that the TMGC retain its role as the body that develops the recommended catch level for Georges Bank (GB) yellowtail flounder. If the SSC sets the ABC for GB yellowtail flounder, the TMGC cannot meaningfully perform its function of developing a shared catch recommendation based on both U.S. and Canadian input. We recognize that, similar to the recommendations of the PDT to the SSC, the recommendations of the TMGC to the SSC are not binding.

As you are aware, the TMGC met on January 14, 2010, and made progress exploring potential ways of evolving the process of setting shared catch levels with Canada under the U.S./Canada Resource Sharing Understanding, in order to ensure compatibility with the U.S. process of setting ABCs under the Magnuson-Stevens Fishery Conservation and Management Act. Among the items discussed by the TMGC were the role of the SSC in relation to the TMGC, and consideration of scientific uncertainty by the TRAC. Additional discussions between the Council and NMFS will be necessary to fully explore the details of the future process. My staff and I are available to meet as necessary.

Without U.S./Canada agreed-upon harvest levels, the conservation and economic benefits of cooperative transboundary management may be lost, resulting in increased uncertainty in the fishery. Should each country independently set catch levels for their region, there is a greater probability that the combined U.S. and Canadian catch would exceed the appropriate science-based catch level for GB yellowtail flounder, and thus jeopardize rebuilding progress.

Sincerely,



Patricia A. Kurkul
Regional Administrator

cc: Paul Rago