

## **5 REASONS WHY THE MAFMC SHOULD NOT VOTE FOR THE PETITION TO RE-ALLOCATE SUMMER FLOUNDER**

**(1) The Petition Violates National Standard 5:** *“Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.”*

Clearly, the Petitioners’ stated objective to “amend the current *allocation*” claiming that “the current *allocation* ratio has disadvantaged and harmed the recreational summer flounder fishing sector....” is based solely on economic allocation which is a direct violation of the law.

The Petitioners cleverly attempt to divert attention from this statutory requirement by focusing the NS 5 argument on the perceived misuse of the summer flounder resource. Unfortunately for the Petitioner, this argument is steeped in economic reallocation and also represents a violation of the statute.

**(2) The Petition Fails Test of National Standard 1:** *“Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.”*

The Petitioners suggest the current summer flounder allocation fails to provide the greatest benefit to the Nation based solely on the number of existing commercial fishing permits. This argument is completely invalid for several reasons including: (A) 1400 commercial permit holders provide access to the resource for millions of consumers across the country, including recreational fishermen; (B) the number of commercial vessels was capped during 1992-1997 (Amendment 2), again in 1997 (Amendment 10), the permit moratorium remains in effect today; and (C) Amendment 12 (1999) brought the FMP into compliance with the requirements of the Sustainable Fisheries Act and *all* National Standards.

**(3) The Petition Fails Test of National Standard 4:** *“Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.”*

The Petitioners’ claim that the current allocation violates NS 4 is unfounded. First, the argument of fairness and equity actually cuts *against* the Petitioner. The Petitioners neglect to provide a detailed accounting of the recreational sector’s own excessive over harvest since the implementation of recreational harvest limits in 1993.

The Petitioners’ claim their members have been disadvantaged and harmed in the form of management measures such as “smaller possession limits, larger minimum size requirements, shorter seasons, delayed season openings and early season closures”. They blame this disadvantage on the current allocation of summer flounder. Not only is this incorrect but those management measures were adopted in large part due to the inability of the recreational sector to be constrained to their allocation, not because of the allocation.

The Petitioners’ claim that the current allocation is not reasonably calculated to promote conservation is dead wrong. We would argue that the condition of the summer flounder resource today is robust compared to the condition of the resource when the FMP was implemented in 1992. In fact, Moore (2000) estimated the recreational fishing trips directed at summer flounder *increased 43%* in 2000, relative to 1999. This fact reflects the increased participation in the recreational sector with improved summer stock condition and undermines the need for the petition.

**(4) The Petition Fails Test of National Standard 8:** *“Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.”*

The Petitioners claim the allocation violates NS 8 due to a lack of consideration of the impacts on fishing communities and resulting “significant adverse economic impacts.” Though the Petitioners includes an impressive list of businesses that are allegedly suffering economic impacts from restrictions on summer flounder fishing, they provide absolutely no direct economic impact analysis upon which to base this assumption and fail to mention that management measures have not discouraged people from fishing, nor do they preclude anyone from fishing for summer flounder.

**5) Total 6-Year Recreational Over Harvest = 26.44 million lbs.** No user group has ever been rewarded for their repeated and habitual non-compliance of a fishery regulation or quota. Yet the petitioners are claiming that they should be further rewarded for these years of excessive overharvesting at the expense of the commercial industry. Such an allocation adjustment would have no impact on the summer flounder resource other than allowing the continuation of the chronic recreational overharvesting of one of our most valuable fisheries.