



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

Michael Luisi, Chairman
Mid-Atlantic Fishery Management Council
800 North State Street
Suite 201
Dover, DE 19901

JUN 19 2017

Dear Mike:

This letter is to inform you that on June 16, 2017, NOAA's National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, partially approved the Mid-Atlantic Unmanaged Forage Omnibus Amendment (RIN 0648-BG42). We have disapproved the proposed inclusion of bullet and frigate mackerel as ecosystem component (EC) species. Despite the disapproval of these species, this action is a great step toward integrating ecosystem considerations into your fishery management plans (FMPs).

As you know, we published a notice of availability (NOA) soliciting public comments on the Forage Amendment on March 28, 2017 (77 FR 15311), and a proposed rule on April 24, 2017 (77 FR 18882). We accepted public comments on both documents through May 30, 2017. We received 11,518 comments during the NOA and the proposed rule public comment periods, including 11,484 form letter comments from PEW Charitable Trusts. We received comments both supporting and opposing our proposed disapproval of bullet and frigate mackerel, but the comments opposing our disapproval did not provide sufficient information to compel us to change course on this issue. We will publish a summary of the comments received and our responses to these comments in the final rule.

Our exclusion of bullet and frigate mackerel is consistent with the concerns we expressed during the development of this action and in the proposed rule. We determined that the classification of bullet and frigate mackerel as forage for species managed by the Council and EC species is not based on the best available scientific information and is, therefore, inconsistent with National Standard 2 of the Magnuson-Stevens Fishery Conservation and Management Act.

After considering public comments, we continue to assert that these species do not meet the criteria used by the Council to define forage species in this action. These species are larger (20-24 inches total length) than the forage species size range suggested by the Scientific and Statistical Committee (SSC) (2-10 inches total length). They are also larger than all other forage species considered in this amendment (ranging from 1-20 inches total length, with an average length of 7 inches). Further, they feed on most of these other forage species, confirming their higher trophic characterization. While we recognize that the Council did not rely exclusively on the forage criteria identified by the SSC, the criteria served as the foundation for evaluating species to include in this action. Bullet and frigate mackerel are important prey, particularly for large pelagic species such as tuna, billfish, and sharks, but the information and analysis does not support them as important forage species for Council-managed species (i.e., an important component of the diet). Even with the lower forage thresholds used by the Council (the presence of forage species in at least two stomach content samples over a 40-year period of NMFS



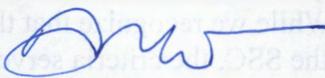
surveys), there is no evidence that bullet and frigate mackerel were forage for managed species.

The Council also considered the presence of such species as bycatch in managed fisheries and the potential for commercial exploitation when deciding whether to include species in this amendment. While there is evidence that a small amount of bullet mackerel was caught with bottom trawl gear that resulted in the landing of species managed by the Council, the information and analysis indicate co-occurrence that is not necessarily indicative of systematic bycatch in those fisheries. Many unmanaged species co-occur with managed species, but that does not make them forage for the managed species or susceptible to routine bycatch in targeted fisheries for managed species. With no dealer reported landings of bullet mackerel, and an average of 7,500 lb of frigate mackerel reportedly landed each year, there is limited information to support that these species will be subject to commercial exploitation at this time.

Finally, the best available information does not support the Council's determination that bullet and frigate mackerel should be classified as EC species based upon criteria outlined in the National Standard Guidelines at 50 CFR 600.305. The amendment includes evidence that these species are caught and sold by commercial vessels and retained for personal use as bait by recreational fisheries in Federal waters, creating competing interests and conflicts among user groups, both of which are criteria that could exclude consideration of bullet and frigate mackerel as EC species. The Council could consider alternative mechanisms to protect and manage these and other similar species such as little tunny/false albacore and bonito for the benefits they provide to the marine ecosystem and important commercial and recreational fisheries within the Mid-Atlantic. This is consistent with the May 19, 2017, discussion by the Ecosystem and Ocean Planning Committee (EOPC). If the Council believes that these species need conservation and management, a small tuna FMP or a broader ecosystem based management action may be a more effective vehicle to manage these species than an amendment predicated on protecting forage for managed species. This would allow the Council to develop a management approach and measures that would reflect the unique role these species play in the marine ecosystem. This would also allow the Council to better integrate the concerns of and impacts to the predominantly recreational fishery for these species. Such an approach is supported by not only the EOPC, but also members of the public commenting on this action.

We appreciate the Council's efforts on this action and its ongoing work to advance an ecosystem approach to fisheries management. We look forward to working with you on your efforts to integrate an ecosystem approach into management actions and other fishery management issues.

Sincerely,



 John K. Bullard
Regional Administrator

Cc: Dr. Christopher Moore, Executive Director, Mid-Atlantic Council
Thomas Nies, Executive Director, New England Fishery Management Council