



January 21, 2014

Attn: Kirby Rootes-Murdy
Fishery Management Plan Coordinator
1050 N. Highland St., Suite 200 A-N
Arlington, VA 22201

RE: Summer Flounder/Black Sea Bass Draft Addendum XXV

The New York Sportfishing Federation, on behalf of our members, the saltwater anglers of New York, as well as those members of the for-hire and tackle industry which rely on a healthy and robust fluke fishery, supports **Option 3 – the Adaptive Regional Management** approach to summer flounder.

Of the three options contained within Draft Addendum XXV to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan for Public Comment, specifically with regard to summer flounder (fluke), New York anglers get the most socioeconomic relief under this regional approach to fluke regulations, particularly **Option 3a-Region 1** which gives Rhode Island, Connecticut, New York and New Jersey a 135-day season and similar 18-inch size limit and four fish bag limit, and **Option 3a-Region 2** which would include Connecticut, New York and New Jersey in a 128-day season and similar 18-inch size and four-fish bag limit.

New York anglers of course have been hampered by the largest size & smallest bag combination along the entire Atlantic Coast:

2010 21 inches, two fish
2011 20-1/2 inches, three fish
2012 19-1/2 inches, four fish
2013 19 inches, four fish

By this ‘pattern’ one might think that 2014 could bring us the opportunity to get down to the more reasonable limit enjoyed by our neighboring states, where Rhode Island had an 18-inch size limit in 2013 (245 days), Connecticut (168 days) and New Jersey (130 days) both with 17-1/2 inches, versus our 152-day season in 2013. Regrettably, at the given rate and considering the current management regime, it would take another 6 years at least before New York could see an 18-inch size limit coupled with reasonable days of fishing opportunity during any given season..

In addition to the obvious disparity amongst bordering states in the northern Mid-Atlantic region, the higher size limit forced on New York’s angling community in recent years to accommodate a reasonable season for Long Island Sound, East End, South Shore and Staten Island anglers has also increased bycatch mortality on released fish, something ‘NMFS’ focused significant attention to in recent months through various workshops and outreach sessions.

To reduce bycatch mortality in the fluke fishery here in New York, it’s imperative that a more sensible size limit of 18 inches or less be implemented; the only way for New York state to get down to an 18-inch size limit under status-quo management we would be by forcing our state anglers to accept an abysmal 70- to 90-day season at best, clearly an inequitable situation given other Atlantic states.

Of concern to New York Sportfishing Federation members is with regard to the ‘accountability measures’ associated with any overage of recreational harvest levels in 2013. We would point out on page 10 of the public scoping document, where ASMFC says that “*Under this adaptive regional approach, the Technical Committee would develop proposed measures for each region, that when combined with other regions, would constrain the coastwide harvest to the RHL (recreational harvest limit).*”

Under either *Option 3a-Region 1* or *Option 3b, Region 2* alternative where coastwide recreational harvest limit of fluke is divided into regions, it is based on the Technical Committee's recommendation that these regional measures "would constrain the coastwide harvest to the RHL."

Therefore, New York Sportfishing Federation believes it is critical that the Department of Commerce suspend any overharvest restrictions and accompanying 'accountability measures' for 2014, given scientists and technical experts have thusly determined that this particular regional measure would effectively constrain the harvest to the proper recreational harvest levels.

It is the ASMFC Technical Committee and NOAA Fisheries which approve recreational limits to constrain harvest, meaning that any use of highly suspect, random recreational harvest data for 2014 to inflict further punitive measures against the recreational sector in 2015 and beyond would amount to double-jeopardy.

If fisheries experts feel that recreational harvest levels can be properly constrained with a four-fish bag, 18-inch size limit and a 128 to 135 day season for this region, then New York Sportfishing Federation believes that the ASMFC and members of the Mid Atlantic Fishery Management Council, with support from Congress and the U.S. Commerce Department must work together to suspend recreational accountability measures which may result if "fatally flawed" harvest data in 2014 indicates any recreational overage.

New York anglers have been slighted by the ever-tightening noose of season, size and bag limit restrictions over the past decade, and we're often reminded about use of a 1998-baseline for setting state-by-state fluke allocation. Many feel that the 17.6% of quota, second only to New Jersey's 39.1%, is unjust – more egregious perhaps is the fact that New York anglers harvested 1.2 million fluke in 1998 with that 17.6% quota, at a time when the summer flounder population was still rebuilding.

In 2014, with a healthy, fully-rebuilt fluke stock, New York's target for number of fish according to page 9 of the scoping document shows that if ASMFC takes no action on this addendum, only 426,223 fluke will be allotted to our New York marine district anglers; a fully rebuilt stock, New York anglers would receive a third of the fishing opportunities we had when the stock was still below the rebuilt threshold.

In recent congressional hearings, we've heard a bipartisan call for 'flexibility' in federal fisheries, with statements from key leaders that the Magnuson Stevens Act simply does not work for the recreational community. The fact that recreational data collection shows that the only Atlantic Coastal States that went over their allotted recreational harvest levels in 2013 were Connecticut, New York and New Jersey tells us two things:

ONE, NOAA's mission to migrate from MRFSS to MRIP has simply not been met, not when you consider that a Post-Sandy fishing world in our region shows markedly less effort and participation – even the Commerce Department's own post-Sandy analysis proves a significant loss of infrastructure, so surely those recreational numbers are suspect.

TWO, if page 9 of the ASMFC document is any indication of fish migration, it's clearly evident that the major body of fish is to the northern Mid-Atlantic region where New York, New Jersey and Connecticut are fishing fewer days than our southern counterparts, yet finding more of the fish that we're currently allowed.

*Our industry simply can't wait any longer; New York Sportfishing Federation supports **Option 3 – the Adaptive Regional Management** approach to fluke.*

*As a fall-back measure, if Option 3 fails to progress, New York Sportfishing Federation would also support **Option 2 - Utilization of Additional RHL** to allow states to request access to additional RHL.*


We would also ask Commissioners, Councilors, legislators and fisheries managers for a unified push to suspend punitive ‘accountability measures’ and make a concerted effort to fix the recreational data collection so that the best available science is available to establish the most fair and sensible distribution of commercial and recreational fluke quota along the Atlantic Coast. The Commerce Department’s abject failure to meet their congressional mandate to incorporate National Research Council recommendations into a “fatally flawed” Marine Recreational Fishing Statistical Survey (MRFSS) has become most apparent during this recent series of meetings.

In a question and answer period on January 14th at New York Department of Environmental Conservation headquarters in East Setauket, NY, ASMFC noted that it may not be possible at this time to even consider opening the traditional January/February black sea bass fishery along the Atlantic Coast given that NMFS does not coordinate any angler surveys during that timeframe.

As for vessel trip report (VTR) data required by federally permitted vessels which might target black sea bass offshore, it was corroborated by ASMFC on January 14th that NMFS is not analyzing this VTR data from charter fishing vessels, a clear contradiction of section 109-479 of the Magnuson Stevens Act as it pertains to recreational fisheries’ data collection methodology.

In terms of the black sea bass options under Draft Addendum XXV to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan for Public Comment, New York Sportfishing Federation supports **Option 2: Ad Hoc Regional Measures**, while recognizing of course that the Commerce Department’s continued use of “fatally flawed” recreational harvest methodologies are in clear violation of the spirit and intent of the Magnuson Stevens Act.

Sincerely,



Jim Hutchinson, Jr.

President, New York Sportfishing Federation, on behalf of members and Board of Directors:

Vice-President Chuck Hollins; Secretary Jeffrey Leavitt; Treasurer Tom Wallace;

Mike Barnett, Bob Danielson, Kathy Heinlein, Alberto Knie, John Malizia, John Meringolo, Joe Paradiso, Reed Riemer

ⁱ *The New York Sportfishing Federation is a non-profit organization founded in 1981 to protect and promote the interests of the marine recreational angler and to develop and promote programs designed to both protect and conserve the marine environment and fisheries in the area of the eastern seaboard of the United States of America, including but not limited to the southern part of New York State and its environs.*