

SUMMER FLOUNDER COMMERCIAL ISSUES AMENDMENT

PUBLIC HEARING SUMMARIES AND WRITTEN COMMENTS NOVEMBER 2018



Prepared by the
Mid-Atlantic Fishery Management Council (MAFMC or Council) and the
Atlantic States Marine Fisheries Commission (ASMFC or Commission)



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1 INTRODUCTION AND COMMENT SUMMARY

1.1 OVERVIEW

This document represents a summary of all public comments received on the Draft Summer Flounder Commercial Issues and Goals and Objectives Amendment to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) received by the comment deadline of 11:59 PM (EST) on October 12, 2018. Through this action, the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission are considering several modifications to commercial summer flounder management, as well as updates to the FMP goals and objectives for summer flounder. Additional information and amendment documents are available at: www.mafmc.org/actions/summer-flounder-amendment. The public hearing document is available at: <http://www.mafmc.org/s/SF-Am-PHD-Final-August-2018.pdf>.

Ten public hearings were held from Massachusetts through North Carolina between September 10 and September 27, 2018 (Table 1). Hearings were attended by approximately 90 people in total (not including Council, Commission, and federal/state agency staff). Not all attendees provided comments. The highest hearing attendance was in New Jersey, while no public comments were given in Delaware or via webinar.

Written comments were accepted from August 10, 2018 through October 12, 2018. A total of approximately 267 written comments were received from 255 commenters including individuals (237), businesses/business representatives (9), and organizations/organization representatives (9). This comment total includes one form letter with 176 submissions in various forms (unmodified letters, modified letters, and signatures). Written comments were received from all states Massachusetts through North Carolina except for Delaware and Maryland. The greatest representation of written comments was from New York (Table 2).

Table 1: Summer flounder commercial issues amendment public hearing schedule.^a

Date and Time	Location
Monday, September 10 7:00 PM	Connecticut Department of Energy and Environmental Protection Marine Headquarters Boating Education Center (Rear Building) 333 Ferry Road Old Lyme, Connecticut 06371
Wednesday, September 19 5:30 PM	Bourne Community Center, Room #2 239 Main Street Buzzards Bay, Massachusetts 02532
Wednesday, September 19 6:00 PM	University of Rhode Island Bay Campus, Corless Auditorium South Ferry Road Narragansett, Rhode Island 02882
Monday, September 24 6:00 PM	Ocean County Administrative Building 101 Hooper Avenue Toms River, New Jersey 08753
Monday, September 24 6:00 PM	North Carolina Division of Marine Fisheries, Washington Regional Office 943 Washington Square Mall, US Highway 17 Washington, North Carolina 27889
Tuesday, September 25 6:00 PM	Ocean Pines Library 11107 Cathell Road, Berlin, Maryland 21811
Wednesday, September 26 6:00 PM	Dover Public Library, Meeting Room B 35 Loockerman Plaza Dover, Delaware 19901 <i>(No public comments were given at this hearing)</i>
Wednesday, September 26 7:00 PM	Virginia Marine Resources Commission 2600 Washington Avenue, 4 th Floor Newport News, Virginia 23607
Thursday, September 27 6:30 PM	New York State Dept. of Environmental Conservation School of Marine and Atmospheric Sciences (SOMAS), Room 120 Endeavor, Stony Brook University Stony Brook, New York 11794
Thursday, September 27 6:30 PM	Internet Webinar <i>(No public comments were given at this hearing)</i>

^a This hearing schedule reflects revisions made on September 10, 2018 due to inclement weather associated with Hurricane Florence.

Table 2: Number of written and public hearing commenters from each state.

State	Number of written commenters	Approximate number of hearing attendees who provided comments ^a
MA	6	9
RI	3	12
CT	17	13
NY	202	6
NJ	12	20
PA	1	N/A
DE	0	0
MD	0	5
VA	4	3
NC	5	10
Unknown/Not specified	4	N/A
Total	255	78

^a Or otherwise showed support/opposition for options, i.e., by show of hands.

1.2 COMMENT SUMMARY

FMP Goals and Objectives

Written and hearing comments on the proposed revisions to FMP goals and objectives included the following ideas or perspectives:

- Support for the revised goals and objectives as stated in the document.
- Questioning why revisions are being considered.
- A comment explaining how the existing FMP objectives have not been met.
- Concern that monitoring and data collection objectives will increase costs for fishermen.
- Concern that habitat protection is not explicitly included.
- Improved yield and compatible management between state/federal jurisdictions are a priority. Underutilization sometimes occurs in the fishery due to not achieving the catch limit, and high discards create waste.
- Maximization or optimization of economic benefits for the commercial fleet is a top priority.
- Goal #3 and Objective 3.1 are problematic because they are an attempt to change commercial and recreational allocations using data on economic contribution and don't account for efficiency. Efficiency should be considered in terms of greatest overall benefit to the nation.
- Goal #3 should be changed to remove language about optimizing economic benefits, due to concern that including this as a goal could limit fishermen's ability to optimize benefits on their own terms.
- Goal #3 reference to "balancing changing conditions with historic use" could be problematic if misleading data is used.
- The Council and Board should identify preferred alternatives for commercial issues prior to modifying goals and objectives.
- A goal of reducing mortality on spawning stock biomass by reducing recreational size limits should be added.
- Support for maintaining reference to "minimizing regulations to achieve management objectives," which is not directly addressed in the revised version.

Federal Permit Requalification Alternatives

Written Comments

A majority (37) of the written comments were in support of Alternative 1A: No action/*Status Quo*. Reasons cited in support of *status quo* included: satisfaction with the current number of federal permits and participants in the fishery; concerns over penalizing vessels that had left the summer flounder fishery due to profitability; concerns over the principle of taking away a permit someone had fairly qualified for; and the belief that the reduction in active permit use can be attributed to low quotas.

The next highest number of written comments (5) were in favor of Alternative 1B-1: (requalification with $\geq 1,000$ lb. cumulative landings from 8/1/09-7/31/14; 5 yrs.). Reasons cited in favor of this alternative were the need to reduce the current number of participants in the fishery and concerns that once quotas return to higher levels that more participants will enter back into the fishery.

Alternative approaches to federal permit requalification supported in written comments included requalification based on landings of all species, not just summer flounder (1 comment), eliminating federal permits that do not have any associated state permits (1 comment), and opening permit availability to new entrants temporarily (1 comment).

Hearing Comments

At public hearings, most commenters (50) were also in support of Alternative 1A: No action/*Status Quo*. Reasons cited in support of *status quo* mirrored those offered in the written comments: support for the current number of federal permits; concern about advantaging some fishermen and vessels of certain means over others; concern over taking away permits from individuals who had qualified previously and are now being penalized for lack of participation.

A small number of attendees (4) across the 8 public hearings with comments given indicated their support for alternatives under 1B (Table 3), including Alternatives 1B-1 (516 permits eliminated: $\geq 1,000$ pounds cumulative landings from 8/1/2009 to 7/31/2014), 1B-3 (389 permits eliminated: $\geq 1,000$ pounds cumulative landings from 8/1/2004 to 7/31/2014), and 1B-5 (295 permits eliminated: $\geq 1,000$ pounds cumulative landings from 8/1/1999 to 7/31/2014).

Table 3: Written and hearing comment main themes on federal permit requalification alternatives (alternative set 1).

Comment	Written Comments Count	Hearing Comments Count
Support 1A (No action/ <i>status quo</i>)	37	50
General support for reducing permit capacity (no alternative specified)	2	1
Support 1B-1 ($\geq 1,000$ lb from 8/1/09-7/31/14; 5 yrs)	5	2
Support 1B-2 (≥ 1 lb from 8/1/09-7/31/14; 5 yrs)	0	0
Support 1B-3 ($\geq 1,000$ lb from 8/1/04-7/31/14; 10 yrs)	1 ^a	1
Support 1B-4 (≥ 1 lb from 8/1/04-7/31/14; 10 yrs)	0	(+1 as a second choice to 1A)
Support 1B-5 ($\geq 1,000$ lb from 8/1/99-7/31/14; 15 yrs)	2 ^b (+1 as a second choice to 1A)	1
Support 1B-6 (≥ 1 lb in any 4 years 8/1/94-7/31/14; 20 yrs)	0	0
Support 1B-7 ($\geq 1,000$ lb from 8/1/94-7/31/14; 20 yrs)	0	0

^a Supported 1B-3 but would prefer modified version with $\geq 1,000$ lb in any *one year* instead of 1,000 pounds cumulatively over 10 years.

^b One commenter supporting 1B-5 noted that they would prefer a modified landings qualifier of at least 1,000 lb cumulatively in any *one year* (instead of over 15-year period), OR least 5,000 lb landed over full 15-year time period.

Commercial Allocation Alternatives

Written Comments

On commercial allocation, a majority of the written comments were received from New York stakeholders, who generally were in support of alternatives not currently included in the amendment (Table 4). Specifically, many of these comments supported a general increase in allocation for New York, and also requested the consideration of two additional options: 1) negotiated quota shares, and 2) implementation of a coastwide quota (with some stating that this coastwide quota would be temporary and used as a baseline for future state allocations). Reasons cited in support of these additional alternatives included concerns over the fairness of New York’s current allocation; frustration with the original landings data used to develop the initial allocations and its continued use over several decades; and a need to have a ‘reset’ in the allocation system by making all participants fish under one coastwide quota. Many of these comments requesting the two additional alternatives came from form letters or variations on a form letter.

For written comments specific to alternatives outlined in the amendment, the highest number of comments (20; most from Connecticut) were in support of Alternative 2B-2, to adjust state quotas based on shifts in the regional proportions of the exploitable biomass (Table 4). Reasons cited included a need to use scientific information about the distribution of the resource as the basis for allocations, and a need to move away from the current allocations that are based on landings data that some consider ‘flawed’ and inaccurate.

The next highest number of comments were in support of Alternative 2A: No action/*status quo*. Reasons cited included satisfaction with the current allocations and concern about impacting the current shore-side infrastructure that has developed around the state-by-state allocations.

There was little support for Alternatives 2C and 2D in the written comments (Table 4).

Some additional allocation approaches offered in written comments included supporting a federal quota/allocation for all vessels fishing in federal waters, support for the use of ocean ranching of summer flounder to improve production and thereby remove some pressure for reallocation, and managing the fishery by setting a total dollar value for the fishing year.

Hearing Comments

At public hearings, most comments (approximately 43) were in favor of Alternative 2A, maintaining the *status quo* state-by-state allocations. Reasons cited mirrored those offered in written comments including that the current allocations are working well; that a ‘de facto’ reallocation is already occurring through North Carolina and Virginia permits being purchased by northern vessels; that reallocation would have significant economic impacts to states whose allocation decreases; and that the current allocations were ‘earned’ and therefore should be maintained.

The next highest number of comments were in favor Alternative 2B-2 (adjust state quotas based on shift in regional proportions of exploitable biomass). Reasons cited primarily focused on the alternative providing the best quota of the alternatives for their state and best responding to scientific information that indicates the resource is moving north.

In addition to comments in support of alternatives, there were many comments offered in opposition to a number of the alternatives. Of alternatives offered in the Amendment, the next highest number (10) of comments were in opposition to Alternative 2D and its sub-alternatives. Reasons cited focused on concern that a derby fishery could emerge in the winter periods; that the specifics of a federal trip limit for the winter periods was not known yet, and the alternative may favor larger vessels over smaller vessels given the coastwide quota in winter months and state quotas in summer months (Table 4). Other comments in opposition to the alternatives (with no sub-alternative specified) focused on 2B and 2C (Revised state allocations only when the coastwide quota exceeds a trigger).

Lastly, there were comments offered in support of concepts that did not have specific alternatives in the Amendment. Most notably, comments offered in support of a general increase for quotas of New England states (13).

Table 4: Written and hearing comment main themes on commercial allocation alternatives (alternative set 2). Comments "opposing" certain alternatives were counted only for those specifically noting opposition.

Category	Comment	Written comment count	Hearing comment count
2A	Support 2A (No action/ <i>status quo</i>)	15	43
2B	Support 2B-1 (Adjust state quotas based on N. region percent change in exploitable biomass)	0	0
	Support 2B-2 (Adjust state quotas based on shift in regional proportions of exploitable biomass)	20	~21
	General support for 2B (no sub-option specified)	0	5
	Oppose 2B	2	3
2C	Support 2C-1 (Revised state allocations only when coastwide quota exceeds 8.40 million lb)	0	0
	Support 2C-2 (Revised state allocations only when coastwide quota exceeds 10.71 million lb)	0 (+1 as a second choice to 2A)	(+1 as second choice to 2A)
	General support for 2C (no sub-option specified)	0	(+2 supporting 2C as second choice to 2A; no sub-alternative specified)
	Oppose 2C	1	3
2D	Support 2D-1 or 2D-2 as written	0	0
	Conditional support for 2D; or general support for concept of coastwide allocation in winter without reference to specific alternative configuration	4 ^a	2
	Oppose 2D	4	~10
Other	General support for increased allocation for New York and/or comments that existing New York allocation is unfair, inadequate, or based on flawed data	201	6
	General support for increased allocation for broader New England region (not specific to NY), due to changing distribution of the resource	4	13
	Request analysis of two additional options: 1) negotiated quota shares; 2) coastwide quota. (Form letter and comments with similar content)	181	0
	Support equal distribution of allocation to all states	4	0

^a One comment in support of alternative 2D was as an alternative to coastwide measures/allocation, which is not currently an option in the amendment; another comment was in support of Alternative 2D-1 if certain participation and enforcement conditions were specified. The remaining two comments described general support for a coastwide quota in the winter.

Landings Flexibility Framework Provisions

Written Comments

Half of written comments addressing this issue (22) supported Alternative 3A (No action/*status quo*), which would not add landings flexibility as a frameworkable issue in the Council's FMP (Table 5). The majority of these comments stated that they did not support the concept of landings flexibility in general, for reasons such as vessels should land in the states for which they have permits, concerns about enforcement and quota monitoring, and concerns about negative economic impacts driven by changes in landings patterns. A few comments also stated that they did not believe a framework action was the appropriate mechanism to implement landings flexibility, and that any changes of this nature should occur through a thoroughly considered amendment. Some comments indicated that landings flexibility should be addressed only through state level agreements.

The other half of written comments addressing landings flexibility (22) were either in favor of the concept of landings flexibility and/or specifically noted support for adding flexibility as a frameworkable issue in the Council's FMP (Table 5). These comments stated support for more flexibility in regulations for commercial vessels, preference for the opportunity to land in their preferred port, and the economic, environmental, and safety at sea benefits of increasing efficiency and decreasing long steam times associated with some trips.

Hearing Comments

At public hearings, most comments (35) were in favor of Alternative 3A (No action/*status quo*), while 18 supported Alternative 3B (adding landings flexibility to list of framework provisions; Table 5). Reasons given in support of Alternatives 3A and 3B were similar to those described above for the written comments.

Table 5: Written comment main themes on landings flexibility framework provision alternatives (alternative set 3).

Comment	Written Comments Count	Hearing Comment Count
Support 3A (No action/ <i>status quo</i>): Do not support concept of landings flexibility, or do not support adding as a frameworkable item in Council FMP, or believe this is an issue best left to the states	22	35
Support 3B : Support adding landings flexibility as frameworkable issue in Council FMP)	18	18
Support the concept of landings flexibility (implementation mechanism not specified)	4 ^a	0

^a One comment in support of landings flexibility was as an alternative to coastwide measures/allocation, which is not currently an option in the amendment.

2 PUBLIC HEARING SUMMARIES

A summary of each public hearing is provided below. No comments were provided at the Dover, DE or webinar hearings. Comments are summarized and paraphrased from hearing participants.

2.1 BOURNE, MA

Wednesday, September 19, 2018, 5:30 p.m.

Name	Company/Organization	City, State
Bill Derry	NOAA	New Bedford MA
Dan McKiernan	MA DMF	Boston
David Masonry	Comm. Fish	Charney MA
Jim Perloff	F/V Odessa	Murshfield MA
Nathan Davis	F/V Sarah Belle	Orleans MA
KATHLEEN DAVIS	F/V Sarah Belle	Orleans MA
Ed Barnett	F/V SIRIUS	Green Harbor
Marc Bacall	F/V SIRIUS	Green Harbor
JASON AMARU	F/V JOHNNIE A III	Chatham, MA
Robert Dwyer	F/V Roly	Herwick MA
Ken Borteson	F/V Angenette	Plymouth MA 05305
GENE BORTESON	F/V LUC HARVEST	FALMOUTH MA
Greg Ardin	NOAA	Falmouth, MA
Event Hoffmeier	ACC	FALMOUTH MA

FMP Goals and Objectives

- One participant questioned why some of these revisions are being considered if they are things managers are already doing. On monitoring and data collection, there is also the concern that these objectives will ultimately increase costs for fishermen.

Issue 1: Federal Moratorium Permit Requalification Criteria

- Seven participants spoke in favor of alternative 1A (*status quo*), with reasons given summarized below.
- As we've seen in the groundfish fishery, concerns over latent effort often result in fewer fishing opportunities. Latent permits are not catching fish, and should not be removed since they were qualified for at one point. Fewer permits means that fewer people are able to access this public resource.
- There is not much "new blood" coming into the fishery. Access should remain possible for those that are interested. Once the permits are gone, they are gone forever.
- Reducing permits just puts people with a lot of money at an advantage, as they can buy, sell, and lease access to the fishery. Permit requalification would force more consolidation.
- Taking away permits will not solve any stock decline issues.
- Some of the allocation options seem to favor the winter fishery, which would put those losing federal permits at a severe disadvantage.

Issue 2: Commercial Allocation

- **While there was some support for alternative 2B (particularly 2B-2), many were wary of any resulting major changes to Massachusetts's management system and access for different vessel types. Some expressed opposition to alternatives 2C and 2D.**
- Participants reported a general sense that there were too many details missing regarding how the options would be implemented (and particularly regarding the impact on Massachusetts and the corresponding state level management response).
- A few participants spoke against alternative 2C (commercial quota trigger system), stating that it is too complicated and would be susceptible to manipulation. One also noted that it relies on assessment outcomes, which he does not have confidence in.
- There was general opposition to alternative 2D (scup model). One noted that too many details are left out about how it would work in practice, including seasonal state and coastwide management measures.
- Participants were also concerned about competing with other states' fleets in the winter fishery under alternative 2D. This option is also more advantageous to the winter fishery participants.
- The options under consideration do not seem to sufficiently address the issue of southern boats fishing in Massachusetts waters. A small shift in quota to the northern states is not enough to address this concern.
- There was some concern expressed that some options may negatively impact the state waters fishery in favor of the federal waters fishery, and/or would negatively impact the summer fishery in Massachusetts. Another participant stated concern over alternatives that would be more advantageous to larger, more mobile vessels (e.g., alternative 2D).
- After some discussion, participants were generally supportive of alternatives 2B-1 and 2B-2, with 2B-2 favored, if these options would simply increase the state allocation and not result in major changes in access for different components of the Massachusetts commercial fishery.

Issue 3: Landings Flexibility Provisions

- **Participants were in favor of alternative 3A (not adding landings flexibility as frameworkable item in the Council's FMP).**
- Several participants were strongly opposed to addressing landings flexibility through framework actions, stating that it creates a loophole in the process whereby major management changes can be implemented too quickly with fishermen not able to adequately track the process. Some have seen last minute changes for framework actions that seem to occur more frequently than with amendments.
- This is a complicated issue and the implementation process should not be streamlined; these issues should be fully analyzed through an amendment process with full public participation.
- There are concerns about how landings flexibility could lead to very complicated enforcement issues, and create opportunities for illegal and underreported landings.
- One participant stated that there are issues with gear conflicts with southern boats fishing in New England, where there is much more fixed gear in the water. If vessels could land anywhere along the coast, these conflicts would probably increase.
- If landings were opened up to anywhere along the coast, there could be major socioeconomic consequences as the result of shifts in price and demand. This should be a primary consideration.

General Comments

- One participant suggested that Massachusetts state waters jurisdiction be extended to at least 6 miles.
- There was a question regarding why the Council and Board are taking this action when there is a new stock assessment coming out soon that could show more information about changes in stock distribution.

2.2 NARRAGANSETT, RI

Wednesday, September 19, 2018, 6 p.m.

<u>Name</u>	<u>Company/Organization</u>	<u>City, State</u>
Walter Andoushian	NOAA	PS, RI
MICHAEL HALL	Town Dock	RI
RICHARD CHAPPELL	RI CARRA	RI
Bob MORRIS	R.I.F.A	RI
Josh Westcott	F/V Emilia Rose	RI/CT
David Burr	KE GA	
JAMES JORDAN	JMJ Fisheries	PJ RI
Donald Fox	Lightning Bay	PJ RI
DAVID BLACKBURN	RIERE	WAKEFIELD R.I.
John Colzani	F/V EMILIA ROSE	WAKEFIELD RI
Katie Almeida	Town Dock	PS, RI
Matthew Conti	Saug Harbor Marina	SIS RI

Goals and Objectives

- Concern was raised that habitat protection is not explicitly spelled out in the Goals and Objectives and that it's important that the revised language make habitat protection a goal. This may aid efforts at achieving optimum yield.
- One attendee noted that optimization of economic benefits needs to be a top or high priority.
- Another attendee noted that optimizing economic benefits should not be included as a goal, specifically the language in Goal #3 should be changed. This individual noted that fishermen will optimize economic benefits as they see best and that making this a requirement in a Fishery Management Plan may limit their ability to do so.

Issue 1: Federal Moratorium Permit Requalification Criteria

- **All 11 attendees providing comments were in favor of Alternative 1A (*status quo*) for federal permit requalification. Reasons cited are summarized below.**
- Eliminating permits would effectively be breaking agreements made between fishermen and the federal government; doing so would add another instance of agreements made with the federal government being broken by the federal government.
- Many expressed concerns about 'taking away' an individual's permit, and in turn their ability to commercially fish for summer flounder. It was noted that if federal moratorium permits are removed/taken away, fishermen should be compensated.

- Removing federal permits does not address the issue of state permits, which outnumber federal permits. Not addressing current effort specific to state permits and instead focusing on federal permits is considered a ‘waste of time.’
- Point Judith has become a great port because fishermen can switch between permits; reducing the number of federal permits would reduce fishermen’s flexibility and opportunity to fish for a variety of species.

Issue 2: Commercial Allocation

- **6 were in favor of alternative 2B (adjust state quotas based on recent biomass distribution) and 5 attendees were in favor of alternative 2A (*status quo*). Reasons cited are summarized below.**
- Six individuals were in favor of 2B 1 or 2B-2, for the following reasons: it reflects the current situation the fishermen are encountering, it's based on science, and it would create more quota and opportunity for RI fisherman.
 - **Note:** A number of individuals who indicated that if either of 2B alternatives was not selected, they were in favor of 2A.
- Five individuals indicated their preference for the status quo, 2A. It was noted that states like North Carolina and Virginia only have summer flounder; New England fishermen have a variety of species they can catch. Summer flounder in Rhode Island has become a bycatch fishery; to disrupt the markets in southern states for an increase in quota to northern region states would not be helpful and so the preference would be to stay at *status quo*. Additionally, it was noted there are no fish ‘being left on the table’ and the current system is working fine.
 - Concerns were raised that choosing either of the 2B alternatives would likely lead to a similar approach or reallocation in a less favorable way for other species, such as black sea bass commercial allocations.
- A few individuals noted concern about alternative 2D for a number of reasons that included: concern about its impact to the markets; how differences in regional weather may benefit more vessels to the south; and that there is currently not enough information provided on how the scup model would work in reality.

Issue 3: Landings Flexibility Provisions

- **Nearly all attendees (10) were in favor of alternative 3A (*status quo*; not adding landings flexibility as frameworkable item to the Council’s FMP) and 1 individual was in support of alternative 3B (add landings flexibility as a framework provision). Reasons cited included the following:**
- Concern about frameworks being initiated and completed by the Mid-Atlantic Fishery Management Council without adequate public input.
- Request that if Landings Flexibility goes forward in the future, there should be public hearings to allow the public to give comment.
- One individual noted they were in favor of 3B because it may allow for agreements between states that could keep fishermen in business.

General Comments

- It was noted that biomass shifting to the north and the management measures being adjusted to reflect this change is a positive development in fisheries management.

2.3 OLD LYME, CT

Monday, September 10, 2018, 7 p.m.

Name	Company/Organization	City, State
Mike Beebe	M+M Fisheries	Niantic CT
James Chukay	Stamington Fishing Dock	Groton, CT
Tim Jackson	Guest	Groton, CT
GARY YERMAN	New London Seafood	New London
Bud Harris	LIMIT CHARTERS	GUILFORD CT
Donna Paganini	FLY KESTREL	GUILFORD, CT
Joel Blawiecki	F/V DEFIANT	PT JUDITH RI
Jerry Carvalho	RI Fishermen's All	Narr RI
Joel Lizza	SEAOTTER Fishing	Guilford Ct
Hsomers	State Senate	Groton CT

Issue 1: Federal Moratorium Permit Requalification Criteria

- All 13 attendees were in favor of Alternative 1A (*status quo*). Reasons cited are summarized below:
- Many expressed concern about ‘taking away’ an individual’s permit, and in turn their ability to commercially fish for summer flounder.
- The number of current federal permit holders is ‘fine’ and there is not a need to reduce the total number of permit holders.
- No attendees indicated that latent effort re-entry is occurring currently, nor had concern that re-entry could happen in the future, therefore the sub-alternatives that would reduce the number of federal permit holders are not necessary.

Issue 2: Commercial Allocation

- All 13 attendees were in favor of alternative 2B, with a majority in favor of 2B-2 (Regional shift in biomass applied as shift in allocation to North). Reasons cited are summarized below.
- The alternative offered the best new quota level of all of the alternatives.
- The alternative matches with the best scientific information that indicated the resource is moving north.
- The alternative also demonstrates that Connecticut should have more representation in the management of summer flounder than it currently has, as it’s a member state of the Commission, but not represented on the Mid-Atlantic Fishery Management Council. It was noted that the New England Council does have a one designated representative on the full Council and the Council’s Demersal Committee.

Issue 3: Landings Flexibility Provisions

- All 13 attendees were in favor of Alternative 3B: Adding commercial landings flexibility as a frameworkable item in Council FMP. Reasons cited included the following:
- Increased opportunity for Connecticut fisherman to land their catch in other states.

- Interest in replicating the agreement currently in place between North Carolina and Virginia.
- Landings flexibility may be able to keep Connecticut fishermen participating in the fishery that would otherwise be exiting due to the cost and profit margin under the current daily landings limits.

General Comments

- Two individuals were concerned that the accountability measures currently in place through the Council's FMP put fishermen at a disadvantage due to how the discards are calculated. Specifically, when the biomass increases, there are more discards, and the amount that fishermen are allowed to keep should go up. Interest was also expressed in differentiating between regulatory discards and those discarded for other reasons.
- If more of the biomass is being taken from northern waters, there is greater chance of discarding in the northern region compared to southern region (i.e. NC and VA). Concern was raised they are being penalized for higher abundance in their waters.
- Concerns were raised that there is a significant trip limit discrepancy between vessels originating from southern states that are fishing in northern waters on larger trip limits than the northern states trip limits. This is viewed primarily as an equity issue, which could be solved with a higher quota.

2.4 STONY BROOK, NY

Thursday, September 27, 6:30 p.m.

<u>Name</u>	<u>Company/Organization</u>	<u>City, State</u>
✓ Gina Fanelli	NUSDEC	Setauket, NJ
✓ Chuck Weiland	COMMERCIAL FISHERMAN	Montauk, NY
✓ Hank Laekner	Commercial Fisherman	Montauk, NY
✓ Ed Anderson	Commercial Fishing	Montauk, NY
✓ JOHN C. MICHAE		ISLAND PARK, NY
✓ VICTOR VECCHIO	NOAA FISHERIES	ELMHURST, NY
✓ Paul Johnson	SOMAS	Setauket
✓ Gady Johnson	Independent	Setauket
✓ John Berglin	F/V MARY ELIZABETH	Hampton Bay, NY
✓ GARRET ARMWOOD	SENATOR SCHUMER	LI OFFICE

Issue 1: Federal Moratorium Permit Requalification Criteria

- Comments on federal permit requalification were mixed, with one fisherman supporting requalification methods not proposed in the document, and two fishermen supporting alternative 1B-1. Reasons cited are summarized below.
- One participant did not support any of the requalification alternatives in the document, stating that permit requalification should be addressed differently.
 - Requalification of federal permits does not get at the heart of the issue, which is state permits and landing licenses.

- Managers should look for vessels that have federal permits but do not have the appropriate state level permit to use them and eliminate those federal permits.
- Permits should not be requalified based on summer flounder landings alone: opportunities to fish for this species should be maintained in anticipation of future stock growth and/or allocation changes. Many permit holders would like to use their permit but cannot due to the current New York measures. Permit holders who don't have commercial landings of any species or who do not have a state license should be removed.
- Two participants favored alternative 1B-1 (Requalifying criteria of $\geq 1,000$ pounds between 8/1/2009-7/31/2014).
 - Consistent with other recent Council actions, some form of requalification should occur. There has been an influx of latent effort re-entry since the Council and Board indicated the possibility of requalification. "Full time" and "part time" permits should be considered, to reward historical participants who have been fishing on their permits for many years. At the very least, permits with zero recent landings should be removed.

Issue 2: Commercial Allocation

- **Participants agreed that none of the options in the document adequately address New York's allocation needs, although one commenter offered support for alternative 2B-2 as the best option proposed in the hearing document. Reasons cited are summarized below.**
- Multiple commenters noted that no option in the public hearing document offers New York adequate relief. The allocation increases proposed in the options amount to a few percent of the coastwide quota, which is an insufficient response to the problem. All of the options use the same 30+ year old data as the basis or starting point for allocation.
 - Any revisions should have a strong foundation and not use the old allocations or landings data.
 - FMPs should respond to changes in fisheries.
 - One commenter suggested moving to a coastwide allocation with seasonal quota periods for a period of three to five years to set a new baseline.
 - One participant noted that the current allocations are illegal under Magnuson National Standard 4 regarding measures discriminating among states.
- One participant spoke in support of alternative 2B-2, stating that it was a drop in the bucket in terms of a solution to the problem, but is at least a small step in the right direction.
- There was mixed support for the alternative 2D (scup model).
 - One fisherman opposed 2D due to the sense that it put winter fishery participants at an advantage over the summer-only vessels.
 - Another fisherman tentatively would support 2D if certain criteria and restrictions were followed, such as restricting the winter fishery to trawls only, as well as implementing mandatory VMS and call in requirements.
 - A third fisherman did not explicitly state support for 2D, but stated that the quota should be coastwide in the winter and state-by-state in the summer.
- One participant expressed strong opposition to alternative 2C.

Issue 3: Landings Flexibility Provisions

- **Three participants expressed support for alternative 3B (allowing landings flexibility through a framework action).**
- One participant noted that this is what's best for the fishery. New York fishermen are steaming far distances and landing in other ports and supporting other state's infrastructure, while New York's infrastructure has been destroyed by the inequities of fluke management.
- Another supported 3B but recognized that it would have impacts on infrastructure in many states along the coast, and managers should consider relief for those who would be negatively impacted.
- Another noted that they have made requests for flexible landings, but get no cooperation from other states on flexibility agreements.

General Comments

- The Council and Board need to address regulatory discards in the commercial fishery. Regulatory discards of summer flounder are high in New York, as the current fishery is essentially a bycatch fishery (due to low quotas and restrictive measures).

2.5 TOMS RIVER, NJ

Monday, September 24, 2018, 6 p.m.

Name	Company/Organization	City, State
Jim Brindley	609-709-7978	Jim Brindley out boat. (GA)
Jim Brindley	" "	" " "
Bill Simpson	Vill. Marine Fishery, CT	Mount Pleasant, NJ
Richard J. Palmer	Belford Coop	Belford
Mike Thompson	BELFORD COOP	BELFORD NJ
DAVE THOMPSON	FORKED RIVER FISHING	FORKED RIVER NJ
JOHN HEWELL	Belford Coop	Belford NJ
Louis King & Tavern	Belford Coop	Belford NJ
Pat DiPietro	Belford Coop	Belford NJ
Shawn C. Hines	Lub. Sals. LLC	Brinsford Light NJ
BILL WASICEWSKI	FV William & Lawrence	Brinsford Light NJ
Chad Power	NJ Law	Fort Republic, NJ
Frank Corcoran	NOAA	Northfield, N.J.
Michael Pedicino	NJFW	Fort Republic, NJ
Carol DiDonato	BSSIT	
Dany Zambelli	Putgers	Toms River, NJ
Jim Lovgren	F.D. Coop	Brick NJ
Tom J. Fox	G.A. To BSMFC	Toms River NJ
Robert Smith	Trotter Seafood	Pt Pleasant NJ
Andre Wendel	SALTY'S	Lowville, NJ 08735
Kurt Deyback	Trotter Seafood	Brick, NJ 08724
David Talle	Belford Coop	Middle Land NJ 0732
Mary & CARL Breyer	Hook/Lure Hooker	Toms River NJ
Tommaso Anderson	Fishing Business Inc	Brick NJ
Edward Baxter	ISHETTA Coop	Belford NJ
DENIS LOVGREN	F.V. KAILEY ANN	PT PLEASANT N.J.
GUS LOVGREN	F.V. KAILEY ANN	Brick, NJ
Brian Boyce	FV CIGAN	Belford N.J.
Eric Mykrebust	FV Sals. LLC	Pt. Pleasant NJ
Justin Hallan	FV SEA CATCH	Pt Pleasant NJ
Marc Vitolo	FV Kim Ann II	Pt Pleasant NJ

FMP Goals and Objectives

- One individual suggested adding a goal of reducing fishing effort on Spawning Stock Biomass by the recreational fishery due to large size limits that result in catching only large females. Innovative recreational measures should be supported, and addressing discard mortality should be a priority.
- Related to proposed Goal 3, optimizing social and economic benefits from the fishery, there should be a new objective related to determining efficiency in catch. This could result in allocation shifts. Efficiency could be considered in terms of greater overall benefit to the nation.

Issue 1: Federal Moratorium Permit Requalification Criteria

- **Most individuals who spoke to permit requalification supported alternative 1A (*status quo*), while one fisherman spoke in favor of alternative 1B-5. Reasons cited are summarized below.**
- One individual spoke in support of alternative 1B-5 (Requalifying criteria of $\geq 1,000$ pounds between 8/1/1999-7/31/2014).
 - There is a lot of latent effort that should be addressed, and a longer time period should be used for requalification. However, there are also a ton of state permits without associated federal permits that should be dealt with as well.
- Most others supported alternative 1A (*status quo*).
 - If a permit holder qualified for a permit, they should not have to do so again.
 - Quotas have been dramatically reduced in the last few years, which is tied into latent effort. Some vessels may be able to participate in the future if quotas are raised.

Issue 2: Commercial Allocation

- **All individuals who commented on commercial allocation supported alternative 2A (*status quo*); additionally, on a show of hands, approximately 20 individuals in the room supported alternative 2A and none supported reallocating the commercial quota. Reasons cited are summarized below.**
- The push for reallocation is driven by New York and Massachusetts and is "nothing more than a resource grab."
- A few comments noted that the states are already de facto reallocating by shifting permits, i.e., more northern vessels are buying North Carolina and Virginia permits. Permits have already shifted, and benefits are shifting to New England states as a result. Taking additional quota away from the southern states would be an additional economic burden.
- New Jersey's industry has taken a huge hit in recent years and many participants are struggling financially.
- New Jersey and other states earned their allocation and should maintain it.
- New Jersey has a great quota management system that has been improved over the years through cooperation between NJ Fish & Wildlife and commercial fishery advisors. This system is working well and should be left alone.
- Several commenters were adamantly opposed to alternative 2B, which would shift quota by region, with New Jersey in the southern region. Participants were frustrated that New Jersey was placed in the southern region in this analysis, stating that the biomass off of New Jersey has not decreased and that this boundary is strictly political. New Jersey should either be its own region, or this approach should not be used.
- One individual who supported 2A (*status quo*) noted that if alternative 2C (trigger option) were selected, any changes to the trigger should be implemented through an amendment (i.e., the same process the allocation change would be implemented by).
- One participant noted strong opposition to alternative 2D (scup model), given that the winter seasons would close very quickly and have a very low trip limit. Even with New Jersey getting a large portion of the summer quota, he indicated it would still be a disaster. There is no way to predict how winter landings would be redirected.

Issue 3: Landings Flexibility Provisions

- **Most individuals who spoke to landings flexibility supported alternative 3A (*status quo*), while one explicitly supported alternative 3B and one supported landings flexibility in concept but not specifically making it frameworkable in the Council process.**
- Several commenters spoke in favor of *status quo*, for the following reasons:
 - Vessels should land in the state where they have permits.
 - Landings flexibility opens the door for more illegal and unreported landings. Some states do not have proper control and enforcement of their fishermen.
 - One individual spoke of concern of increased competition with fleets from other states.
- One commenter in support of 3B noted that landings flexibility would be a fair way to address the problem of long steam times for folks fishing on southern state permits.
- Another commenter did not explicitly support alternative 3B to modify the Council FMP, due to the complicated nature of the issue. However, he noted that there appears to be a misunderstanding of how landings flexibility would work. The landings would be counted against the quota of the permit state, and this is an economic matter of reducing steaming time and saving money. This may alleviate some allocation tensions.

General Comments

- One participant noted that the focus of the amendment is entirely wrong, and the action should be focused on reducing discard mortality in the fishery and rebuilding the stock to a sustainable level. Major changes should be looked at once we've reached target biomass. In particular, recreational discard mortality reduction should be addressed by instituting recreational hook requirements.
- Mortality in the fishery is too high on large breeding females, and this needs to be addressed. Alternative recreational management measures (slot limits, total length limits, etc.) should be adopted.
- One participant was concerned about language in the amendment documents referring to "minimal" negative economic impacts to the fishing industry. Although overall negative impacts may be low for some options, it is important to recognize that impacts to individual participants and business owners can be huge.

2.6 BERLIN, MD

Tuesday, September 25, 2018, 6 p.m.

Name	Company/Organization	City, State
Jeffrey Fustler	F/V TONY AND JAN	Ocean City Md
George Topping	RITA DIANE	O.C. Md
David Tralac	Valerie Marie	O.C. Md
Maxwell Campbell	Southern Connection	Ocean City MD
Earl R. (Sammy)		Ocean City Md
Andrew Jackson	F/V Rita Diane	Ocean City Md
DAVID HATA	VIRGINIA TRAC	BLACKSBURG, VA

FMP Goals and Objectives

- One participant expressed support for maintaining (in some form) the current objective "Minimize regulations to achieve the management objectives stated above." The proposed revisions are broader and do not address this directly. Current management is too complicated.

Issue 1: Federal Moratorium Permit Requalification Criteria

- All 5 participants who provided comments supported alternative 1A (*status quo*).**
- Participants did not support requalification in principle, noting that if someone qualified under the original criteria, they should not have to qualify again, especially since the permits are now worth more than they were when they were first issued.
- One participant noted that alternative 1B-4 (Requalifying criteria of ≥ 1 pound between 8/1/2004-7/31/2014) maintains all Maryland federally permitted vessels. If requalifying criteria were implemented, this sub-alternative is preferred.

Issue 2: Commercial Allocation

- All participants favored Alternative 2A: *Status quo*, with one expressing tentative support for alternative 2C as the next best option.**
- Several participants had clarifying questions about alternative 2C (trigger option) and how it would work. One participant noted he liked this option more than the other reallocation options, but does not like the idea of "taking" allocation from other states. He would prefer distributing the allocation equally among states, but even that is not ideal since each state has a different number of participants.
- There was strong opposition to alternative 2D (the scup model) for summer flounder, primarily due to the potential for derby fishing. If the scup model were implemented, Maryland would need an exemption; however, participants did not support the concept of a scup model for summer flounder.
- Participants generally did not support reallocating quota from the southern states to the northern states, especially if it results in allocation from smaller states shifted to bigger states.
- Reallocation results in a redistribution of effort and revenues, which effects fishing vessels, crews, packing houses, and communities. There are large socioeconomic impacts possible with these options.

Issue 3: Landings Flexibility Provisions

- All 5 participants were in favor of alternative 3A (not adding landings flexibility as frameworkable item to the Council's FMP).
- There are concerns that landings flexibility would create loopholes and enforcement issues that would allow for more "cheating" and illegal landings.

General Comments

- Several participants noted the need for more quota in general, and optimism about the new stock assessment.
- Concerns were expressed regarding the quality of the federal trawl surveys, including their configuration, missing data, and catch efficiency compared to commercial trawls.

2.7 NEWPORT NEWS, VA

Wednesday, September 26, 2018, 7 p.m.

Name		
<u>Rod Runko</u>	<u>F/V DAVANA R</u>	<u>WANGHISE NC</u>
<u>Jim Runko</u>	<u>F/V DAVANA R</u>	<u>WANGHISE NC</u>
<u>Nicole Arroyo</u>	<u>L.O. Arroyo Co Inc</u>	<u>Hampton Va</u>

Issue 1: Federal Moratorium Permit Requalification Criteria

- 1 supported Alternative 1B-3 (Requalifying criteria of $\geq 1,000$ pounds between 8/1/2004-7/31/2014), and 1 supported Alternative 1A (*Status quo*).
- The participant supporting Alternative 1B-3 (552 Requalifying Moratorium Rights) noted that it accounted for a significant enough time period to consider changes to the number of permits.
- The participant supporting Alternative 1A: *Status quo* noted that the current number of federal permits is not an issue for the commercial fishery. Rather if there is interest in addressing latent effort, the number of state permits should be addressed. Specifically, New York has had the ability to address state permit qualifying criteria to limit participants and has chosen not to.

Issue 2: Commercial Allocation

- All 3 attendees were in favor of alternative 2A, *Status quo*. Reasons cited included the following:
- The scup model alternative (2D) is very problematic. Concerns were raised that it would likely create a derby fishery for summer flounder and would likely have a negative effect on the market demand for the fish. Additionally, it was noted that the scup model works well for scup because of the high-volume nature of the market for the species; summer flounder does not have the same high-volume demand.
- Concerns were raised about the other alternatives giving quota to states that 'can't manage their quota.' Specifically, this was in reference to illegal landings in some states and issues associated with the Research Set-Aside program. In these states, it was noted that latent effort had not been

addressed and if additional quota were to be given these states, it would be example of everything that is wrong with fisheries management.

- Concerns were raised that basing new allocations on data from the NEFSC trawl survey is problematic due to how gear is configured and the timing of when it samples certain areas. In taking issue with how the survey is configured, it was noted that this has an impact on not only the number of fish that are encountered but the size of fish as well; this could play into perceived issues with recruitment.
- It should be noted that if 2A *status quo* is not selected, then 2C-2: 10-year average of the commercial quota trigger (10.71 million lbs) is preferred.

Issue 3: Landings Flexibility Provisions

- All 3 attendees were in favor of alternative 3A (**not** adding landings flexibility as frameworkable item to the Council’s FMP). Reasons cited included the following:
- States can already develop agreements to achieve ‘flexibility’ in landings as North Carolina and Virginia have done. This agreement has worked well.
- It was noted that while flexibility is a good thing, it's unclear how landings flexibility specifically would be good thing.
- Concerns were raised that interest in landings flexibility is largely driven by people who are not in the fishery and in turn, it doesn’t seem to be something that fishermen want or need through the Council’s FMP.

2.8 WASHINGTON, NC

Monday, September 24, 2018, 6 p.m.

<u>Name</u>	<u>Company/Organization</u>	<u>City, State</u>
Glen Skinner	NC Fisheries Association	Newport NC
Sherrill Styan	G Fulcher Seafood	Orion N.C.
JAMES FLITCHER	UNITED MARINE PRO	MILKING HARBOUR
JERRY SCHUL	NC Fisheries Assoc	New Bern NC
MARK VILIBIC	Willie Elleringer STP	Wardrobe
Larry Kemp Whit	MAMC/Com	Wardrobe NC
Jennifer Fulcher	BTJ Seafood	New Bern NC
Brent Fulcher	Fulcher Trading	New Bern NC
Robbie Mercer Jr	Robbie Mercer Trawlers	Grantsboro NC
Angela Ireland	Robbie Mercer Trawlers	Grantsboro NC

FMP Goals and Objectives

- Concern was raised that the current commercial and recreational regulations are designed to target female summer flounder, which cuts down on the reproductive capacity of the stock and that this contradicts the revised language in Goal 1.
- It was noted that summer flounder landings stay below the Acceptable Catch Limit (ACL) most of the time. If the goal is to achieve optimum yield, when the quota has not been landed it should

be rolled over and it's not; instead it goes the opposite direction, in that when an overage occurs that amount is deducted from the following year's quota.

- Undersized fish that are caught using the legal mesh size should not be discarded if marketable. Goal 1 should be adjusted to allow commercial fishermen to achieve the ACL and reduce dead discards.
- For the objective under Goal 3 to balance changing conditions with historic user groups, one attendee noted that the data for the stated distribution shift in later parts of the document is questionable and that there should be work done with industry to find out if this is true.

Issue 1: Federal Moratorium Permit Requalification Criteria

- **All 10 participants were in favor of alternative 1A (*status quo*) for federal permits. Reasons cited are summarized below.**
- The fishery management plan was established with some of the permit holders that could be eliminated by sub-alternatives under 1B by this change; in turn, these individuals should not have to be removed, the fishery should continue as is.
- No action should be taken at this time on this issue; instead action should be taken to address issues with the science.

Issue 2: Commercial Allocation

- **All 10 participants were in favor of alternative 2A (*status quo*) for commercial allocation. Reasons cited are summarized below.**
- Businesses over time made investments across the coast based on the allocations that have been in place, including vessels and shore side infrastructure. Shifting the quota/allocation to states with less infrastructure may result in those being unable to utilize the additional quota.
- There was a lot of work that went getting an agreement on the initial allocation and that should be honored by not changing it.
- The regulations related to Endangered Species Act listed species, specifically turtles and turtle excluder devices (TEDs) affect vessels from North Carolina disproportionately compared to other states. This impact was cited as why landings have shifted away from North Carolina to more northern states in recent years. A number of attendees noted the role of TEDs in affecting North Carolina's landings since their implementation.
- Concerns were raised that basing new allocations on NEFSC trawl survey data is flawed due to inaccuracies in the stock assessment information.
- North Carolina fishermen are the hardest workers on the east coast and their work helped establish the quota for not only North Carolina, but other states along the coast; given this, the allocations should remain as they are. A number of attendees noted the role of North Carolina fishermen/vessels in landing fish other states that was the basis for their quotas.
- It was noted that the price of summer flounder has maintained at a high value, based on the allocations; this has continued even as the quotas have been reduced in recent years.
- Concerns were raised on alternative 2D, the scup model. Specifically, this alternative would create a derby fishery that would use up the available quota quickly and would potentially create safety issues.

Issue 3: Landings Flexibility Provisions

- **All 10 participants were in favor of alternative 3A (not adding landings flexibility as frameworkable item to the Council’s FMP). Reasons cited included the following:**
- States can already develop agreements to achieve ‘flexibility’ in landings as North Carolina and Virginia have done. More of these agreements should be pursued.
- Captains view landings flexibility as the ability to land fish in states that are open and would like to land multiple state trip limits on one trip.
- Landings flexibility should be understood as a state-specific issue, not one that the Council needs to address through the Federal FMP.
- A few attendees raised concerns that landings flexibility may result in less landings in North Carolina and that it would negatively affect fish houses that rely on summer flounder in the Winter to stay profitable.

General Comments

- It was noted that reduction to North Carolina’s allocation could negatively impact other fishermen along the coast. While some think that North Carolina’s data is not as good as other states, North Carolina had the best data when the allocations were originally established. Changing the allocation would be based on political science and not fishery science.
- One attendee read from the journal Ecology and Society regarding maximum sustainable yield that once it became a part of fishery management policy its weakness were and have not been considered. This attendee argues that this policy supports a political agenda of the federal government, specifically in efforts to increase imports of seafood from other countries. These comments were specific to the amount of flounder that are being imported from other countries and the science that supports having a higher size limit that targets female fish.
- Due to the impacts and damage from Hurricane Florence a few weeks ago, there are a lot less people participating in the public hearing than would have attended. Many fishermen need to still make a living and if they are not fishing to make up for the down time due to the Hurricane, they are at home dealing with the aftermath of the storm.
- It was noted that the Advisory Panel process for scallops (NEFMC) operates much differently than the Commission/MAFMC process; under the scallops FMP the AP puts forward changes that need to be made in a ‘bottom-up’ process. Concerns were raised that this Amendment does not follow that type of process and in turn is being driven more by politics.
- A question was asked to the hearing participants whether back in the 1980s, if summer flounder were offloaded in northern states by NC vessels and trucked back to NC and counted as landings. None of the participants had any recollection of this happening; they noted that there was a black market with landings being paid for with cash, which may be part of why some went unreported or under-reported.

3 WRITTEN COMMENTS

This section includes all written comments on the amendment received or postmarked from August 10, 2018 through 11:59 pm, Friday, October 12, 2018, including those received by email, web form, fax, mail, or hand delivery.

Some commenters submitted identical comments by more than one method; exact duplicate copies of comments were not included.

Name: Paul Olinski

Email Address: pauloski1@msn.com

City, State, Zip Code: Kearny

Check all that apply: Private Recreational Angler

Comments: Ever since the summer flounder quota was turned upside down in favor of the commercial fishing industry (they have the big \$) the fishery has gone to pot. Forty years ago when I would go Fluke-summer flounder-fishing it was not unusual to catch 75-100 "keepers" before noon (and my Dad and I considered a "keeper" to be a 2-4 pounder. My last Party Boat trip I caught 75 Fluke, but they were all shorts; I hope they all survived release. These short Fluke are generally male and rarely grow to the current limit size. It is almost as though you want the summer flounder to become extinct. Setting the limits so that the larger Fluke (The females) are the only ones that can be harvested is insanity!! I hope you will change the quotas back to what was traditionally a majority for the recreational fishery and that you will revise the limits and sizes to protect the breeders; no Fluke shall be retained or harvested that is 18" or more. Otherwise we may run out of Fluke-Summer Flounder-quite soon because no females=no eggs=no fish

P.S. This will also cause a tremendous financial detriment to the economy of Northeast coast states and the Party boat business.

Name: JACK RHYNE

Email Address: jrhyne@wilkes.net

City, State, Zip Code: OAK ISLAND

Check all that apply: Private Recreational Angler

Comments: With the ratio of money that the Rec. fisherman impacts NC economy compared to Comm. fisherman I would like to see netting for flounder/drum/spec trout stopped. Proof lies in FL's huge success on its fishery. Tougher guidelines on flounder gigging would help also. The true doom to NC fishery is at the feet of our elected "politico's in RDU. Enough said about this calamity !
Thanks Jack

From: **John William** <jrw2869@gmail.com>

Date: Fri, Aug 10, 2018 at 9:43 PM

Subject: "Summer Flounder Commercial Issues Amendment Comments"

To: nmfs.flukeamendment@noaa.gov

Just wondering why the commercial industry in NC is permitted to supply the entire US with 90%+ of summer flounder! We know the resource is being decimated in NC, smaller and smaller fish brought in annually. I'd suggest raising the size limit on the industry but it is well known they do not pay attention do that and the buyers do not care either. Why not put the NC industry on the level playing field of their peers and eliminate gill nets? Why the states farther south have not filed suit as these fish do travel south, when they survive. The wonderful gifts to the commercial industry is no favor to the recreational industry.

NC could have a great fishery for commercials and recreationalists but y'all are determined to feed the greed. Expect nothing as in the past 5 decades from fishery mismanagement officials.

John William

From: **rharbina** <rharbina@yahoo.com>

Date: Sat, Aug 11, 2018 at 10:32 AM

Subject: Fluke Amendment

To: nmfs.flukeamendment@noaa.gov

Hi, my name is Rick Harbina and I am a New Jersey surf fisherman for the past 55 years. I normally fish between 120 and 150 days a year. I mention this so that you understand that I have a lot of experience with the surf fishing aspect of salt water fishing. From my own observations as well as discussions with other fishermen and divers (spear fishermen) I've come to realize that the current fluke regulations are counter-productive. Fluke are an aggressive species and being a warm water creature are more prone to have a high mortality rate. While I am not a marine biologist, I believe that about 25 % of released fish do not survive. Additionally, having to release the smaller fish and keep only the larger breeders is not the way to help increase the fluke bio-mass. I know that there are various user groups including private boat owners, party boats and commercial fishermen as well as surf fishermen and each group has their own needs. I would like to suggest some changes which might be a more effective way to manage the fishery. Each user group needs their own set of regulations. While enforcement may be a problem, protecting the fishery should be paramount, that said, I feel that party boats might need a seasonal catch limit similar to commercial boats although relying on the honesty of individuals comes with it's pitfalls. As far as private boaters and surf fishermen, allowing 2 fish at 15 to 18 inches and 1 over say 20 inches might be a way to control the mortality rate. Thanks for the time and I hope a successful formula can be reached.

Rick

rharbina@yahoo.com

Name: Harvey Yenkinson

Email Address: vetcraft@aol.com

City, State, Zip Code: West Chester, Pa 19061

Check all that apply: Charter/Headboat For-Hire, Other

Comments: I am greatly concerned about the propensity of the fluke population to be pushed northward by the ability of the commercial fleet to fish unrestricted in any areas it wishes. As a member of the advisory panel, I have had the ability over the last several years to see the data showing how the commercial fleet, particularly the boats from Virginia and North Carolina, moving their operations hundreds of miles to the north as closer segments of the stock have been decimated.

Much data has been presented to council on global warming and ocean acidification, none of which is of any magnitude, to cause the shift to the north that we are seeing. Projections showing fluke stocks moving north over time in the future are theoretical in nature and not born out by actual observations or studies.

In the area of my knowledge and fishing participation, southern and central New Jersey, I have seen a steady decline in the fluke population in both numbers (four decades) and size (2 decades) causing great devastation to the fishing related economies in my area.

It is quite clear to me that when we manage east-west migratory species that we need to direct fishing pressure in such a way that it does not cause localized depletions. Right now it is council's policy to allow lower size limits to our states to the south, such that at least some fish can be caught by recreational fishermen. I think this is far from the best way to manage our fisheries and is a self defeating practice.

I think we need to start to look at examining a geographic sector management scenario along lines of latitude progressing from north to south along the east coast range of the fluke species. Under this scenario, sectors would be closed or fishing under reduced quotas in segments that are experiencing localized depletions.

I would also suggest that council look at making high grading illegal, such that additional tows would not be made in the process of harvesting larger specimens worth more per pound.

It is additionally clear to me that regulating fluke fisheries on a poundage basis is an antiquated practice.

For example, a 4 pound fecund fluke is capable of producing more viable offspring than two 2 pound females, yet we regulate them the same. Larger specimens are worth more per pound but also worth more to the reproductive ability of the stock and should be regulated as such.

Along the same lines, as our stock borders on being overfished, we need to look at protection of the species at times of greatest spawning activity, data which we do have.

From: <bsmith4035@aol.com>
Date: Mon, Sep 10, 2018 at 5:20 PM
Subject:
To: nmfs.flukeamendment@noaa.gov

To whom it may concern.

You folks have been regulating the public real hard since about 93. The public's share of the fishery is smaller every year. last year was five of those very rare fish this year it's three of those very rare fish. You need to see a commercial boat unload summer flounder! The sand replenishment and draggers have pretty much destroyed the inshore ocean bottom the natural food chain has been destroyed. There is no way the biomass will increase with out food! There should be no commercial fish zones also maybe some barrier reef and jetty work instead of tearing up the ocean bottom. A no fishing zone for commercial fishing would allow the ocean bottom to restore it's self in time allowing the many food creatures that allow the biomass to increase. Also allowing marine creatures to grow to full adult size to propagate at there maximum. All of this together would allow the biomass to increase. At the current rate very shortly the stocks are going to collapse then what? The public has done great sacrifice over these many years and can see no benefit for any of it. It seems the commercial sector and there lobbyists and corps have it all tied up and the public's share has been the way to maintain the commercial catch. all of this is a terrible tragic shame. It is more than time to make some difficult changes on the business sector and do the right thing. This season the weather has taken at least half of the days away from the public. You folks never give the public a break. Some how year after year you folks get away with this tyranny on the public it really is sad to say the least.

From: mario interrante <interran@hotmail.com>
Date: Tue, Sep 18, 2018 at 11:24 AM
Subject: Summer Flounder
To: nmfs.flukeamendment@noaa.gov <nmfs.flukeamendment@noaa.gov>

Have been salt water fishing the Northeast waters from NJ, NY and RI for 50 years. We have decimated our oceans by over fishing. Moratoriums need to be placed on every species not just Summer Flounder. A very, very complex task to execute when addressing commercial businesses.

Sent from Mail for Windows 10

Name: Raymond Lupkowski
Email Address: relfluke@aol.com
City, State, Zip Code: 07874

Check all that apply: Private Recreational Angler

Comments: How come MA has a longer Fluke season and smaller size limit and larger keeper amounts What gives Are you guys gals anti Jersey A lot of commercial recreational proprietors have gone out of business becaus of your sennagens Fluke fishing is one of my favorite things too due which I have been doing for over 60 years

Name: Hank Lackner

Email Address: Jdhlcl@aol.com

City, State, Zip Code: Montauk,ny 11954

Check all that apply: Commercial Industry

Comments: To whom it may concern,

My name is Hank Lackner and I own a commercial trawler homeported in Montauk Ny..

I believe the current FMP objectives should be revised as stated in you document.. Most importantly we should be striving to improve yeild, with compatible management between state and federal jurisdictions..

A goal of this amendment should also be to achieve the MAXIMUM ECONOMIC benefit for the fleet.

1. I am infavor of a requalifier for federal permits. In doing so the council would be staying consistent with other recent FMPs. Latent effort must be addressed.. Permits with zero history need to be removed.

2. Commercial allocation

As a new york resident none of the options work for our fisherman!!!

I would like to see the states get together and INDEPENDENTANTLY work on a FAIR reallocation of the resource!!

Any reallocations above a quota trigger is absolutely unacceptable. The numbers we are currently working off of are STALE.. So basing future decisions off of them,is no good..

A possible solution could be a coastwide quota in the winter periods. Similar to the scup model.

This can only be done using certain caveats

A. Trawlers only

B. Boatracs mandatory

C. Declared into the fishery

This will help with management as well as enforcement issues

Lastly and most importantly,

The council should move forward with implementation of a FLEXIBLE Landings program..

This is the only way to truely utilize the resource correctly while Maximizing vessel returns.

Thanks, Hank Lackner

From: Gary yerman <swim@snet.net>

Date: Sat, Sep 29, 2018 at 1:13 PM

Subject: Comments from CT 9/10/18 Fluke meeting

To: nmfs.flukeamendment@noaa.gov <nmfs.flukeamendment@noaa.gov>

Gentlemen:

We are Commercial Fishermen from New London, CT. We have been in the fishing industry since 1972, fishing from the Canadian Line to Norfolk Canyon. Being located in CT for the majority of those years we harvested the majority of our Summer Flounder in the Hudson Canyon to the North. It was no surprise to us when the charts showing the majority of the harvested Summer Flounder landed along the entire East coast from North Carolina to Massachusetts during the qualifying years were harvested from that same area.

What is disturbing is the absence of representation from the states north of New Jersey for Federal Summer Flounder allocations. This has been lop sided from the very implementation of the rebuilding and allocation plans.

It is our understanding the recorded landings for North Carolina and Virginia during the qualifying years was achieved by the poundage, although landed in Northern states by southern boats, being recorded in the Southern fish houses. This has long been a contention, especially because the Northern states do not have any leverage in the allocation.

I believe this situation should be revisited and the allocations treated more equitably.

Therefore:

- 1) We are in favor of Alternative !A: No Action/Status Quo. We think the industry has reach a comfortable level. The fellows with Federal licenses in CPH have an investment that should be protected should they decide to enter the fisheries again or give a license to a family member, sell or whatever the circumstance may be.
- 2) We are in favor of adding commercial landings flexibility as a framework issue in the Councils MFP.
- 3) We are in favor of Alternative 2B-2: this is a more favorable option due to shifting biomasses and a more equitable allocation for all East Coast fishermen.
- 4) We are also in favor of more industry data gathering. The R/V Bigelow does not show a fair representation of the summer flounder biomass. This goes on for a lot of reasons. Some of which are unrealistic gear selections for the size of the vessel. Times of year when the data is collected is not anything to do with the migration patterns of the targeted species. We believe the observer program is additionally flawed. The data is skewed because participant vessels are intimidated to fish where any by-catch species interact with targeted species because the way the current by-catch ratio is used against the fishermen. If the NMFS wants to collect real data it our opinion they should hire commercial industry vessels to collect true data. The system is flawed and will not be corrected until the NMFS works in harmony with industry.

It is also our opinion the Scup and Black Sea Bass fisheries should be revisited. The current allocations are not working for the fishermen, the seafood markets, the American consumers or meeting the management goals of the NMFS.

The above comments and opinions are supported by the following businesses, fishermen and industry participants.

- 1- New London Seafood Dist. Inc. Seafood 114 Smith St, New London, CT
- 2- Gary Yerman, Commercial Fisherman, 46 yrs. Owner/Captain, Defiance III, Old Saybrook, CT
- 3- Scott Yerman, Commercial Fisherman, 25 yrs, Owner/ Captain - F/V Carley Grace New London, CT
- 4- Rob Morsch, Commercial Fisherman, 20 yrs. Owner/Captain- F/V Mystic Way, Colchester, CT
- 5- Jim Kennedy, Commercial Fisherman, 20 yrs, Captain, F/V Samantha Brooke II, Westbrook, CT
- 6- Mike Theiler, Commercial Fisherman, 28 yrs. Owner/Captain, F/V, Jeanette T, F/V Emma Marie, F/V Amy Catherine, Waterford, CT
- 7- TA Scott Fisheries, New London, CT
- 8- Scott Eschenfelter, Commercial Fisherman, 25 yrs. Owner/ Captain, F/V Hannah Story, F/V Sharon E, New London , CT
- 9- Rick Lofstad, Commercial Fisherman, 45 yrs. Owner/ Captain, F/V All for Joy, F/V Olivia Joan, New London, CT
- 10- Rob Cabral, Commercial Fisherman, 30 yrs, Owner/Captain F/V Provider, New London, CT
- 11- Doug Pogany, Commercial Fisherman, 20 yrs. Owner/Captain F/V Kestrel, Clinton, CT
- 12- Gary Ruddy, Commercial Fisherman, 30 yrs. Owner /Captain F/V Git-er-Done, Old Saybrook, CT
- 13- Joe Bryda, Commercial Fisherman, 40 yrs. Owner/Captain F/V Athena, Montville, CT
- 14- Mike Dowie, Commercial Fisherman, 30 yrs. Owner/Captain F/V KMACK, Essex, CT
- 15- Ron Yerman, Commercial Fisherman, 20 yrs. 20 yrs. Captain F/V Samantha Brooke, Milford, CT.
- 16- Dan Russell, Commercial Fisherman, 40 yrs, Captain F/V Mystic Way, Colchester,

Name: John Connelly

Email Address: johnaconnelly3@gmail.com

City, State, Zip Code: Towaco, NJ 07082

Check all that apply: Private Recreational Angler

Comments: I support whatever is needed to help the summer flounder stock recuperate. I will give up fishing for summer flounder for however long it takes to rebuild the stocks.

I also know that many commercial fishermen rely on summer flounder to feed their families.

However, allowing them to keep fish that are 13 inches seems ridiculous since most of the fish goes to waste as bones and cat food. Unfortunately their by methods destroys a significant amount of habitat not t mention the by-catch that is wasted. And then it becomes food for crabs.

We need to thin about the foods that we eat, as well as what ends up on the ocean floor.

Thanks

Name: Nancy Solomon

Email Address: director@longislandtraditions.org

City, State, Zip Code: Port Washington

Check all that apply: NGO

Comments: We support the development of a new quota system for summer flounder, due to the inequitable distribution of the quota within the region. There is also increasing evidence that summer flounder are now more plentiful in northern states, yet fishers here in NY are not allowed to harvest them due to strict quota regulations, while southern fishers from North Carolina and elsewhere come to New York because they can harvest them due to their disproportionate share of the quota. Please correct this injustice by reformulating the quota.

Name: Frank Proctor

Email Address: fproctor1@gmail.com

City, State, Zip Code: Harkers Island, NC 28531

Check all that apply: Private Recreational Angler

Comments: I support any and all efforts to return the flounder fishery to viability. The stock is depleted and action, soon, is required. Please stop kicking the can down the road!

Name: roy diehl

Email Address: crab554@aol.com

City, State, Zip Code: union beach

Check all that apply: Commercial Industry

Comments: this comment is for summer flounder (fluke), i have fished commercially full time since 1980, i have seen the ups and downs , i believe the coast wide quota is way to low there are a lot more fluke out there than we all know about . we catch our quota's in record times even though the fleet has diminished

i support the most restrictive plan to reduce the latent permit s by requalifing

i am strongly against any type of landing flexibility ,his is a way to go around any state permitting,here in new jersey we have worked very hard with state regulators to keep the fishery open all year for our boats. this is being pushed by Rhode island boats that are buying up the new jersey landing licenses and are currently landing minimal amounts here hoping to land in Rhode island and effectively steal new jersey's historically allocated quota .

Name: Timothy Swanson

Email Address: tcistpete@aol.com

City, State, Zip Code: wantagh ny 11793

Check all that apply: Commercial Industry

Comments: I have been a commercial fisherman in N.Y. for over 40 years. Before the NMFS started managing fish and fluke in particular N.Y was ahead of the conservatiuon curve by having a 14 inch size limit. Some states had as low as a 10 inch size and were landing huge quantities of fluke and as it turns out were rewarded for such when the distribution process divided up the allotment, N.Y. got penilized. Also other states had a much more efficient way of counting fish landed i.e. port agent. Me and the 20 other boats fishing out of Freeport NEVER had a reliable port agent and a huge portion of our fish landed during the determining years was NEVER reported .Personelly I was NEVER asked by anyone about my fluke landings and I caught A LOT of fish. It is time for N.Y. to get its fair share of the quota that we deserve. Thank you Tim Swanson

Name: Paul Olinski

Email Address: pauloski1@msn.com

City, State, Zip Code: Kearny

Check all that apply: Private Recreational Angler

Comments: I have already submitted my comments, but I have something to add. The commercial fishing industry mostly wiped out the Cod, Whiting, Ling, Sea Bass, etc., etc. by the late 70's. There was not much left for them to go for except Summer Flounder (Fluke). and they fished that fishery hard starting in the late 70's and the 80's. So basing their quota on those years skews the traditional numbers that were in the 60's and early 70's more favorable to recreational anglers. In 1976 my Dad and I rented a rowboat left at 7 AM and by 2 PM we had caught over 100 Fluke all of keeper size and kept some to eat and share. By 1986 when I went on a private boat we were able to easily fill our limits by 3 PM (7 AM start). By 1996 fishing for Fluke was getting really tough, but on a half day party boat you still had a good shot at a limit. By 2006 I went on a half day party boat and caught 75 shorts and not one keeper. A couple years later I decided to quit wasting my time and money and I stopped Fluke fishing. The rules are backwards. Recreational anglers should not be forced to keep the larger (BREEDER FEMALES) while releasing the smaller males whose lifespans are short (They never get very big) and which will probably never attain keeper size.

Name: Paul Tokarz

Email Address: tok67@verizon.net

City, State, Zip Code: East Taunton , MA 02718

Check all that apply: Private Recreational Angler, Commercial Industry

Comments: I believe the commercial fluke permits should be made available to current MA/Fed commercial fishing permit holders ,who currently do not have one.

The new open permits should only be made available to purchase in the upcoming year; to the current MA/Fed commercial fishing .(yearly renew would take place as permits)

Then close the permit process for a few more years.

Would like to mention the true boat commercial fisherman is like a farmer. Some have really big farms and some have small farms. however every contributes to the system.

Thank you for reading.

Name: michael muller

Email Address: rellum00@gmail.com

City, State, Zip Code: VIRGINIA BEACH

Check all that apply: Private Recreational Angler

Comments: I can't fathom the cost benefit inadequacy of your organization's logic in regards to the summer flounder fishery. For the benefit of 200-400 commercial entities that supply the wholesale environment with product that results in untallied product waste at appx \$11-\$15 lb retail, your willing to advocate, endorse, and protect a destructive fishery where cheating is rampant, code is readily flaunted and derided by its adherents, and the overall GDP impact is mostly negative. The environmental impact of this commercial fishery alone doesn't justify it's existence, but yet your organization blindly forges ahead with allocation quotas and mesh size and season closures with an air of authority of GOD all the while watching blissfully as the fishery collapses and takes almost as much bycatch species with it. The commercial fishery industry is a failure, Lobster,Cod, Summer flounder,Tuns,Tautog, etc,etc,all spiraling to destruction under its own overharvesting wasteful fishing methods, and until your organization wises up and returns it to a pinhook environment dependent upon skill and biomass, the participants themselves don't and won't do whats needed for their own survival.

Name: Richard Cotti

Email Address: maureen50@charter.net

City, State, Zip Code: Ludlow

Check all that apply: Commercial Industry

Comments: I am a small boat (20') commercial fisherman for striped bass, bluefish and summer flounder in Massachusetts. I certainly would like to continue to be able to sell summer flounder. Days to fish for fluke are limited in Massachusetts since we cannot fish for them on Friday and Saturday and Monday and Thursday are for bass. I can't compete with larger boats and draggers, but as an individual rod and reel fisherman I sell an extremely good product with hardly any discards. By the time the fish here in any appreciable numbers, a substantial portion of the quota has already been filled. I do sell fluke every year, and anything that can be done to extend the commercial season would be appreciated. I know that I don't sell enormous amounts of fish but I would like to fish for fluke on the limited days I am allowed to. Thank you for your consideration in this matter.

Name: john haran

Email Address: sector13@comcast.net

City, State, Zip Code: dartmouth,MA 022748

Check all that apply: Other

Comments: The commercial fishermen that rely on summer flounder because their groundfish stocks have been cut so much that they no longer can groundfish can not absorb any shifting of quota from commercial to recreational.

Landings flexibility would be beneficial to the commercial fleet. It would allow for safer trips and decrease our carbon footprint.

Name: Robert Sevigny

Email Address: robertsevigny@verizon.net

City, State, Zip Code: Warwick RI 02886

Check all that apply: Private Recreational Angler, Commercial Industry

Comments: The last couple of years have been the worst i have seen it in Narragansett Bay, RI. I have been fishing for 50 years around the bay and went fishing a few times the last couple of years, only a few because there are a tiny percent of Fluke that come into the bay. some of the trips produced zero fish a couple of times a half dozen fish and those were in the outer bay. In years past we were able to fish in the inner bay, those days are gone. Even outside the bay there were not many fluke caught with the exception of Block island. Something needs to be changed.. Robert Sevigny

Name: Warren Kremin

Email Address: Wdkremin@aol.com

City, State, Zip Code: Bronx, ny 10474

Check all that apply: Commercial Industry

Comments: Need for fluke to keep my 50 employees working and hopefully be able to create more jobs.

Name: Stephanie Villani

Email Address: bluemoonfish@optonline.net

City, State, Zip Code: Mattituck, NY 11952

Check all that apply: Commercial Industry

Comments: NYS commercial fishermen need more fluke quota. This is why:

--it is very tough to make a living as a commercial fisherman. Expenses are high and low quotas lead to fishermen going out of business. There are not many commercial fishermen left in this state. Fishermen from the USA are the most highly regulated in the world.

--We personally have a large number of customers that want local fish. if there isn't enough for them, they end up buying inferior product from out of the country. 85% of seafood sold in the USA is from abroad.

--commercial fishermen from other states come to NY waters and harvest the fluke that NY fishermen are not allowed to harvest. It is not a matter of overfishing; the fluke stock is healthy. Check various state and federal records on this. Quotas should be made more equal.

--NY State needs to support a healthy fishery, including the fishermen and their customers. We have some of the finest fish in the world harvested off of the NY State coast -- we should be able to take part in responsibly harvesting fluke rather than allowing people from other areas to come and take it. In addition, NY State needs to support our local seafood industry as more and more people are aware of where their food comes from -- they want fresh, local fish.

From: David Dow <ddow420@comcast.net>
Date: Wed, Oct 10, 2018 at 5:55 AM
Subject: Summer Flounder Amendment Comments
To: <nmfs.flukeamendment@noaa.gov>
Cc: David Dow ddow420@comcast.net

I am a retired marine scientist and grassroots environmental activist living on Cape Cod. I used to work at the Fisheries Lab in Woods Hole (Northeast Fisheries Science Center) where amongst other duties I was the Recreational Fisheries Coordinator in the Northeast and a member of the NEFMC's Habitat Plan Development Team which helped Omnibus Habitat Amendment 2. In recent times Summer flounder, scup and black sea bass have moved into the waters in Nantucket Sound and adjacent embayments. These areas are being effected by eutrophication (nitrogen enrichment); climate change (warming waters and increased ocean acidity in sediments and water column); toxic chemicals which may bioaccumulate in the marine food chain (contaminants of emerging concern like PFOS and PFOA) and construction of wind farms in southeastern New England/US Navy Training & Testing in the Providence and Boston Regions. In addition, the stocks of forage fish such as sea herring have been dramatically reduced and may not be adequately supplemented by menhaden and other forage fish migrating up from the Mid-Atlantic region.

All of these factors combined may reduce the "productive capacity" of Summer flounder Essential Fish Habitat and increase the "natural mortality rate" in populations dynamics models (the latter is usually measured by difference in the mass balance computations). I laud the MAFMC for considering modifications to the commercial quota allocation; developing a commercial landings flexibility framework; revising the the FMP objectives; and ensuring compatible management between the states, Atlantic States Marine Fisheries Commission and NEFMC which regulates Winter flounder which are migrating northwards into the Gulf of Maine. Since Summer flounder, black sea bass and scup are also targeted by saltwater anglers, some accommodation needs to be made in the quota allocations between commercial and recreational fishing. The shifting baseline in the ocean surrounding Cape Cod needs to be accounted for in the SAW/SARC process that estimates the spawning stock biomass status; growth and reproduction rates and resulting ABC control rules/quotas developed by the MAFMC/ASMFC. Omnibus Habitat Amendment 2 developed by the NEFMC didn't include the effects of eutrophication; climate change and other

human uses on the EFH of Winter flounder or other managed species. One consequence of this that there have been drastic reductions in the Gulf of Maine cod and sea herring quotas.

Section 7.0 Landings Flexibility Framework Provisions tries to address some of my concerns, but it seems to be too narrow. It is good that flexibility would be added to allow quotas and landings to be extended to states in New England. The changes in EFH “productive capacity” in state and federal jurisdictional waters have to be addressed. Cape Cod embayments have lost oyster reefs & seagrass beds with erosion in salt marshes as a consequence of “N” enrichment; increased water temperature and acidity in the sediments/water column; and periodic anoxia/hypoxia in the bottom waters during the Summer. The grazing food chain is giving way to the microbial food web from late Spring into early Fall when the water column stratified (see EMaX carbon flow model of the Northeast Continental Shelf ecosystem for the consequences on the link between primary production and fisheries yield). From my perspective some type of adaptive, ecosystems-based management approach will be required to address these changes in “natural mortality” and how it effects the distribution of Summer flounder in space and time. Since the US Navy training and testing may involve sonar and explosives, this could effect both fishing vessels and Summer flounder, scup and black sea bass. Wind farm construction may help black sea bass populations, but the potential effects on Summer flounder appear to be unknown.

The final point that I wanted to make is that making changes to the Summer flounder landings has socioeconomic implications for coastal communities on places like Cape Cod where tourism; second homeowners; retirees and saltwater angling are important components of the **"Blue Economy"**. We are losing our working waterfront areas which effects both commercial fishing and saltwater angling. Section 7.0 needs to address this area in the landings flexibility framework. Most FMPs have both a natural and socioeconomic science component, but these are often poorly linked. Here on Cape Cod the 15 towns will spend \$ 4-7 billion over the next 20-30 years to reduce “N” loading from septic systems which has impacted our water quality and habitats for marine species. There is a dialog on “climate resilience” and link to coastal beach/wetland erosion. There is also concern on the effects of extreme weather events on coastal infrastructure and emergency responses for human populations. We face challenges from PFAS contamination of our drinking water and health effects on vulnerable populations (URI STEEP grant is exploring effects on immune system of children). Thus there will be shifts in the socioeconomic baseline on land which could effect both commercial fishing and saltwater angling for Summer Flounder. black sea bass and scup which are managed by the MAFMC/ASMFC/Massa. Division of Marine Fisheries.

Thanks for your consideration of these comments.

Dr. David D. Dow
East Falmouth, Ma.

Name: thomas kuhner

Email Address: crab414@optonline.net

City, State, Zip Code: babylon n.y.11702

Check all that apply: Commercial Industry

Comments: 75 yearold life time commercial fisherman. tired of getting screwed over

Name: Russell Cleary

Email Address: skipjack93@yahoo.com

City, State, Zip Code: Pepperell

Check all that apply: Commercial Industry

Comments: Do not penalize those permit-holders who have not fished for Summer Flounder if better opportunities were with fisheries for which there was greater species abundance.

Name: Kammy Ball

Email Address: happ2@optonline.net

City, State, Zip Code: Montaukt NY 11954

Check all that apply: Commercial Industry

Comments: I am Kammy Ball wife of Donald Ball owner and sole operator of the F/V KAMMY B a commercial fishing dragger in Montauk NY. My husband has been fishing all his life and has been certainly screwed on the quota. I am angry and have been angry for so long now. I have written, been to meetings stateing how unfair Ny state is treated in the quota share. I will try again stating my views.

REQUALIFYING- I FEEL THE ALTERNATIVE 1B-1 WILL BEST SAVE THE RESOURSE AND THE TRADITIONAL FISHERMAN. IT WOULD BE FOR THE PROTECTION OF BOTH WHICH IS EXTREMELY IMPORTANT.

QUOTA ALLOCATION- WE ALL KNOW THAT ALL THE OTHER STATES GOT HIGHER PERCENTAGE OF THE ALLOCATION THAN NY. THIS WAS WRONG FROM THE BEGINNING. THE SIMPLEST SOLUTION WOULD BE TO TAKE 1% OFF THEIR ALLOCATION AND GIVE IT TO NY.....BUT THAT IS NOT IN THE AMENDMENT.....SO THAT BEING SAID, THE BEST CHOICE FOR ME IS 2B-2.

I'D LIKE TO THANK NYS DEC FOR TRYING TO DO THE BEST THEY CAN FOR NY FISHERMEN.

Sincerely,

Kammy Ball, wife of

Donald Ball

Name: david monroe

Email Address: fudmonroe@yahoo.com

City, State, Zip Code: Laurinburg, nc 28352

Check all that apply: Private Recreational Angler

Comments: we flounder fish at least 40 days a year. Release many 14.5-15in fish expecting more and bigger fish the next year. The ratio of released to keepers is about 30 to 1. Where are the fish going?

Name: Jonathan Mentzel

Email Address: jmentz21@gmail.com

City, State, Zip Code: Patchogue NY 11772

Check all that apply: Private Recreational Angler, Charter/Headboat For-Hire, Commercial Industry

Comments: I would like fluke limits to increase

From: <crab554@aol.com>

Date: Wed, Oct 10, 2018 at 4:11 PM

Subject: ny state request

To: <nmfs.flukeamendment@noaa.gov>

no action should be the way to go on fluke , i hold ny and nj permits and have fished for fluke for 35 years . i have always followed the rules new York is notorious for the scam. just remember the set a side fiasco? the same players now ask that you the mafmc steal the fluke for them this isn't going to fly.

roy diehl
belford co op
belford nj
732 241 1980

From: **Joe Angevine** <angevinejoe@gmail.com>

Date: Thu, Oct 11, 2018 at 3:02 PM

Subject: Fluke allocation

To: <nmfs.flukeamendment@noaa.gov>

As a commercial fluke permit holder I believe the allocation should be equally distributed with all the states on the east coast

Sent from my iPhone

From: <hasfish@aol.com>
Date: Thu, Oct 11, 2018 at 3:07 PM
Subject: Fluke comment
To: <nmfs.flukeamendment@noaa.gov>

October 11, 2018

To whom it may concern,

I am writing this letter as a concerned NY commercial Fluke fisherman. I have several thoughts regarding the unfair and outdated Fluke regulations here in the NE. They are:

-the use of 1980 data to figure out quota for each state is nuts! To have NC and Virginia with such a large share of the pie while NY gets such a small slice in unfair.

-interstate quota should be allowed

-coast wide measures for each state should be equal

-flexible landings are ng

-top quota states should be topped off to allow other states to catch up

Sincerely

Capt. Harvey Smith

F/V Soaker

Name: anthony zucco

Email Address: octopus139@hotmail.com

City, State, Zip Code: east hampton ny 11954

Check all that apply: Commercial Industry

Comments: we can't stay in fishing business with this low allocation

Name: Brendan casey

Email Address: rmpc61@optonline.net

City, State, Zip Code: centerport new york 11721

Check all that apply: Commercial Industry

Comments: since the fluke fishery has been rebuilding ,n,y, state citizens have been unfairly discriminated against. the fluke quota was given to the states that were keeping the smallest fish . ny dec was not intrested in accurate record keep .letting point lookout fish dock send fluke back in tractor trailers to southern states beefing their quotas up, while ny got nothing towards their future quota share .its time for the government to make all fisherman have the equal rights to the fluke fishery. the constitution never gave one state the lion share of fish over another .i vote to make the summer flounder fishery equal landing to all states involved .

Name: Ed Warner

Email Address: Stock7879@aol.com

City, State, Zip Code: HAMPTON Bays ny 11946

Check all that apply: Commercial Industry

Comments: the fluke quota system is not fair and balanced for all states. Now only a couple of states receive the lion share of fish. This situation needs to be addressed now and changed immediately. Ed Warner

Name: arthur surrey

Email Address: artiesurrey@aol.com

City, State, Zip Code: Montauk New York 11954

Check all that apply: Commercial Industry

Comments: at least give 60 lbs to commercial fisherman that's what fits in a carton and give up to 100 lbs in summer for rod and reel fisherman. Rod and reel fisherman can only profit from middle of June to beginning of Sept. even the small Draggers after that they disappear. New Jersey and Connecticut fish same waters with at least 3 times are limit that also includes recreational. Thanks Artie

Name: John Davi

Email Address: captjohn63@yahoo.com

City, State, Zip Code: Port Jefferson Station New York

Check all that apply: Commercial Industry

Comments: Council members,

Unfortunately, I was unable to attend the public meeting that took place in New York. However, I am writing to address my concerns and comment on the summer flounder amendment.

Please consider that during the time a baseline was being set to establish interstate quota percentages, there were inconsistencies in the reference data that was being used to establish those baseline quotas. New York did not have the opportunity to establish a true baseline during the qualifying years resulting in an unreliable, underreported, inaccurate, and prejudicial baseline reference. This distortion can, and must, be corrected with the updated and more accurate data that has been collected over recent years.

Quota transfers between states should be considered if a state does not harvest its full allotment. Distribution across the states on a percentage basis, or an even and equitable distribution, would be welcomed.

I do not support and vehemently oppose "flexible landings" and do not support the consideration of such, nor do I support the establishment of a framework for the consideration of "flexible landings". This would undoubtedly harm inshore fisherman in all States.

Coast wide measures should be put in place to ensure equitable fluke quota distribution for all states while correcting for past inaccuracies. I propose an option that would be a compromise between states.

Proposal

The Atlantic Fisheries Compromise

The top three States with the highest percentage of fish will be temporarily capped at current levels. With the increase of fish quota per annum, the increase would only be distributed to the remaining States, until all States are in line with the recommended fish levels of sustainability for fisherman for those States. This would remove the pressure to reduce quota percentage from the top three States. Once the disadvantaged states get caught up to sustainable levels, the original percentages can resume for all States.

Thank you for your time and consideration. Please feel free to contact me if you have any questions or concerns, or wish to further discuss my proposal.

Respectfully,

John Davi, Jr., Member

NYS Marine Resources Advisory Council

Commercial Fisherman

631-300-8527

captjohn63@yahoo.com

Name: Eric Lundvall

Email Address: ericlarslundvall@gmail.com

City, State, Zip Code: Saunderstown, Rhode Island 02874

Check all that apply: Commercial Industry

Comments: STATUS QUO. I oppose all proposed measures of this summer flounder ammendment.

Sincerely,

Eric Lundvall, F/V Estrela Domar, owner, captain

Pt. Judith, Rhode Island

Federal Summer Flounder Moratorium permits 151988.

Name: edward rennar

Email Address: joxer821@aol.com

City, State, Zip Code: montauk

Check all that apply: Commercial Industry

Comments: Please keep it limited-entry entry do not ask current license holders to requalify.

Name: Alfred Schaffer

Email Address: Alfred.schaffer@icloud.com

City, State, Zip Code: East Hampton ny 11937

Check all that apply: Commercial Industry

Comments: The NY allotted quota was a mistake from the beginning. NY port agent used box count verses everyone's actual weight but you know that so the weights were squed to start with. I believe coast wide measures for equal distribution amongst states as a good part of the fish are caught off NY. We should start entire process over on an equal basis. I also don't believe in flexible landings amongst states good practice. It would work against state boats and fish prices year round. Something needs to get done as the system now is completely disproportionate. Thank you Al Schaffer

Name: Mitchell Fulcher

Email Address: Mjfulcher7266@gmail.com

City, State, Zip Code: East Hampton, ny, 11937

Check all that apply: Commercial Industry

Comments: The current summer flounder quota system really needs an immediate overhaul for many reasons; two being the gross inequality of state shares and the northern migration of the species itself. New York's coast has been a hot spot for summer flounder fisheries for decades yet the state only receives a paltry 7.6% share. It's not uncommon to see vessels from many coastal states fishing side by side with their New York brethren allowed to harvest as much as 200x the local vessels' minute daily quota. With the northern migration of summer flounder becoming more pronounced each passing year, it is a good argument for a reallocation of some quota to a group who have been handcuffed by unfair and outdated regulations for far too long, the commercial fishers of New York. Time for some reasonable change is here now.

Thank you,

Mitchell Fulcher

F/V Finestkind

Name: Tor Vincent

Email Address: duckislandmarine@gmail.com

City, State, Zip Code: Northport NY 11768

Check all that apply: Commercial Industry

Comments: The New York State quota has been flawed for decades. From the way our port agent counted the fish to the rigged surveys designed to fail. We need to adjust the quota much more equitably to all the states. That would bring some fairness to this long standing problem. I do not favor flexibility but rather a simple adjustment in state quota.

Thanks for the effort

Name: CARL BENSON

Email Address: farm08753@aol.com

City, State, Zip Code: TOMS RIVER

Check all that apply: Private Recreational Angler, Commercial Industry

Comments: SUMMER FLOUNDER COMMERCIAL ISSUES AMENDMENT

I will be addressing the 4 issues that are presented for comment. But first, I wish to comment about the process. For the past five years, MAFMC, ASFMC and NMFS have been utilizing resources: funds, staff, scientist and members to address these issues, while the summer flounder biomass is not attaining the goals set by the Magnuson Stevens ACT. From the user position, summer flounder is now more restrictive for both recreational and commercial fishers. It was not that long ago that the summer flounder bio mass was incorrectly declared as rebuilt. How did we get here. in my view, these groups did not do their job and allowed other priorities to intercede and deflect focus on the prize. This 25 year long failure must be the priority.

For the past 5 years, there has been no collaborative research funding to address options to increase biomass. After the mismanagement of the Research Set Aside program, only one MAFMC funding opportunity in its 5 year plan was implemented and the funding was not awarded to any summer flounder proposals. Instead Black Sea Bass off shore mortality reduction was funded. Summer flounder biomass is low and in trouble, while BSB are twice their biomass target.

In 2014, a research proposal was awarded to FDU to study hook size appropriate to harvest summer flounder while reducing the catching of "shorts". Both MAFMC's RSA and NOAA's Bi-Catch Reduction Engineering Program awarded funding. FDU selected NOAA's offer. Over 7500 summer flounder were caught utilizing hooks ranging from size 2/0 through 9/0. The study indicated the hook size to utilize to harvest target sized SF while reducing the catch of smaller non target fish. The results were presented to various groups including MAFMC and NJMFC. NJ DEP utilized the study results to defend its position of not going to 19' summer flounder for the 2017 season. NJ arranged for a hook manufacturer to provide samples thru Bait and Tackle stores. The study was peer reviewed and published. Why has this information not been used to address reduce discard mortality.

During 2018. the wonder rig gained popularity. This rig is not new, but was shared with the general fishing public thru Internet sites. The rig uses a light as possible buck tail, with hook removed, and a leader to a NO.6 hook(twelve sizes smaller than recommended for 18" summer flounder) and a live bait, such as minnow(killifish), peanut bunker, spearing, mullet, snapper bluefish, etc. The above BREP study showed that gut hooking was increased with the use of live bait. However utilizing the proper hook size out weighed the live bait aspect.

The point is that discard mortality must be addressed and the best process implemented to insure the biomass regaining its rebuilding target.

I recommend

4.0 PROPOSED REVISIONS TO FMP OBJECTIVES- when the Council and Board identify preferred alternatives come back in the same form to get public comment. Not approved.

5.0 FEDERAL MORATORIUM PERMIT REQUALIFICATION-Alternative 1B--- eliminate the largest number of Moratorium rights

6.0 COMMERCIAL QUOTA ALLOCATION-Alternative 2A--- Status Quo- Seems like a stacked deck to move from the 4 ? southern? to the 5 ?northern? states so that the havenots take from the haves. Looks like a law suit is in the future. Lets rebuild the summer flounder stock instead of foolishly wasting resources.

7.0 LANDINGS FLEXIBILITY FRAMEWORK PROVISIONS-3-A STATUS QUO. Could have impact on dealers and shore based operations that are currently fragile.

Name: Brian Boyce

Email Address: crab.4.u@hotmail.com

City, State, Zip Code: Belford N.J. 07718

Check all that apply: Commercial Industry

Comments: Summer Flounder Commercial Issues Amendment Comments

I am the owner operator of fishing vessel Linda permit # 250231.

I recently attended public hearing on proposed changes to summer flounder regulations. I have been fishing for summer flounder for approxamatly 45 years. Long before there were permits.

Your permit requalification plan is a sham. I can not agree to requalify permit owners who already have permits. I am going with alternative 1A in this regard.We do not have 401 ks or a big pension our permits are our retirement.

On the proposed commercial quota reallocation I again go with the status quo 2A. we have suffered many years with short quotas and 2 week seasons. We can not handle any more cut backs.

On Landing Flexibility Frame Work plans I again go with the status quo 3A Landing big quotas from Virginia or Carolina will only drive fluke prices down.This business is tuff enough with out market glut.

The best thing that should be done with summer flounder is reduce size limit on sport fishery .It seems the higher you raise the size limit the less the biomass becomes. You can not kill all the large spawning females and expect a stock recovery.Also catching 20 small fish to get one keeper is stupid how many released fish are dead??

Brian Boyce

fishing vessel Linda

permit 250231

Name: Gus Lovgren

Email Address: gus.glove@gmail.com

City, State, Zip Code: Brick, NJ 08723

Check all that apply: Commercial Industry

Comments: 10/10/2018 Gus Lovgren

Summer Flounder Amendment Comments

My name is Gus Lovgren, I am a captain of the fishing vessel Kailey Ann as well as a member of the Fisherman's Dock Co-Op Inc. in Point Pleasant, NJ. I would like to start by saying all proposed options for goal 2 would be completely devastating for New Jersey fishermen. We have had our quota's reduced year after year under the guise that our sacrifices would be rewarded in the near future. In the past four years alone, our quota has been reduced over 30 percent despite our landings falling short of the directed quota allotments. The economic impact has been disastrous; vessels are being sold, and those who were planning to retire are being forced back to continue working, while most of us are struggling to pay our bills.

The issue is that the stock biomass has moved northward into southern New England. While I agree with this statement, I strongly disagree with where the line has been drawn for the shift in quota allocation. We have not seen a shift in our local summer flounder biomass; we are still catching the same fish in the same spots that our grandfathers have fished for over 60 years. What I have noticed in recent years is boats with North Carolina and/or Virginia fluke permits fishing off the New Jersey coast to obtain their quota and return back to the south to offload their catch. This includes both southern boats as well as New England boats with southern permits

New Jersey's sustainable fishing regulations have made us the center point for some of the most highly sought seafood on the east coast, including not just summer flounder, but also black sea bass, scallops, scup, and more. It seems as if many of these proposals are punishing us for the sacrifices we made to assure the healthy biomass that we are currently experiencing. For example, New Jersey is the only state that has created six directed fluke seasons, allowing for year round fishing without saturating the market or putting too much pressure on the species at any one time. Despite us fishing year round, we never have to venture very far to catch our limit.

The next issues I would like to address is the stock biomass assessment of summer flounder. Since the introduction of the Magnuson-Stevens Act of 1976 and the removal of the foreign fleet from our waters, the fluke biomass has been on a steady incline until recent years. We fell below the targeted biomass goal and saw reductions in the spawning biomass with little change to commercial regulations during that time. What did change was increases in recreational size limits. The current recreational size limit of 18 inches forces fisherman to target spawning females while increasing the mortality rate of discarded undersized fish. This 18 inch size limit also paints targets on the backs of commercial fisherman who are allowed to retain 14 inch fish. These regulations have been the cause of much verbal abuse I have received, as well as threats to my boat, my gear, my crew and relatively my safety and well being. I propose reducing the recreational size limit to 16 inches and adding an amendment limiting the amount of fish that can be kept over 24 inches. This would limit the amount of pressure on spawning females.

As for goal 1, "Implementing Re qualifying Criteria," I support alternative 1B-5, for the qualifying period from 1999-2014. However I believe the cumulative quota should be increased to 5000

pounds, or to a cumulative landings total of 1000 pounds over the span of any 1 year during that time span. If you do not meet those qualifications than you obviously are not dependent on the summer flounder fishery for you livelihood.

With goal 2, "Modifications to Commercial Quota Allocation," I support alternative 2A; no action. I have stated above in great detail that I see no other alternatives that aren't completely devastating to New Jersey fisherman. In terms of quota reallocation, I see this already happening with the buying and selling of permits to vessels in the New England area.

As for goal 3, "Landings Flexibility," I support alternative 3A; no action. States create their own quotas to adversely affect their local economy. Allowing boats to land their catches in home ports outside of their state permits could be disastrous to local jobs, as well as prices for other fisherman. For example, how would a North Carolina game warden be able to monitor the offload of fluke in Connecticut on such short notice? Furthermore, by amending goals 2 and 3, a handful of select fisherman would be rewarded, but it would cripple small family owned and operated vessels. For instance, what type of effect would it have if a boat from southern New England, with permits for North Carolina, Virginia, and New Jersey now saw a major increase in their local quota while being allowed to land all those limits in their home port? The market would become saturated and prices would tumble. The fisherman with single-state permits would feel the effects the most. I could see this type of proposition to being just as disastrous to the industry as the introduction of the catch-share program, it creates a few big winners while driving the smaller enterprises into a guaranteed death.

Commercial fishing is America's oldest industry as well as the 7th most regulated in the country. We have the most sustainable fisheries in the world, but low quotas have driven market prices to record highs while ex-vessel prices have remained stagnant. We have reached the point where the average citizen cannot afford fresh local caught fish. In turn they buy cheap, low quality imported fish. We now import over 90 percent of the seafood in America from countries with little to no concern for regulations or sustainability. We are humble people doing the jobs we love, like our fathers and their fathers before them. What was once a thriving industry is now an over-regulated mess. Please take into consideration my suggestions for amendments and take into account the possible ramifications.

Thank you for your consideration, Gus Lovgren F/V Kailey Ann Fisherman's Dock Co-Op

Name: Paul Bruce Beckwith

Email Address: suebeckwith82@msn.com

City, State, Zip Code: Montauk

Check all that apply: Commercial Industry

Comments: I am not really sure how flexible landings will help the majority of NYS commercial fluke fishermen. I am in favor of a coast wide quota on fluke similar to that on scup in the winter period where all Federally commercial moratorium summer flounder permit holders can catch and land the same trip limits on fluke in the winter period regardless of what state they are from in their respective states. Reasonable once a week landings with sustainable trip limits on fluke that won't cause derby type fishing. I feel everyone fishing in Federal waters regardless of what state should have the same trip limits.

Name: Don Ball

Email Address: Happ2@optonline.net

City, State, Zip Code: Amagansett N.Y. 11930

Check all that apply: Commercial Industry

Comments: Don ball commercial fisherman owner of f/v Kammy B. To add to my previous comment that I sent the other day. The reason I like the scup plan is because all federal permits and landings are equal. It eliminates the flexible landing bull crap. I am against flexible landings. Too unfair for inshore guys who don't have out of state permits. It only benefits the wealthy. Permits should go back to the states where they came from to benefit those states fishermen. Donald Ball

From: <happ2@optonline.net>

Date: Fri, Oct 12, 2018 at 5:17 PM

Subject: Summer flounder amendment

To: <nmfs.flukeamendment@noaa.gov>

Don Ball commercial fisherman owner of f/v Kammy b out of Mtk. Adding to previous sent comments. Not in favor of flexible landings as it only benefits the wealthy big enterprises. Reason I approve the scup plan is that it makes things fair. All boats and permits are equal and this is what the amendment is about... fairness. State permits should only allow fish to be landed and sold in the state of the permit. Thank you Don Ball

Name: John Howell

Email Address: jfhowell84@hotmail.com

City, State, Zip Code: 08731

Check all that apply: Private Recreational Angler, Commercial Industry

Comments: 6.0 COMMERCIAL QUOTA ALLOCATION-Alternative 2A--- Status Quo-NJ is in the northern region. There is no reason to lump NJ with the southern states in an attempt to reduce NJ's quota percentage. NJ is gaining fluke biomass wise due to northward movement. There is no reason to lower NJ's quota by lumping NJ with southern states.

7.0 LANDINGS FLEXIBILITY FRAMEWORK PROVISIONS-3-A STATUS QUO. Really should not allow out of state boats to land fish in NJ.

From: Ken Morse <ken@tightlinestackleinc.com>

Date: Thu, Oct 11, 2018 at 3:45 PM

Subject: NY Fluke

To: <nmfs.flukeamendment@noaa.gov>

New York is ALWAYS GETTING SCREWED BY OVER REGULATION!!!!!!!!!!

Your killing us!!!!

Please

Stop over regulation!!!

Your making my livelihood impossible!

Kenneth Morse
Tightlinestackleinc

Sent from my iPhone

From: William Wasilewski President F/V William&Lauren Inc <wlfisheries@aol.com>

Date: Thu, Oct 11, 2018 at 4:33 PM

Subject: Fluke amendment

To: <nmfs.flukeamendment@noaa.gov>

I am submitting the following comments in regard to the summer flounder amendment.

As for the requalifying part of the amendment I like alternative 1A. The reason being the resource is currently being sustainably managed and has been for quite some time. As stated by the councils own research many permits remain inactive. The reason for that is low quotas, expensive start up costs, and not many qualified fishermen to go fishing. Not to mention limited availability of state permits.

If the council feels compelled to requalify permits I think that alternative 1B-5 would be a good choice.

It is a middle of the road alternative with a 31% reduction. It also doesn't just reward newer entrants into the fishery but takes into account those with a long history of participation in the fishery.

The next topic of concern is changing the different states allocation. This is blatantly unfair. Historical landings have been a keystone of fisheries management. Now we're going disregard this because the biomass has shifted? I do not see the merit in this. The resource is and always has been spread out over a large geographical area with most of the fish caught in federal waters. If anything boats that have to travel further north to catch small quotas may not find it economical to do so which in turn would promote more conservation.

I urge the council to adopt alternative 2A.

In closing the council should not be requalifying permits or changing state allocations. It's akin to changing the rules in the middle of the game. It is unfair to most fisherman involved in the summer flounder fishery.

Thank you for considering my comments,

Bill Wasilewski
F/V William&Lauren

Sent from my iPhone

William Wasilewski
President F/V William&Lauren Inc

From: Brendan & Rachel Casey <rmpc61@optonline.net>

Date: Thu, Oct 11, 2018 at 4:48 PM

Subject: fluke

To: <nmfs.flukeamendment@noaa.gov>

it time to stop discriminating against new york fisherman. a flawed system was developed by your advisory council to take away the equal rights of new york fisherman to the summer flounder fishery.its a fact. vote now to make all states involved in the fluke fishery even . like it was before this unjust summer flounder quota system was enacted. thank u Brendan casey, new york fisherman

From: Candace Caraftis <caraftisfish@aol.com>

Date: Thu, Oct 11, 2018 at 6:33 PM

Subject: Dr. Christopher Moore, I am submitting comments today in regards to the Summer Flounder Commercial Issues Amendment. For 20+ years, this antiquated state-by-state allocation issue, using outdated data, has been debated for the commercial industry, as well as the recreational industry. As a member of the New York Fishing Community, I do not believe that any of the commercial quota allocation alternatives listed in this Amendment properly address the issue. The current state-by-state commercial allocation that was adopted in 1993 is inequitable, disproportionate and inappropriate. It is in fact a violation to the Magnuson-Stevens Act National Standard 2, requiring that the best scientific data available is utilized, for which these allocations are not. None of the alternatives proposed address the real issue, which is the need for a complete overhaul of the state-by-state allocation of the commercial quota for Summer Flounder. This Amendment falls short of an alternative to

To: <nmfs.flukeamendment@noaa.gov>

From: Alfred Schaffer <alfred.schaffer@icloud.com>

Date: Fri, Oct 12, 2018 at 9:10 AM

Subject: Flk

To: <nmfs.flukeamendment@noaa.gov>

Fluke distribution amongst states needs to be reconsidered. The NY allocation has been wrong right from the beginning as our port agent counted flk by the box method an other states used actual weights so we started disadvantaged right from the start. A large majority of the fish are caught off NY so I believe we should start from the beginning on all states on a equal basis . The truth is the data is sqed an the observer program is a joke as data is only used for negative purposes . If data was used properly we would have a increase in flk quota . I have also personally run a ventless trap servey for ASMFC an proved to the scientists how it was disigned to fail . Government run science is a rediculus farce . Back to flk I also don't believe flexibly in landings amongst states is advantageous to smaller boats an think its a bad idea. Something needs to be done as NY needs to get a larger portion of the quota an real science needs to be looked at through uncorrupted eyes

Thank you Al Schaffer

Sent from my iPhone

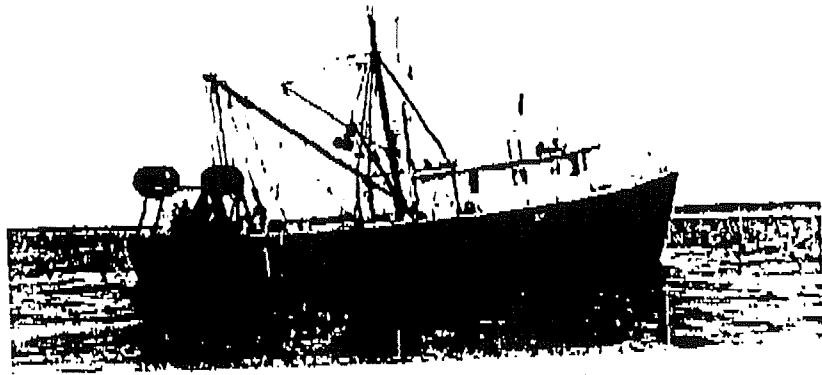
From: jon semlear <jsemlear@hotmail.com>

Date: Fri, Oct 12, 2018 at 11:47 AM

Subject: Fluke quota

To: nmfs.flukeamendment@noaa.gov <nmfs.flukeamendment@noaa.gov>

I am a pound net fisherman in New York State. NY2877. Please afford our state a reasonable share of the coast wide fluke quota. Our survival in our industry depends on it. Thank you. Jon Semlear



ROBERT HAMILTON JR. INC.
 F/V MISS NANCY [REDACTED] F/V JEREMY H
 527 MAIN STREET
 GREENPORT, N.Y. 11944
 631-477-0243, 631-477-0928 FAX
 516-383-1430 CELL

9/8/18

TO: Chris Moore PhD
 Mid-Atlantic Fishery Council
 N. State St Suite 201
 Dover, DE 19901

FAX 302-674-5399

Comments on Summer Flounder
 Amendment.

3 pages including cover

Chris Moore PhD

9/8/18

Mid-Atlantic Fishery Council

N. State St Suite 201

Dover De 19901

Fax 302-674-5399

Comments on Fluke amendment

Commercial Quota Allocation

I support alternative 2B-2

NY State has been unfairly given a low share of the quota (7.6%) of the fluke biomass. The 1980-89 data was severely lacking. NY state did not collect trip reports and the port agents reported very few of the fishing vessels trips.

I will support an increase in quota for N.Y. State.

I am total opposed to 2D.

Using the scup model for fluke would be devastating to the small inshore vessels.

With a scup trip limit in winter of 50,000

Those of us who fish in state waters get approximately 1.2% (600 lbs) for a daily quota in the summer months.

If fluke were regulated according

to the "scrap model", NY state
summer period fluke landings would be
lower than our current 50 lbs/day or
NONE - Fishery closed.

I am 100% opposed to managing fluke
mirroring the "scrap model"!

3A - No Action

I am totally opposed to the
landings flexibility for fluke and
especially "allowing vessels to possess
multiple state possession limits at
one time for separate offloading."

This will certainly foster
a derby fishery, where the
largest boats will use up the
quota before others can utilize
the resource

Sincerely
Robert Hamilton - Jr

Robert Hamilton

9/15

September 13, 2018

TO: Chris Moore PHD

FROM: James Puhala

25 Linden Ave N

Westbrook ,CT 06498

The time has come for change in the methodology of the personnel at Atlantic Fisheries. Their judgement is clouded or politically influenced.

Science proves that the biomass of fluke has shifted from the Mid Atlantic to the North but the people making these decisions have totally ignored this fact.

States like MA, CT and RI are being treated unfairly. The fluke are in our area and the allocations do not reflect this fact.

The states of VA and NC are unfairly harvesting the North Atlantic fluke due to their high allocations, allowing them nearly 50% of the allocation is ludicrous. It shows the poor management of this system.

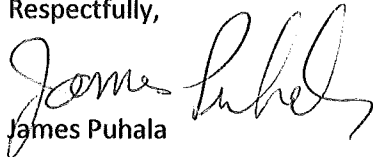
It appears that this will continue to hurt the Northeast fisherman.

Making the right decision is difficult but the only decision needs to be more allocations for the Northeast Region.

Make the correct decision and avoid politics. Think about what science has dictated.

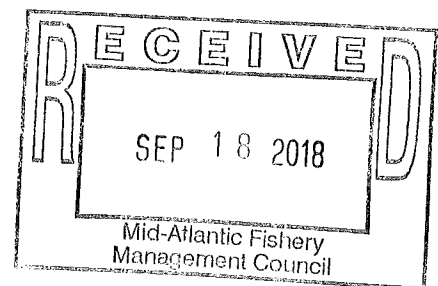
I hope these comments will not fall on deaf ears.

Respectfully,



James Puhala

413-374-7402



9/15

TO: Chris Moore PHD

FROM: Gary Rutty

43 Clark St., Old Saybrook, CT 06475

I hold a fluke permit to drag for fluke in CT.

After attending a recent meeting, I am very upset on the way allocations for fluke are handled.

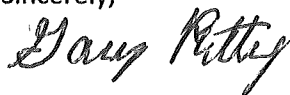
It seems no one accepts the fact that the biomass of fluke has now moved to the North Atlantic and science proves this. Yet we get the smallest allocations for fluke. I cannot understand how North Carolina and Virginia are allowed to come into North Atlantic waters and harvest and sell our fluke, using past years as the reasoning for giving them high quotas is not sound judgement.

Please consider increasing CT quotas.

I am strongly in favor of increasing allocations to greater fluke for the North Atlantic States.

Waiting years to enact changes is completely unfair.

Sincerely,



Gary Rutty



Kiley Dancy

From: James Fletcher <unfa34@gmail.com>
Sent: Tuesday, September 25, 2018 1:59 PM
To: Beaty, Julia; Kiley Dancy; Moore, Christopher; Batsavage, Chris
Subject: ALTERNATIVE TO REDUCING SUMMER FLOUNDER VESSELS WITH SUMMER FLOUNDER
COMMERCIAL ISSUES AMENDMENT
Attachments: 37_fisheryjournal_1991.pdf

PLEASE MAKE A PART OF RECORD

WHERE IS INFORMATION ON RANCHING SOUTHERN FLOUNDER POSSIBLY IN NEW YORK
THIS IS 1991 HOW MUCH HAS "BEST SCIENCE IMPROVED" ???

--

James Fletcher
United National Fisherman's Association
123 Apple Rd.
Manns Harbor, NC 27953
252-473-3287



The big shift from trawl fishery to fish farming and aquaculture



Except when feeding, bastard halibut kept in tanks or cages spend most of the time lying quietly on the bottom. The fish lie one on top of another not as a result of a swarming instinct but rather as a manifestation of their habitual need, known as thigmotaxis, to constantly be in contact with some surface.

The aquaculture being conducted in Japan today can be divided into two major categories; open-sea system fish farming that utilizes open areas of natural sea environment, and closed-area system aquaculture conducted in artificially enclosed sectors of water. The fish farming method is one that relies basically on the natural productive capacity of a given sea area.

The object of this method is to release fish seeds in the natural sea environment and control or maintain that environment in ways beneficial for growth of the young so as to increase and maintain the reproductive capacity of the marine resources involved.

This in turn leads to recovery of fishing ground productivity and helps stimulate fishing boat fisheries within the cycle of the resources' natural reproductive patterns. The aquaculture method, on the other hand, is by nature a commercial pursuit. This method provides the fishery operator the means to actively control the growth of his marine products, create added value and gain commercial profit from sales. Particularly in the case of closed-area system aquaculture of fishes, the tendency is to choose high-value fish with rapid growth characteristics and engage strictly in feeding aquaculture.

In Japan, the market price of fish varies greatly by species. High class fish like bastard halibut, red sea bream and tunas for example draw market prices that are more than ten times the price per kilogram of mass-catch fishes like sardine, sand lance and mackerels. This price gap between different species of fish has been the largest single factor contributing to the growth of commercial-type aquaculture of fishes in Japan. The present price structure for these types of marine products is based on traditional Japanese eating habits with regard to seafood. But in another sense, it also reflects the development of Japan's consumer economy that has accompanied the high economic growth rate the country has enjoyed since the 1960's.



Closed-area system aquaculture using net cages hung in surface waters is conducted by family labor. The feeding operation can be performed by one person, while the selection work, net cleaning and shipping preparations are performed by 2-3 people.

The species we introduce in this issue, bastard halibut, *Paralichthys olivaceus*, is a prime example of a high-class consumer fish that has become the object of commercial aquaculture under the unique conditions of Japanese marine production mentioned above. In all parts of Japan today, the production of bastard halibut is being actively expanded by means of both fish farming and aquaculture methods (FIG.1). Bastard halibuts and righteye flounders have been important fishery products in Japan since the Edo Period (17th-19th centuries), caught actively in inland sea areas, bays and outer sea coasts with sand and mud bottom composition throughout the country. The fishing methods have included seine net, sailing seine, gill net, long line and hand-and-line.

Among these, seine net and sailing seine methods became mechanized in the Meiji Period (1868-1912) and later developed into small-scale trawl net methods. The trawl net method using motorized boats is the most efficient fishing method of all for catching demersal fish, and, with the growth of fisheries in modern times, its use has spread beyond coastal fisheries into offshore and even far sea fishing grounds. Flatfish fishery is no exception to this tendency, with the trawl net method continuing to be responsible for the largest amount of catch.

In recent years, however, trawl net fishery has diminished somewhat in importance. Since around 1980, a strengthening of international restrictions on trawl fisheries in the northern North Pacific Ocean, has led

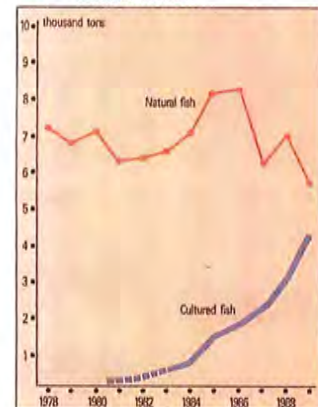
to a sharp reduction in catch. In some cases it has become necessary to suspend fishing operations completely. In the case of offshore fisheries for flatfish, total catch has been decreasing steadily since the latter half of the 1970s. Furthermore, in coastal small-scale trawl net fishery, although fish farming has proven effective as a means to increase resources of shellfish species, the catch of demersal fish such as bastard halibut continues to decrease.

In light of these conditions, revitalization of coastal fisheries through propagation of resources has become an important subject of industry attention. And, in the case of high-class fish like bastard halibut with its strong market demand, conditions are ripe for a major expansion of commercial-type aquaculture. Artificial production of bastard halibut seeds began on a mass scale at the Fisheries Experimental Stations of Aomori, Tottori and Niigata Prefectures around the year 1975, after which release of fry was begun.

Since then, the number of prefectures engaging in fish farming of bastard halibut has continued to increase. In the year 1988, the nationwide production of bastard halibut seeds at national and prefectural sea farming centers was approximately 15.2 million fish, of which about 8.9 million were released in the sea after intermediate rearing.

Meanwhile, closed-area system aquaculture of bastard halibut was begun by fishery operators in about 1980. Since then, operations have spread to all parts of the country, including entries by operators from outside the fishery industry. At present there is an annual production of about 4,000 tons coming from the warm current coasts of Western Japan including the three dominant prefectures of Ehime, Kagoshima and Mie. (FIG.1)

FIG. 1: Japanese production of bastard halibut



The bastard halibut's mode of life and suitability to aquaculture

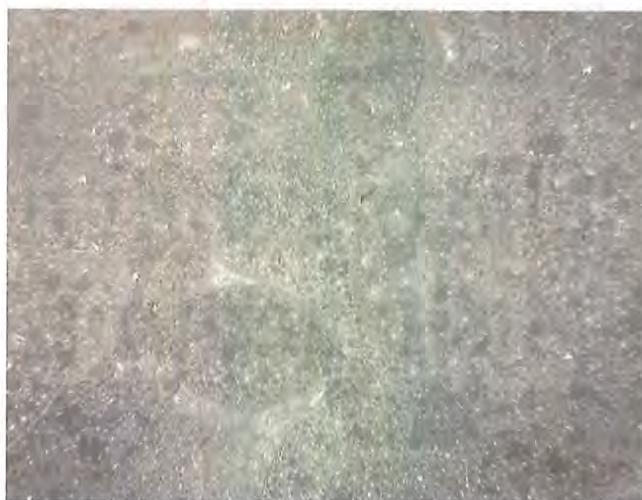
Almost all flatfish varieties are saltwater species, and they inhabit all of the world's oceans. They are distributed from the cold water regions to the tropics, but the largest resources are found in the temperate zone.

Flatfish are a heterosomata group. Immediately after hatching they have symmetrical bodies and swim in a vertical position. As they grow, however, one of the eyes gradually moves along the periphery of the head to the other side, finally becoming fixed in a position above the other eye. Its swimming posture then changes from the vertical to the horizontal, the structure of the head bones, nerves and muscles change and it enters a benthic life with its eyeside facing against the sea floor and its eyed side facing up.

Within the family Paralichthyidae, Japanese halibut is a variety with very distinct characteristics. Its eyes are small and its mouth large and strong with large, sharp teeth aligned in a single row.

In the natural state, bastard halibut reach an average body length of 3cm two months after hatching and 6cm within three months. After this the growth rate increases rapidly and, if conditions are favorable, the young will grow to a length of 30cm and weight of 250g one year after hatching,

40cm and 700g by the second year and 50cm and about 1.4 kg by the third year. At their largest, bastard halibut will reach a body length of 70–80cm and a weight of 4–5kg. In many fish species there is a tendency for the growth rate to slacken after sexual maturity is reached, but it is a characteristic of bastard halibut that growth continues without regard to sexual maturity. While the body growth rate is somewhat inferior to that of yellowtail, it far exceeds that of red sea bream for example. (FIG. 2) Bastard halibut is a bottom-dwelling fish that belongs to the order Pleuronectiforms, a group commonly referred to as flatfish. (FIG. 3) Among the flatfish inhabiting Japanese waters, the largest resources consist of two families of the suborder Pleuronectoidei; Paralichthyidae (bastard halibuts) and Pleuronectidae (righteye flounders). These two species groups also have higher value as marine products. While both groups are distributed throughout the coastal waters of Japan, bastard halibuts are generally distributed more in the south, with both the number of varieties and size of catches increasing the farther south one goes. On the other hand, righteye flounders are northern type species found most abundantly in Hokkaido, the northern island of Japan, with its number decreasing in southern waters. (FIG. 4 and



As a photochromatic, bastard halibut is sensitive to color, matching its own coloring to that of the bottom it inhabits. The photo shows the case of fish in the shaded part of a concrete tank.

FIG. 2: Comparison of growth for natural bastard halibut and righteye flounders

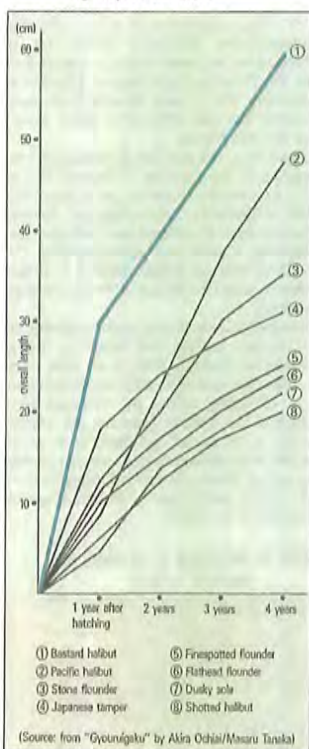


FIG. 3: Taxonomy of bastard halibuts

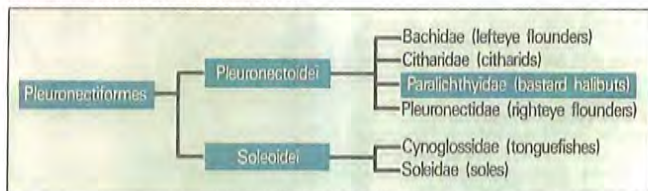


FIG. 4: Catch of natural bastard halibut (1989)

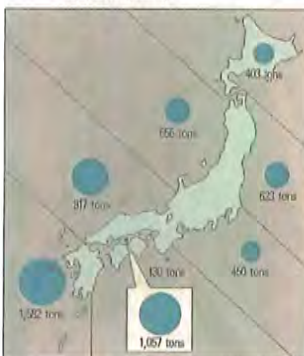


FIG. 5: Catch of natural righteye flounders (1989)

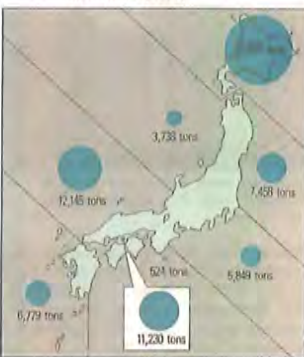


FIG. 5)

When bastard halibut reach a body length of about 11mm, about 25–30 days after hatching, the left-right symmetry of their body structure begins to distort and they enter a period of metamorphosis. This metamorphosis is completed by about the 50th day after hatching. The swimming fry inhabit surface and middle layer waters at a depth of greater than 20 meters. Upon entering the bottom-dwelling stage at about 12mm of body size, however, they move to sandy bottom areas at a depth of less than 20m, most commonly inhabiting river mouth areas or areas with eddies. For purposes of spawning or feeding, adult fish will make migrations between waters of different depths and between north and south. Prior to spawning they approach shore and live in shallow waters at a depth of 20–30m. After spawning they will migrate in a northerly direction in search of food. When water temperatures begin to drop in the fall they will move to depths below 50 meters and begin to migrate south, where they eventually spend the winter at depths of 90m or more. Throughout their life cycle, they consistently inhabit sea areas with sand and mud bottom composition. Bastard halibut is a typical carnivorous fish. During the larval stage they feed on planktons, but after reaching a body length of about 3cm they gradually shift to a piscivorous nature. Among bastard halibuts and righteye flounders are varieties that feed mainly on bottom-dwelling marine animals, but bastard halibut, with its well-developed teeth and strong swimming capability, feeds abundantly on the young of small and middle sized fishes that inhabit its habitat, as well as bottom-dwelling crustaceans. In its natural state, bastard halibut feeds primarily on anchovy and sand lance. In addition to these, it also feeds on the young of horse mackerel and chub mackerel, together with Japanese whiting, scorpionfish and righteye flounders. Its feeding habits are greatly affected by water temperature. At water temperatures below 10°C bastard halibut ceases to feed altogether. Within the range of 10–20°C it can be said that the higher the temperature the greater their feeding activity. When the temperature reaches 25°C their appetite begins to weaken, and at temperatures over 27°C they again cease to feed.

(Note) The abovementioned statistics derive from a thesis by Prof. Akira Ochiai.

For operators of bastard halibut aquaculture, the following three characteristics of the fish are extremely beneficial:

- 1) It is a high priced fish.
- 2) It is an active feeder with a fast growth rate.
- 3) Being sedentary by nature, it is easy to handle.

However, there are several problems connected with bastard halibut aquaculture that until recently have caused production to remain at a comparatively low level. These detrimental factors are all based in the ecological characteristics of the fish, and they include:

- 1) Diseases at the fry stage: A bacterial nebula of the intestines occurs around the time of metamorphosis, sometimes causing all the seed fish to die in a few days.
- 2) Cannibalism following metamorphosis: After the metamorphosis period, feeding habits change and the young show a preference to feed on small animals. At this stage cannibalism occurs with increasing intensity, resulting in a dramatic drop in the survival rate of the seed fish.
- 3) The difficulty of building culture facilities suited to the behaviour of the fish: With conventional net cage culture facilities commonly used in fish aquaculture, net vibration resulting from wind and wave motion causes flounder lying on the bottom to react by swimming up. This results in increased energy expenditure and reduced feeding efficiency. Also, net abrasion can cause external injury to the flounder that increases the mortality rate.
- 4) Appearance of whitened individuals: Among artificially produced bastard halibut seeds there is a high occurrence rate of whitened individuals that do not form a colored membrane on the surface of their eyed side.
- 5) With cultured bastard halibut, dark patches often form on the surface membrane of the eyeside.

Of the abovementioned problems, 1), 2) and 3) hinder the economics of aquaculture production, while 4) and 5), although not affecting the quality of the fish meat, are factors which decrease the commercial value of the product, thus threatening the economic feasibility of culture operations. However, the experimental efforts of researchers and the adaptations worked out by operators in recent years have served to alleviate these problems and stimulate a growth in production.

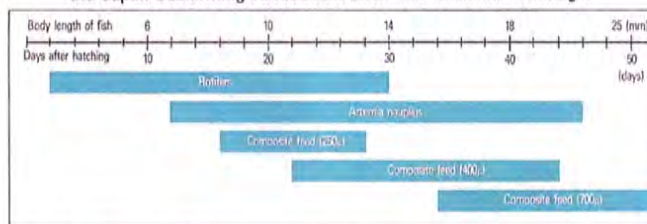
The key lies in the fishermen's maintenance of the fishing grounds

The first attempt at artificial breeding of bastard halibut were made at the end of the 19th century, but at that time there was little success in raising the young after hatching. In 1965, Prof. Teruo Harada of the Marine Research Laboratory of Kinki University undertook the insemination and hatching of eggs obtained from natural fish and succeeded in rearing the offspring for over one year. Then, in 1969, the same professor succeeded in rearing the young obtained by artificial hatching into parent fish from which he was able to gather eggs, thus making a complete life-cycle aquaculture possible for the first time.

Seed production

In the case of bastard halibut, it was in the 1980s that systems for mass production of seeds became established. These systems resulted from the perfection of technology for rearing hatched young produced by means of artificial insemination to an intermediate fry stage (body length 3–5cm) in large-sized (150-ton) or small sized (50-ton) water tanks on land. In one example, hatched young are placed in a 50-ton tank at a density of 20,000 fish per cubic meter of water, then thinned to a density of 10,000/m³ upon reaching a body length of 8mm and again to a density of 5,000/m³ upon reaching a length of 13mm. Each production batch thus requires four tanks, and two or three productions can be made a year, meaning a total annual output of

FIG. 6: Example of a feeding schedule from the Miyako Office (Iwate Pref.) of the Japan Seafarming Association (after Mr. Tatsuhiro Fukunaga)



two to three million seed fish. Until 1985, a variety of feeds were used for the fry and young, including Rotifers, Artemia nauplius, fish eggs, frozen mysids, minced fish meat, etc. Since 1987, however, the diet has been simplified to include just three elements; Rotifers, Artemia nauplius and composite feed, (FIG. 6) The most important things to watch for in the seed production process for bastard halibut are the outbreak of diseases caused by bacteria or parasitic insects and the occurrence of individuals with abnormal coloring. The former tend to be infectious diseases that result in extremely high mortality rates. Research to identify the bacteria responsible for each disease is in progress, and it has become clear that some of the infectious diseases are transmitted by organic feeds. The basic disease prevention measures include maintaining sanitation

during the seed production process and obtaining disease-free parent fish. Meanwhile, concerning the occurrence of abnormal coloring in flounders, whitening of the eye side is a well-known phenomenon. The phenomenon is the result of a non-contagious disease and is a partial body discoloration that is different from albinism. The appearance of coloration in bastard halibut is closely related to the metamorphic process by which the fish acquires its left-right asymmetrical characteristics. And it is now believed that the whitening occurs as a result of nutritional deficiencies during the fry stage. Recently, positive results are being achieved in the prevention of whitening by feeding the young a nutritionally fortified, fine-grained composite feed beginning about 10 days after hatching.

while in 1988 the number was roughly 97,000 (29% of the released stock). The economic return on the releases can be calculated as in TABLE 1. According to this calculation, a production yield of ¥220–248 is gained for each fish released, and when the cost of producing the seeds is subtracted, it creates an added value of ¥150–200 per fish. Fishery catches include a mixture of natural and released fish, and the ratio of released fish in the total catch is shown in the TABLE 2.

TABLE 2: Catch composition with regard to released bastard halibut

Year class		1987	1988	1989
Gill net fishery, by area	A	17.9%	23.3%	23.5%
	B	14.7	12.5	21.4
	C	15.2	19.8	9.3
	D	58.5	35.0	77.8
Trawl fishery, by area	E	18.8	34.2	34.5
	F	34.4	29.0	45.7
	G	18.0	8.6	19.6
	H	19.0	9.5	4.5

Having judged that it is reasonable to assume that effective propagation of resources can be achieved by releasing seed fish in the prefecture's coastal waters, and seeing an increasing recognition of the value of seed release among the local fishermen, the prefectural government decided to call an end to the experimental stage and begin promoting the transfer to full-scale project operations. In 1991, studies were begun concerning the best methods for implementation of operations. When operations are begun, the fishermen will bear a certain percentage of the seed production costs and the local fishery cooperatives will be responsible for the work of releasing the seeds.

Although there are hopes that fish farming of bastard halibut will help restore the coastal resources, there are still a number of serious problems lying ahead. They involve the following:

When looking at the catch statistics concerning recaptured fish, we see a big difference in age and size structure between 1987 and 1988. In 1987 we see that the greater percentage of recaptured fish were second-year fish with a body length of around 30cm, while in 1988 the majority were first-year fish with body length of around 20cm. This represents a very poor fishery condition from an economic standpoint. It can be said that this situation resulted from the fact that the depth to which the released fish migrated to spend the fall and winter season corresponded with the operating depth of offshore trawl fisheries, and that the fishermen deliberately concentrated their operations in areas with the greatest concentration of young fish.

In the future, the following types of measures will be necessary to ensure the effectiveness of fish farming operations:

- 1) Establishment of protected areas around the points of release.
- 2) Restraint from conducting fishing operations in areas inhabited by first-year fish.
- 3) Prohibiting the sale of small-sized flounder on the market.
- 4) Regulations concerning the mesh size of fishing nets

Only when these essential measures are met will it be possible to achieve a balance between the maximum yield from the resources and economically sound fishery production.

Achieving results with large-scale release of seed fish

jects of fishery are chub mackerel, sand lance and saury among the pelagic fishes, and bastard halibut, righteye flounder, octopus and crab among the bottom dwellers. The principal fishing boats used in coastal fisheries here are 19-ton class offshore trawl boats, 8-ton class small trawl boats and 5-ton class small gill net boats.

Bastard halibut, one of the main coastal fishery resources of this region, has shown a decreasing trend since the 1970s. The year 1984 saw an exceptionally large survival rate, and large catches continued for the following 2–3 years, after which catches returned to the previous low levels. In the case of bastard halibut, 60–80% of the catch comes from bottom trawl fisheries and 20–40% from gill net fisheries. In years when resources are large there is an increase in the catch by trawl fisheries. It is probably correct to assume that the decline in resources in recent years is due to the fact that the intensity of trawl fishery is exceeding the reproductive capacity of the resources.

The Fukushima Prefectural Fisheries Experimental Station began the experimental release of bastard halibut fry in 1982. And, these releases have been accompanied by continuing surveys of the migrations, distribution and re-capture by fishing boats of the released fish. Although the released fish show patterns of migration between shallow and deep waters of the coastal and offshore areas as they grow, there seems to be little north-south migration. It has been judged that the majority of fish released in the central part of the prefectural waters are eventually caught as yearling or second-year fish within the boundaries of the prefectural waters. Growth of the released fish has

been found to be greatly affected by the body length at the time of release and the season in which they are released. It has been shown that fry that have been raised after hatching at an accelerated rate by using warm exhaust water from a thermal electric power station and released in July or August at a body length of 7–10cm, will grow at a faster rate than natural flounder, reaching a length of 20–30cm within the first year. Between the years 1982 and 1986, the Fisheries Experimental Station continued to release fry at a rate of 5–39 thousand fish a year. When national and prefectural subsidies became available in 1987, however, the Station switched to local seed production and radically increased the size of its experimental releases. In connection with this, they also intensified their surveys of recaptured fish landed at the prefecture's fishing ports. Under this intensified program, a total of 246,000 fish were released in 1987, 336,000 in 1988, 217,000 in 1989 and 392,000 in 1990.

The extent to which these large-scale releases have contributed to local fisheries has gradually become apparent. The number of released fish recaptured by bottom trawl and gill net fisheries in 1987 was estimated at 40,000 (16% of the released stock),

TABLE 1: Estimated economic return on fish released

Year	Released fish (thousands)	Recaptured fish (thousands)	Recapture rate (%)	Estimated value of released fish (million yen)	Estimated value of recaptured fish (million yen)	Estimated net value (million yen)
1987	246	40	16.3%	61	248	1,525
1988	336	97	28.9%	74	220	763



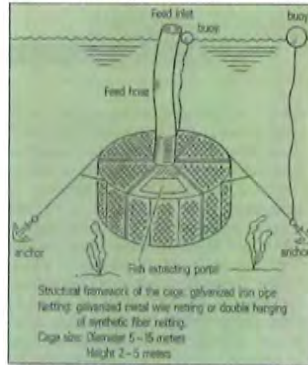
Fukushima Prefecture is located along Japan's Pacific coast at a latitude of 36° 50'–37° 50'N. Its roughly 100km of relatively straight coastline stretches north-south with a coastal bottom composition mainly of sand and silt (FIG. 7). The offshore area is a complex one in terms of its oceanographic makeup, due to the fact that it is the meeting point of the southward-moving Oyashio cold current and the northward-moving Kuroshio warm current. As a result, the area is interspersed with cold spots and warm spots and current rifts that made it an abundant breeding ground for planktons and, thus, a good fishing ground. These offshore waters have long been developed as fishing grounds for saury, skipjack and tuna fisheries. In the coastal fishing grounds, the main ob-

Creating a culture environment as close as possible to nature itself

After their metamorphosis, bastard halibut enter a benthonic life mode. For this reason, culture facilities different from those used for yellowtail or red sea bream had to be developed. At first, between the years 1978 and 1980, bastard halibut culture using the existing net cage type of facility began to spread. However, the nets were found to cause abrasion injuries that increased the incidence of disease, resulting in a high mortality rate especially in the hot summer months. This caused most culture operators to either switch to another type of fish aquaculture or to quit their culture business altogether. After this, a new method appeared in which large-scale on-shore water tanks were built and fed with sea water for culture purposes. Also, a number of on-land culture facilities raising kuruma prawns in Kagoshima Prefecture began to switch to the culture of bastard halibut. It was with the emergence of this on-land water tank method that aquaculture of bastard halibut became a full-fledged industry, and today this method is still the dominant one. However, in recent years a number of new materials have been developed for spreading on the bottom of conventional net cage

facilities. This has led to successful use of surface water net cages in the aquaculture of bastard halibut in the Seto Inland Sea, with its year-round calm sea conditions and long period of suitable water temperature.

FIG. 8: Sea bottom type sunken culture cage for bastard halibut



And use of this method seems to be spreading. Also, in some areas a method by which

TABLE 3: A comparison of on-land tank and sea-surface net cage methods

	On-land tank	Sea-surface net cage
Advantages	<ul style="list-style-type: none"> The bottom is stable and the fish can live undisturbed Ease of observation makes it possible to spot disease outbreak early, easy to monitor Environmental factors such as water temperature and salinity can be controlled Feeding and shipping work are more easily performed on land than on the sea By spreading sand on the bottom of the tank, a perfectly suited life environment can be achieved to raise better quality fish 	<ul style="list-style-type: none"> Culture facilities can be built at far less cost than on-land tanks No power costs are incurred Operations can be performed by family labor It can be conducted as a side business with agriculture or boat fishery
Disadvantages	<ul style="list-style-type: none"> It is not easy to obtain sites that can supply good quality sea water A large investment is necessary to build facilities, large investment risk Large energy cost is involved in pumping up sea water to the facility Electric supply cutoff or pump breakdown can cause production losses 	<ul style="list-style-type: none"> The facilities are on the water, making daily operations more difficult Fish growth is somewhat slower than in on-land tanks There is a danger of losing fish due to net damage

net cages are lowered to the sea bottom and held in place by means of anchors is being tried. (FIG. 8) Thus, culture facilities for bastard halibut can be roughly divided into two types, the on-land tank method and the sea-surface

net cage method, each having its distinct advantages and disadvantages. (TABLE 3) Since bastard halibut is one of the highest priced fishes of all, operators were still able to recover their investment on high-cost on-land facilities and power supply by taking



Cultured bastard halibut 3 full years after hatching. On this 1.5kg cultured fish black spots have been formed on the eyeless side (right). It is believed that this coloring abnormality is caused more by the culture environment than by nutritional factors. In some on-land tank culture operations sand is spread on the bottom of the tank to give the fish a natural life environment. This enables the culture stock to grow to adult fish with the same coloring as natural fish.



To prevent cannibalism the fry are placed in separate cages according to size, after which sorting is repeated once every 2 or 3 months, as growth requires, to keep the size of the fry in the different cages uniform. The guideline for culture intensity is 10kg/m². Even in waters with good tidal exchange, the rate is kept below 20kg/m². The nets are changed 3-4 times before the stock reaches a size of 400-600g, each time replacing them with nets of larger mesh to improve flow-through. When changing the nets and bottom material is also cleaned.



Except at feeding time, the cages are kept covered with tarps. The aims of this practice are to 1) darken the cage to keep the fish relaxed, 2) to cut out sunlight formation of black spots and therefore blackening of the fish skin, 3) to prevent the flounder fry escaping, and 4) to restrain the growth of seaweeds.



Feeding salsalance are so, the larger as The fish at swallowing

advantage of large scale operating merits. In the future, however, if growing nationwide production leads to a drop in the market price of bastard halibut, the lower-cost net cage method should prove more advantageous. In such a case, it is conceivable that the present on-land tank operations may switch to the culture of an even higher priced fish like puffer.

Feeding

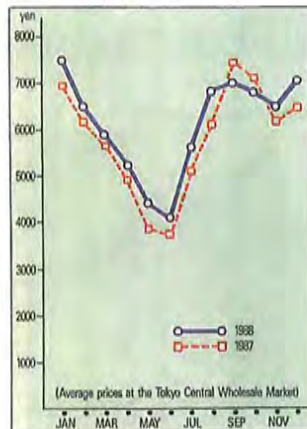
In bastard halibut culture today, there is still use of both fresh fish feeds and composite feeds. After the fry stage, there are three types of feeding methods that are used by different operators or at different stages in the fish's growth; 1) small fish like sand lance and anchovy can be fed to the fish whole, 2) they can be fed dry pellet form composite feed or, 3) the meat of fish like sardine or mackerel can be minced and mixed with composite feed material, nutritional additives and fermented foodstuff, and fed to them in the form of moist pellets.

Generally speaking, however, because of the rising price of fresh fish for feed purposes and such social factors as concern about water pollution, the trend is moving away from fresh fish feeds in favor of composite feeds. Bastard halibut is a fish whose meat consists of less fat and a higher percentage of protein than the feed fish like sand lance and anchovy. Thus it requires a greater amount of protein. From feed experimentation it has been determined that the preferred ratio of protein is about 56% (in dry weight).

The culture schedule

In April when the water temperature rises

FIG. 9: Market prices for bastard halibut



above 14°C, the bastard halibut culture operators purchase fry that have been raised through an intermediate stage to a body length of 5 – 6cm from the seed producers and release them in their culture facilities. Because this is a feeding type of aquaculture, the fish grow at a faster rate than natural fish, reaching the minimum marketable size of 400 – 500g in November of the same year after six months of culture. If raising is continued, the fish will reach a size of 1kg by September or October of the following year, after about 18 months of culture.

The market price of bastard halibut varies

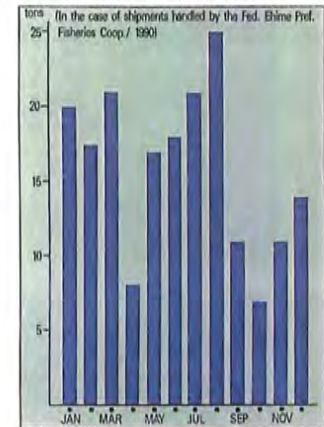
with the season, and there is also a different price scale depending on the body size. The prices are high in the season from summer into autumn and in the winter, with the peak prices coming in the year-end and new year season from December into January. The price then begins to drop in the early spring, reaching the lowest levels in May and June, when the largest shipments of natural fish are reaching the market. (FIG. 9) In terms of size, the highest price is placed on "one kilo class" fish between 900g and 1.2 – 1.3kg. By way of example, the prices in one producing area market in Ehime Prefecture during May of 1991 were ¥2,100/kg for 400g class fish, ¥2,500/kg for 600g class and ¥3,300/kg for 1kg class. Cultured bastard halibut are shipped almost year-round from the producing areas to the consuming areas.

1) A policy by which 400 – 600g fish are shipped at the year end/new year season
 2) A policy of raising the fish to a size of about 1kg and then choosing a time of high market price for making their shipments. The histogram of FIG. 10 shows the volume of bastard halibut shipments sold at the Federation of Ehime Prefectural Fisheries Cooperatives by month. Here we see two peak periods; one from Jan. to Mar. and the other from June to Aug.

The former consists of fish shipped at a size of 400 – 600g, while the latter represents "one kilo class" fish that have been raised by the culture operators for a year and several months. Most shipments are con-

cluded within the month of August. This is because in the months of August and September when the water temperature is at its highest, feeding efficiency decreases and culture operations become economically disadvantageous, and because September is the month when typhoons present the threat of net damage. In the case of on-land tank culture, most operators adopt a policy of shipping 400 – 600g fish within their first year because of the fact that an extended culture period means increased power cost.

FIG. 10: Seasonal changes in the amount of shipment of cultured bastard halibut



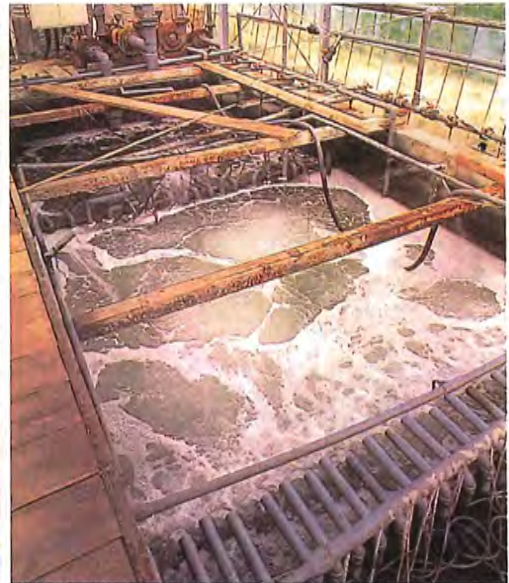
It would otherwise cause imping out the cage and



due to the fish. The sand according to size, and fed to smaller fish stock accordingly. The feed voraciously, and lance whole.



This is a bastard halibut culture facility in Asahi City, Chiba Prefecture, located about 10km inland from the coast. Seawater is supplied to the facility every day by means of a 30-ton tank lorry, and the water is circulated through a filtration system while in use. Because it is a closed life environment the water temperature is maintained in a range from 20 – 25°C. The facility is made up of 30 tanks, each 8m in diameter, and the production schedule is aimed at 60,000 adult fish per year. This highly unique culture operation is a joint venture between a pig raiser and a manufacturer of water purification equipment.



In the circulation/filtration system the water is purified by a combination of physical, chemical and biological means.



A dike type culture facility built in an inlet.

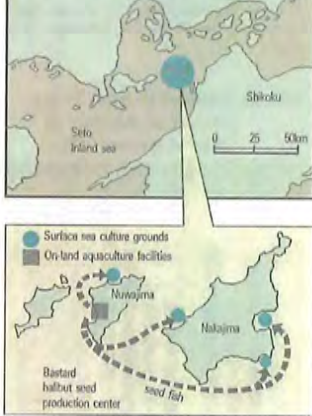


A square type tank (6m x 6m). A drain is located in the center.

EXAMPLE 2

Cage net aquaculture in surface sea waters: Nakajima, Ehime Pref.

FIG 11: The geographic layout of Nakajima Township



Changeover from orange growing to bastard halibut culture

FIG 12: Progression of population demographics by age and sex

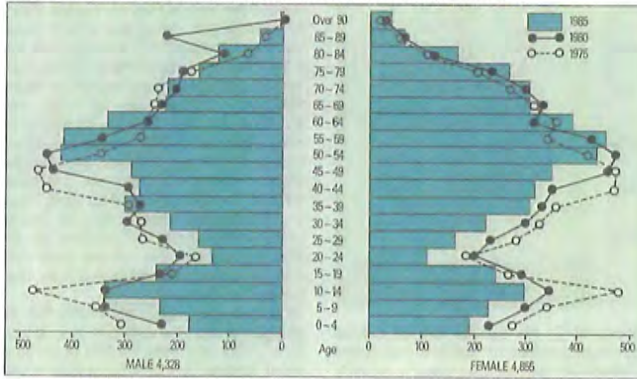
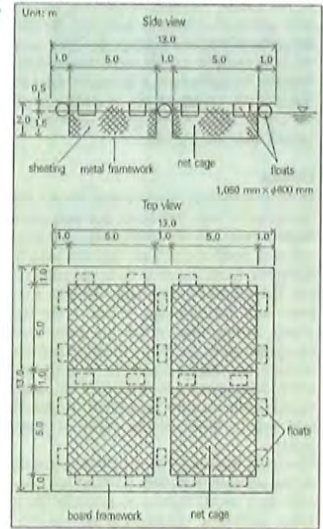


FIG 13: Culture cages employed



Nakajima is a township made up of six inhabited and 22 uninhabited islands in the Seto Inland Sea, located a distance of about 15 km from the prefecture's principal city, Matsuyama. The islands are covered with steep-sloped hills that rise to an elevation of 100–200m, and the population of roughly 9,000 is concentrated in the few areas of flat land to be found on the islands. Of a total area of 3,838 ha., some 1,735 ha. (45%) of the land has been developed for agriculture, mostly in the form of terraced land on the steep hill slopes. Having soil with poor water retention characteristics, about 98% of the available agricultural land is devoted to mandarin orange growing. In addition to orange growing, the residents of these islands have traditionally engage in gill net, angling and

diving fisheries, thus making their livelihood from a half-agriculture, half-fishery economy.

In the 1960s, Nakajima prospered as one of the major orange-producing areas in the prefecture. After that, however, the high growth rate of the national economy brought about changes that sent the orange-based economy of Nakajima into decline. Young jr. high and high school graduates began to leave the islands to seek employment in the cities, causing population decline especially in agriculturally deprived areas. Then, nationwide over-production of mandarin oranges caused market prices to drop drastically in 1968 and again in 1972. Furthermore, the other half of the local economy, fishery, was hurt by a decline in resources of red sea bream and abalone in recent years and a lack of commensurate growth in the market price of such high-class fishery products. This situation has been worsened by an overall aging of the fishery labor force as young

people began to leave fishery for other jobs in the late '70s. Negative factors like these eventually resulted in a general weakening of the industry, with both the volume of catch and total fishery sales continuing to decline after reaching their peak in 1983. Then, the final blow came to the weakened regional economy of Nakajima when the government agreed to open its orange market to imports in 1989. With this, local leaders and the population in general began to have serious doubts about their economic future. (FIG. 12)

Meanwhile, during the years 1985 and '86, the Ehime prefectural government conducted a survey aimed at regional development for the one city and four townships along the prefecture's Seto Inland Sea coast. The conclusion of this survey was that this area possessed high developmental potential in the fields of both fishery and tourism. Based on this conclusion the "Iyonada Central Marinnovation Plan" was adopted in 1989 to utilize the region's fishery indus-

try and the unique environmental qualities of the individual townships in an integrated development project. As one of the townships within the auspices of this project, Nakajima set about the work of revitalizing their local economy under the slogan "Cultivating the Sea".

This "Marinnovation Plan" sought to deal with the challenges presented by such contemporary trends as the increasing internationalization of agriculture and fishery,

PHOTO COURTESY OF NAKAJIMA TOWNSHIP



Sorting mandarin oranges

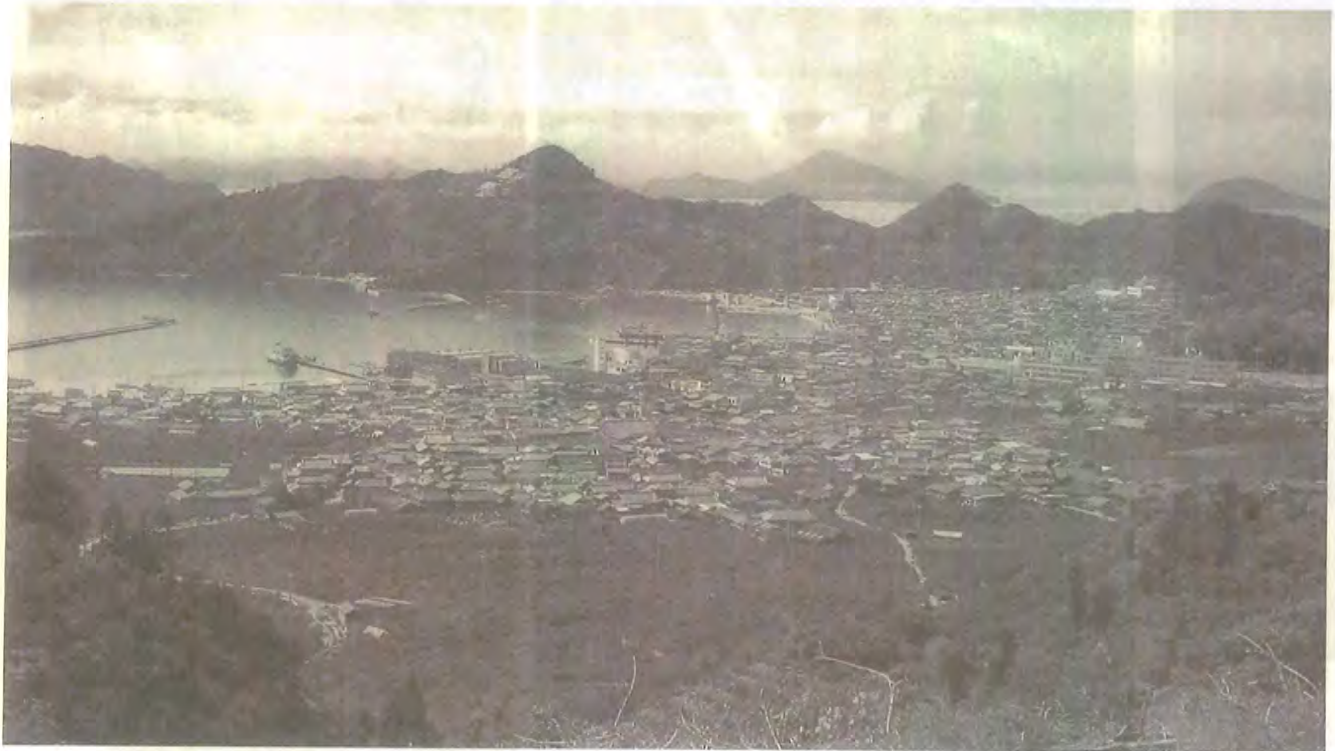


PHOTO COURTESY OF NAKAJIMA TOWNSHIP



The cage nets are set up in quiet bay areas. On the mountains behind are terraced mandarin orange orchards.



Transportation between islands and from the islands to the city of Matsuyama consists of three car ferries and two high-speed passenger boats.



In this area cage frames are constructed of cedar legs with cedar boards tied thereto as strength members and loorboards as well.

social changes resulting from advancements in technology and communications, the aging of the work force and the diversification of life styles. Towards these ends the project set the following four goals as the main items of its agenda:

- 1) Development of marine resources and the promotion of fisheries
- 2) Renovation of local fishery centers and strengthening of distribution and processing capacities.
- 3) Rationalization of fishing household economies and raising the next generation of successors to the fishery business.
- 4) Preparing the basic facilities for marine recreation and improving transportation links to the urban areas.

To undertake substantial development of this type requires a revolutionizing force strong enough to break out of conventional habits and life styles. In a word, it requires both a pioneering spirit and entrepreneurship. Bastard halibut aquaculture in Nakajima got its start through the efforts of ten enterprising volunteers on one of Nakajima's islands, Nuwajima, in 1988. These ten people, who until then had made their living by orange growing and assorted fisheries, decided to undertake bastard halibut aquaculture after making a visit to Kamiura Township, the prefecture's pioneering region for sea-surface bastard halibut culture, and seeing the culture methods that were prospering there. They began by purchasing 15,000 fry as seed fish for their first experimental culture stock. Within half a year the bastard halibut had been raised successfully to a size of 500g with a 65% survival rate. These represented the same standards being achieved by culture operations in Kamiura.

The success of this initial culture venture convinced local authorities that bastard halibut culture could play a significant role in promoting local fishery development, and it was decided that the township's



Bastard halibut in a marketable size of 1kg.

government offices would open a new section to serve as an administrative outlet through which support would be offered to local fishermen seeking to invest in materials for culture operations or to sell their bastard halibut production. By the following year, new operators began to engage in bastard halibut culture one after another in Nuwajima and other islands. Nakajima has four independent fishery cooperatives, one for each of the main islands. But, in order to facilitate smooth development of the culture operations in the area, an inter-cooperative council was set up to deal exclusively with this new fishery, and it now functions as a venue for the exchange of information and opinions between members of the different cooperatives.

In the meantime, a different movement emerged among the younger generation of the township's orange growers. Four young orange orchard operators in their twenties and thirties got the idea to begin bastard

halibut seed production as a business to supplement their agricultural income. They began by interning themselves at the Ehime Prefectural Fisheries Experimental Station to receive training in the techniques of fry raising. Next they made a joint capital investment to set up a company. Three 10-ton size fry-raising tanks and four 10-ton tanks for raising feed planktons were built, and in March of 1989 raising operations were begun.

By May of the same year they were able to supply 120,000 fry to culture operators in the township. Presently, the company is aiming toward an annual production of 300,000 culture seeds, and if this goal is realized it is expected that the township will become self-sufficient in the entire culture process from seed production to the raising of mature fish.

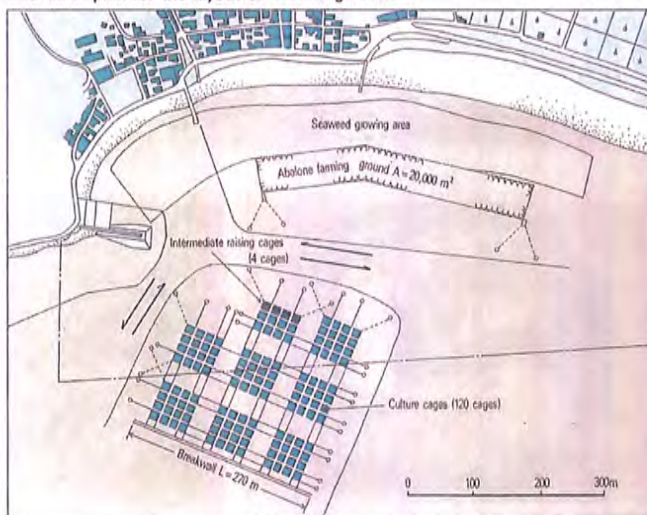
In Nakajima the bastard halibut aquaculture industry is growing yearly and, as of 1991, thirty of the roughly 600 local fishermen are involved. In all they operate 215 surface cage nets, in which some 320,000 fish are presently under culture.

Being an area where inland sea waters mix with outer sea waters, both the current conditions and water quality of the waters around Nakajima's islands are well suited for aquaculture. However, the water temperature here, which ranges from a low of 10°C in winter to a high of 25°C in summer, makes these waters too cold for winter culture of either yellowtail (suitable range: 15–20°C) or red sea bream (suitable range: 20–28°C). As a result neither of these fish has been cultured in the area.

Concerning the reasons why bastard halibut culture has taken hold so well in Nakajima, one of the leaders of the culture operators

and director of the inter-cooperative council, Mr Masatoshi Tanaka, suggests that, in addition to the fact that the area has optimum water conditions for bastard halibut culture, the operator's long years of experience as orange growers involved with such jobs as seed selection, fertilization, elimination of weeds and disease-carrying pests, has given them the basic sensitivity and know-how necessary to successfully manage living things and their life environment. He believes this expertise has helped them in acquiring the essential techniques of fish aquaculture: choosing seeds, feeding, cage cleaning and disease prevention. He goes on to stress that the ultimate goal in promoting bastard halibut culture is to get the young people who will eventually be the successors to the industry involved so that they will stay on the islands. And in order to do this, he believes there is a need to increase the number of operators and build it into a substantial industry that contributes to the local economy with an annual production in the range of one million fish (500–700 tons of adult fish). As the goals of its "Cultivating the Sea" program, the government of Nakajima Township decided to 1) invest government funds in the abovementioned seed production company for the construction of a fishery cultivation center that will eventually be integrated into the fishery cooperative organization, and 2) to create areas strictly for concentrated aquaculture by building breakwalls around the main island of Nakajima and to build artificial reefs for abalone and top shell farming. These projects are scheduled to be completed by the year 1995. (FIG. 14)

FIG 14: A plan for the layout of culture grounds



Quality in white-meat fish

The Japanese have a preference for eating fresh fish raw in the form of "sushi" or "sashimi". With regard to sea food, it seems the Japanese tastes and culinary art have evolved basically around the enjoyment of raw fish. Thus, the Japanese are especially sensitive about the freshness of fish meat. In the Japanese sushi and sashimi tradition, white-meat fishes like bastard halibut and red sea bream are appreciated as delicacies because of their low fat content and light flavor, and also because of the special texture they derive from the high myofibril content of the meat. Also, because of the low fat and oxygen content in their meat, they tend to lose their freshness and deteriorate at a slower rate than red-meat fishes. The protein contained in fish meat is different from animal protein in that it contains a much lower percentage of the basic muscle protein from which muscle membrane is made and a higher percentage of myofibril protein from which muscle fiber is made. This means that the meat has a softer consistency that makes it especially well suited for eating in the raw state. On the other hand, the low muscle membrane protein content means that the muscle tissue is much weaker and the fat and protein content less stable than animal meat. This in turn means that changes in meat quality occur more quickly, which makes it more difficult to handle properly. In the case of fish meat, the way the fish is handled, stored and shipped after being caught results in significant differences in the meat quality of the end product. In order to preserve the unique characteristics of fish meat and achieve the desired meat quality in the end product, the Japanese have devoted much effort to the perfection

of shipping methods since olden times. In recent years it has become a popular method in some areas to ship live fish from the producing area to the consuming area or, as shown in the photo, to build stock points for keeping live fish near the urban centers.

At the same time the Japanese have also developed techniques for making processed foods from a variety of fishes. In the case of white-meat fishes, dried whole fish, dried fish flakes and "surimi" (minced fish meat products) are most popular.

1) Dried whole fish ... At times, fish like cod, flatfish and bastard halibut contain a large amount of body fluid that reduces the flavor of the meat. In such cases the fish can be dried naturally in the sun, heat-dried or smoke dried to reduce the moisture content and increase the flavor.

2) Dried fish flakes ... The meat of red sea bream, cod or bastard halibut is boiled and soaked in water to remove the fat, after which the meat is compressed and shredded into flakes and flavored. (Note) Red-meat fish contains a high percentage of sarcoplasm that causes the protein to coagulate when boiled, thus hardening the meat. White-meat fishes on the other hand have a low sarcoplasm content, so the meat can be easily shredded after boiling.

3) Surimi ... After removing the fat content from the meat, it is minced well until it achieves a sticky consistency and then used as the raw material for such processed foods as "kamaboko", "chikuwa" or "hanpen". A wide variety of white-meat fishes, including lizard fish, croaker, Japanese whiting, shark, flatfish, sharp toothed pike conger and Alaska pollack, can be used as raw material for surimi.



FIG 15
The Hota Fisheries Cooperative, located on the shores of Tokyo Bay near the Tokyo metropolitan area, has built ten circular fish tanks (diameter: 10m) with prefectural grants, and 28 square fish tanks (6m x 6m) strictly with cooperative funding. With these facilities the cooperative cultures 100 tons of bastard halibut annually in addition to culturing or keeping a wide variety of high-priced fishery products such as red sea bream, silver salmon, black sea bream, spiny lobster, sea urchin, abalone, oysters, scallops and top shell, which it then sells to the Tokyo market. Taking advantage of its location just 100km from the enormous metropolitan consumer market, the cooperative seeks to 1) buy young fish from other regions, raise them for about a year and then ship them to market at an appropriate time, and 2) to build up a "Live Fish Center" that keeps live stocks of a variety of high-priced fishery products that can be supplied to the Tokyo market at any time in response to changing market demand.



The sashimi section at a supermarket. In this expensive delicacy, slices of fresh white-meat fish like red sea bream and flounder are sold in assortment packs along with tuna slices.



Processed foods made from "surimi" fish meat: Kamaboko, chikuwa and hanpen.



Fresh, semi-dried flatfish.



An auction at the Central Wholesale Market. Flounder is often auctioned off in its live state.

Summer Flounder Comments:
8 / 2018 FROM
United National Fisherman's Association
123 Apple Rd Manns Harbor NC.

Mid Atlantic Fishery Management Council & Atlantic States Marine Fisheries Commission should investigate original premise of the Summer Flounder Supc & Black Sea Bass management.

1. Were are the plans to improve fishing & production of fish?
2. Were the plans designed by the DEPARTMENT OF STATE & DEPARTMENT OF COMMERCE AS A METHOD TO REDUCE LANDINGS OF U.S. FISH AND ALLOW DEPENDANCE ON IMPORTED FISH? YES!

EXPLANATION: NOTHING IN ORIGINAL PLANS DOES ANYTHING TO INCREASE THE NUMBER OF FISH BY OCEAN RANCHING OR ENHANCEMENT THROUGH GENETIC SELECTION.

INSTEAD ORIGINAL PLANS BEGAN TARGETING LARGER FEMALES WITH A 5 ½ NET SIZE WHEN COMMERCIAL INDUSTRY PROPOSED A 5 INCH NET SIZE.

FISH SIZE CREATED DISCARDS IN COMMERCIAL & RECREATIONAL FISHERY.

A PROPOSAL FROM INDUSTRY TO SET A DOLLAR VALUE FOR THE TOTAL FISHING YEAR WAS & HAS BEEN IGNORED BY Mid Atlantic Fishery Management Council & Atlantic States Marine Fisheries Commission.

WAS THE ORIGINAL PLAN DESIGNED TO REDUCE FISHING LANDINGS IN ORDER TO CREATE A MARKET SHARE FOR IMPORTS? YES!

DID MANAGEMENT INTENTIONALLY CREATE DISCARDING? YES

DOES THIS AMMENDMENT REDUCE DISCARDING OR REDUCE WASTE? NO!

1. 1. Consider implementing re-qualifying criteria for federal commercial moratorium

permits: Federal permit qualification criteria have not changed since establishment in 1993

STATUS QUO: Council does not list total square miles of EEZ 940 vessels are available for fishing.

Council present management targets large female & has unacceptable discarding in both Commercial & recreational fishing.

2. 2. Consider modifications to commercial quota allocation: The current commercial allocation was last modified in 1993 and is perceived by many as outdated given its basis in 1980-1989

STATUS QUO:

Fishing effort has changed due to turtle excluder regulations; Council will not endorse cable teds..

3. Consider adding commercial landings flexibility as a framework issue in the Council's FMP:

STATUS QUO.

4. Revise the FMP objectives for summer flounder

STATUS QUO

4.0 PROPOSED REVISIONS TO FMP OBJECTIVES

4.1 Current FMP Objectives

The current FMP objectives for summer flounder, adopted via Amendment 2 (1993), are:

1. Reduce fishing mortality in the summer flounder, scup and black sea bass fishery to assure that overfishing does not occur.
2. Reduce fishing mortality on immature summer flounder, scup and black sea bass to increase spawning stock biomass.
3. Improve the yield from these fisheries.
4. Promote compatible management regulations between state and federal jurisdictions.
5. Promote uniform and effective enforcement of regulations.
6. Minimize regulations to achieve the management objectives stated above

1. WAS THE ORIGINAL PLAN DESIGNED TO REDUCE FISHING LANDINGS IN ORDER TO CREATE A MARKET SHARE FOR IMPORTS? WAS THIS THE INTENT FOR THE PLAN? PLAN TARGETED LARGE FEMALES & PREVENTED THE LANDING OF SMALLER MALES!

4.1 ****2**** DID NOT REDUCE MORTALITY INSTEAD *INCREASED MORTALITY ON FASTEST GROWING OF THE YEAR CLASS*

4.1.****3**** CHANG CALCULATED FISHERY YIELD AT 40 MILLION POUNDS Mid Atlantic Fishery Management Council & Atlantic States Marine Fisheries Commission Along with State & Commerce never intended to reach improved yield.

4.1.****4**** plan always allowed Atlantic States Marine Fisheries Commission a way to circumvent utilization Federal placed mandatory reporting and log books with permits, on commercial BUT NO SUCH REPORTING ON RECREATIONAL: Mid Atlantic Fishery Management Council REFUSES TO HAVE APP REPORTING ON RECREATIONAL LANDINGHE Where are completable regulations?

4.1. ****5**** fines are not the same for commercial vs. recreational this was a sham.

The proposed revisions are based on feedback from the Council and Board, as well as both bodies' Advisory Panels. Feedback on goals and objectives was also taken from the scoping process for this amendment and the Council's 2012 Visioning and Strategic Planning Project Stakeholder

Mid Atlantic Fishery Management Council & Atlantic States Marine Fisheries Commission should admit COMMERCE & STATE HAVE REQUESTED A REDUCTION IN COMMERCIAL LANDINGS FOR TWO REASONS.

1. REDUCE LANDINGS TO ALLOW FOR MORE IMPORTS.
2. REDUCED DOMESTIC LANDINGS WILL INCREASE PRICE THUS AIDING IMPORTS WITH MORE MONEY FOR PRODUCT.

Goal 1: Ensure the biological sustainability of the summer flounder resource in order to maintain a sustainable summer flounder fishery.

Objective 1.1: Prevent overfishing, and achieve and maintain sustainable spawning stock biomass levels that promote optimum yield in the fishery.

AS stated the entire plan targets large fast growing female fish; thus DESTROYING THE BEST GENETIC REPRODUCING FEMALES. Gold 1 can not be achieved. NOTHING IN ORIGINAL PLAN or this proposed amendment DOES ANYTHING TO INCREASE THE NUMBER OF FISH BY OCEAN RANCHING OR ENHANCEMENT THROUGH GENETIC SELECTION.

Goal 2: Support and enhance the development and implementation of effective management measures.

Management measures do not include apps for recreational reporting; as recommended by advisers,

Do not include better science, or enhancement with ocean ranching. WHAT BETTER MANAGEMENT THAN ENHANCEMENT WITH SOUTHERN FLOUNDERS? OR HONEST SCIENCE?

Goal 3: Optimize economic and social benefits from the utilization of the summer flounder resource, balancing the needs and priorities of different user groups to achieve the greatest overall benefit to the nation.

INSERT: DEPARTMENT OF COMMERCE & DEPARTMENT OF STATE. *** POLICY *** IMPORTED FISH ARE BEST FOR NATION!

Thus: NO APP REPORTING BY RECREATIONAL. Utilize genetics to reduce fish size & reproductive ability.

5.0 FEDERAL MORATORIUM PERMIT REQUALIFICATION

STATUS QUO:

5.1.1 Alternative 1A: No Action/*Status Quo*

Alternative 1A make no changes !

6.0 COMMERCIAL QUOTA ALLOCATION

6.1.1 Alternative 2A: No Action/*Status Quo*

Alternative 2A make no changes to the current state allocation OR percentages,

7.0 LANDINGS FLEXIBILITY FRAMEWORK PROVISIONS

7.1 Landings Flexibility Framework Provision Alternatives

STATUS QUO: MAKE NO CHANGES:

7.3.1 Alternative 3A: No Action/*Status Quo*

Mid Atlantic Fishery Management Council HAS NO AUTHORITY TO CONTROL STATE LANDING REGULATIONS. WHY IS THIS IN PROPOSED AMENDMENT?

THIS AUTHOR POINTS OUT THE CURRENT FLOUNDER MANAGEMENT PLAN HAS:

1. DECREASED THE GROWTH RATE OF SUMMER FLOUNDERS.
2. INTENTIONALLY TARGET LARGER FEMALE FLOUNDERS.
3. ALLOWED A MARKET SPACE TO DEVELOPE FOR SMALLER IMPORTED FISH.

4. IMPOSED RESTRICTIONS ON COMMERCIAL FISHING WITH PERMITS, LOG BOOKS AND REPORTING; WHILE NOT IMPOSING LIKE RESTRICTIONS FOR RECREATIONAL FISHERS.
5. IGNORED ADVISOR ADVICE ON METHODS TO REDUCE DISCARDS. IGNORED CONSTRUCTIVE ADVISOR ADVICE ON APP REPORTING, ALLOWE INCORRECT SCIENCE, NEVER ASKING HOW CHANG PROPOSED 40 MILLIOM POUND HARVEST.
6. DID NOT QUESTION SUMMER FLOUNDER AGING AT NORTH EAST SCIENCE CENTER.
7. PROPOSING MANAGEMENT CHANGES, FOR DEPARTMENT OF STATE & DEPARTMET OF COMMERCE IN ORDER TO REDUCE LANDINGS & INCREAS IMPORTED FISH PRICES.

If New York or any state Wants an increase in quota Ocean Ranching offers a solution; The fish can be selected to have special spots thus these will allow a state or region an increase in landings. Science has not been utilized to increase the population! Why?
The summer Flounder Commercial issue Amendment does not address pore Science or pore Management unless the original goal was to limit U.S. Production of Sea Food.

STATUS QUO :

NEW MANAGEMENT SHOULD IDENTIFY IN ACRES OR SQUARE MILES THE TOTAL AREA 940 VESSELS ARE EXPECTED TO HARVEST. [WITH POSSIBLE INCREASE FROM OCEAN RANCHING]
MANAGEMENT SHOULD IMPLEMENT OCEAN RANCHING & ENHANCEMENT AS IN YAMAHA JOURNAL NO. 37, [REALIZING THIS INFORMATION IS 28 YEARS OLD]
MANAGEMENT SHOULD ASK DEPARTMENT OF COMMERCE & DEPARTMENT OF STATE FOR EQUAL IMPORT TARIFFS FOR LIKE SEAFOOD.

MANAGEMENT SHOULD IMPLEMENT APPS ON RECREATIONAL LANDINGS TO ASCERTAIN LANDINGS FROM THE RECREATIONAL FISHERMEN TO RETURN TO PRIVATE DOCKS; POSSIBLY 80% OF LANDINGS FROM THE EEZ.

AS For hearings no generalization should be allowed, AN EXACT NUMBER FOR STATIS QUO SHOULD BE REQUIRED FROM STAFF!

JAMES FLETCHER
UNFA 123 APPLE RD.
MANNS HARBOR NC.
10-10-2018

pressure. The policy makers also assumed an open market, when in fact most of the countries involved were substantially subsidizing fisheries for a variety of social, political, and economic objectives.

The existence of MSY in multiple realms—politically, scientifically, and legally—has reinforced its perception as being based in science rather than in policy. With the focus firmly on establishing harvest points for individual fish, our attention has been diverted away from the overall impact of fishing on ocean ecosystems. The failure of MSY to protect stocks has contributed to public disillusionment over the ability of scientists to manage resources.

Once established at the policy level, MSY proved to be resilient indeed. It became institutionalized and the early criticism of its scientific weaknesses was forgotten (Holt and Talbot 1978, Barber 1988). It has also been entrenched at a deeper level, where it has acted as a legal and political instrument that controlled scientific ideas about how nature works. This entrenchment at the legal, political, and philosophical levels has contributed to the persistence of MSY. But the establishment of MSY in the first place owed more to justifying a political and economic agenda than it did to sustaining fish stocks.

Responses to this article can be read online at:
<http://www.ecologyandsociety.org/vol14/iss1/art6/responses/>

Acknowledgments:

Thank you to Sidney Holt, Jim Lichatowich, Tony Koslow, and Dan Bottom for discussions around this paper.

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Barber, W. E. 1988. Maximum sustained yield lives on. *North American Journal of Fisheries Management* 8(2):153–157.

Comments for 2018 Fluke Amendment

Chuck Weimar
F/V Rianda S
Montauk NY

As a federally permitted Summer Flounder commercial fisherman, fishing in the EEZ, I feel that this proposed amendment is long, long overdue.

The current state by state quotas are outdated and arbitrary.

The management system should be changed to a federal quota while fishing in the EEZ.

The management should allow for the fish caught in the EEZ to be landed at the port of the captain's choice like other species (ex. Squid, butterfish, whiting, tuna, scallops, etc.) that are harvested in the EEZ.

Quota Allocation

- State by State quota allocation was based on erroneous miscalculated information between 1980 and 1989. Different methods of collection landing information between port agents resulted in the erroneous quota allocation for New York.
- Because NMFS port agents used different methods of recording catch, the NY commercial industry was severely short changed in the state by state quota process for the last 20+ years.
- Being from NY and fishing in federal waters, we should not be discriminated against because of our state of origin.
- Before this arbitrary state by state quota allocation for fish harvested in the EEZ, most all of the boats would travel up and down the coast catching fluke and unloading in any state the captain chose. Now, it has gotten to an unrealistic point of wasting fuel, wasting time, and sacrificing product quality.
- Additionally, safety at sea should be addressed in this amendment. Steaming hundreds of miles in each direction unnecessarily, makes no sense at all in this day and age.
- We are fishing with a federal permit in federal waters and have to comply with all federal regulations. Why should our home port determine what we are allowed to catch?
- Through the process of this amendment, it should be emphasized that fluke harvested from federal waters (EEZ) will no longer be managed on a state by state basis. This amendment is long overdue.

Commercial Management Measures and Strategies

- The management system should be changed to federal quota when fishing in federal waters and the ability to land in whatever port is the safest and closest port the captain chooses. Getting the harvest to the market with the best quality should be paramount to the American consumers and this management council.

- Flexible landings could be a possible solution if a coast wide quota is not implemented – it makes no sense to have to steam all over the ocean to land fish that are caught right in federal waters right off our home port.
- The amendment must follow the national standards 4 and 10.
 - **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 allocations shall be (A) fair and equitable to all fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excess share of such privileges.
 - **National Standard 10** - Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Other Issues/Comments

- Do not let state by state politics get in the way of managing a coast wide resource.
- Representatives from various states were chosen to be on the council because of their knowledge and expertise in the fisheries NOT their political associations. Now it seems that politics is the driving the bus.
- After the Magnuson Stevens act was passed and the NMFS the council process was formed, it was all about conservation. Now it is all about ALLOCATION. What happened?

Thank you for consideration of my comments.

(Weimar comments continued)

As a resident and a licensed commercial fisherman from New York, also a federally permitted vessel fishing in the EEZ, I am being denied equal access in the EEZ because of the state of my residence.

The regulations that are now in effect are outdated, arbitrary and illegal according to the national standards set forth by Congress in 1976.

Regulations for conservation should be equal for all permit holders. Meanwhile federally permitted New York boats fishing in the EEZ have a regulatory discard rate that is unacceptable and should have been changed 20 years ago.

This change is long overdue!!!

IBI support

(Weimar comments continued)

Subj: Re: Landing Flexibility for Fish Harvested in EEZ
Date: 10/11/2012 2:19:03 P.M. Eastern Daylight Time
From: john.bullard@noaa.gov
To: STAR2017@aol.com
CC: cmoore@mafmc.org, richardbrobins@gmail.com, jigilmore@gw.dec.state.ny.us,
adilemia@kbcc.cuny.edu, tilefish1@optonline.com, johnmcmurray@optonline.net

Dear Charles,

Thank you for your email regarding the management of commercial fisheries in both Federal and state waters. Your active participation in the management process is essential to the success of commercial fisheries in the Northeast.

As you know, we strive to work cooperatively with all Mid-Atlantic coastal states through the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission. It is vitally important that states have the ability manage their inshore fisheries, and jointly manage fisheries harvested in both state and Federal waters. Without cooperation among the states, the management programs of the individual states, and the joint management of commercial fisheries up and down the coast would be severely compromised.

Any state may allow vessels permitted by another state to land in their ports, if they so choose. It is my understanding that vessels in a situation where safety is a concern are permitted to land and off-load fish in any state because of 'safe harbor' provisions. The example from your email is one such case. Virginia has allowed North Carolina vessels to land and offload summer flounder in its ports when it is unsafe for the vessel to return to its homeport. On a regular basis, North Carolina then transfers the appropriate amount of quota to Virginia to cover the landings made by North Carolina vessels made in Virginia ports. The states have worked out this arrangement themselves, and other states may do so as well.

Many individuals from your area share your concern with this issue. However, the Mid-Atlantic Fishery Management Council and the Commission are the appropriate management bodies to consider changes to state-by-state quota allocations. I encourage you to discuss these concerns with a Council member from your area. I also encourage to you contact the Council to determine how best to have your issue discussed at the next available meeting. The contact information for the Council and all of its members is available on the website (www.mafmc.org).

Thank you for your comments. I will keep these issues in mind, and raise them to the Council at the next appropriate opportunity.

John

On Wed, Oct 3, 2012 at 9:53 AM, <STAR2017@aol.com> wrote:

Dear Mr. Bullard

Thank you for coming to New York last week to meet with the fishing industry officials here.

I am a commercial fisherman from New York who fishes in the EEZ and would like to address the inequalities in the landing regulations for federally permitted boats fishing in the EEZ. The resource is harvested in federal waters and the states have no jurisdiction outside of 3 miles. The landing regulations of the federally harvested fish are unjust.

The state by state quotas clearly violate MSA national standard 4 and national standard 10.

We would really appreciate your attention regarding this discrimination in the fishing management plan that was put in place about 20 years ago. It is really time for the agency to review the state by state quotas while fishing in the EEZ.

We have been stonewalled by the politics of the council's membership geographic representations now rather than the coast wide quotas while fishing in the EEZ.

These are a few ideas that I hope that you will consider. We need landing flexibility to even inequalities of the state by state management

1. This can be accomplished in the winter months when the fish are caught in federal waters. If a boat owner buys a permit for a particular state, then a call to the fishery via boatracs, should allow landing in any state that the owner wants.
2. Due to global warming, fish populations are migrating further northeast. It is ridiculous to catch summer flounder in federal waters south of New York and then steam 250 or more miles back south to land the fish, only to have the fish trucked back north to be sold.
3. By creating landing flexibility, fishing boats become more efficient, burning less fuel, less carbon footprint, less discards and ultimately a more profitable industry, while delivering a fresher product to the consumer.
 - a. Safety issues are addressed (MSA national standard 10) – smaller vessels will not be steaming all over the ocean.
 - b. Discards are reduced
 - c. Fuel is not wasted and fuel costs are reduced
 - d. A precedent for this type action has already been set. North Carolina already allows its state permitted vessels to offload in Virginia
 - e. When these fish are unloaded in the southern states, they are then shipped back north to be sold in New York markets.

The efficiency of the entire fishing fleet should not be dictated by these outdated landing regulations. With these simple actions, most of the state by state inequalities can be eliminated.

I hope that you will consider some of my suggestions and review the politics and policies of the landing regulations.

Thank you for your attention.

Sincerely,

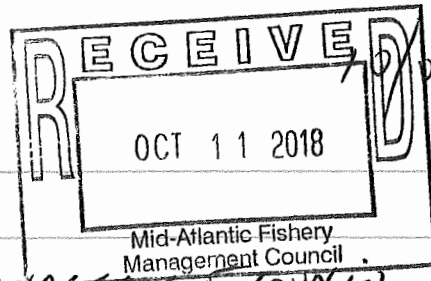
Charles Weimar

F/V Rianda S

Montauk NY

John K. Bullard
Regional Administrator
National Marine Fisheries Service

MR CHRIS MOONE PHD
EXECUTIVE DIRECTOR
MID ATLANTIC FISHERY MANAGEMENT COUNCIL



RE SUMMER FLOUNDER
AMENDMENT COMMENTS

DEAR MR MOONE

MY NAME IS JOHN G. MITCHELL F/V ICEBREAKER -
FEDERAL PERMIT # 214883. I AM A ROD+REEL
(HOOK & LINE FISHERMAN) AND I AM FURNISHING
YOU WITH A SUMMARY OF MY COMMENTS AT NEW
YORKS 09/27/2018 SUMMER FLOUNDER MEETING AT
STONY BROOK UNIVERSITY.

- 1 - F/V ICEBREAKER HAS SUFFICIENT SUMMER FLOUNDER
LANDINGS TO RE-QUALIFY UNDER ALL ALTERNATIVES
LISTED IN THE AMENDMENT.
- 2 - I THINK WE SHOULD RE-QUALIFY FEDERAL PERMITS
BY OVERALL PARTICIPATION IN THE FISHERY AND NOT
SPECIES BY SPECIES. PERMIT HOLDERS WHO DO NOT
HAVE A STATE FOOD FISH LICENSE AND THOSE WHO DO
NOT HAVE ANY LANDING OR INCOME HARVESTING
SEAFOOD SHOULD NOT BE ALLOWED TO RENEW THEIR
LICENSE.

10/05/2018

- 3- THE REVISED STATE QUOTA SUMMER FLOUNDER ALLOCATION UNDER 2B-2 (10.70998%) IS STILL MUCH TOO LOW FOR NEW YORK. HOWEVER IT IS THE BEST OPTION AVAILABLE AT THIS TIME. MY CHOICE IS THEREFORE ITEM E 2B-2 10.70998%.
- 4- I AM AGAINST THE SWP PROPOSAL AND PREFER THAT NEW YORK STATE CONTINUE TO HAVE FULL AUTHORITY OVER THE ENTIRE SUMMER FLOUNDER QUOTA DISTRIBUTION. NEW YORK (A/O 2016) HAD 310 STATE FLUKE PERMIT HOLDERS - OF WHICH 200 HAD SOME LANDINGS. THE VAST MAJORITY OF THE NY STATE FLUKE PERMIT HOLDERS DO NOT FISH FOR FLUKE DURING THE FALL AND WINTER PERIODS. HOPEFULLY WE CAN INCREASE THE NY FLUKE QUOTA SUFFICIENTLY - SO THAT THE LARGER VESSELS HAVE A VIABLE ECONOMIC OPPORTUNITY TO TARGET FLUKE DURING THE SUMMER MONTHS. I AM AGAINST 2D-1 AND ANY OTHER OPTIONS WHICH WOULD CHANGE THE CURRENT SYSTEM OF SUMMER FLOUNDER DISTRIBUTION.
- 5- I AM FOR LANDINGS FLEXIBILITY WHICH WOULD HELP NEW YORK AND ALL COMMERCIAL FISHERMEN.

RESPECTFULLY



John G. Mihale
153 California Place North
Island Park, NY 11558

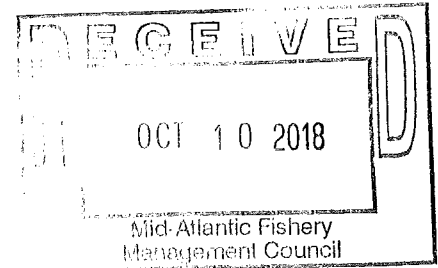


**North Carolina
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Affiliated with the National Wildlife Federation

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October 5, 2018

Chris Moore, PhD
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Dear Dr. Moore,

Please accept the following comments from North Carolina Wildlife Federation regarding the Summer Flounder Commercial Issues amendment.

Issue 1: We support reducing capacity in the fishery if warranted. From a resource perspective, as long as total harvest remains at or below the annual quota and bycatch is not a concern, the distribution of the catch is an issue for the commercial fishermen to discuss and we have no further comment.

Issue 2: The current state-by-state allocation is based on historical landings from 1980-1989. During this time period North Carolina vessels played a large part in establishing the quotas in many of the mid-

Atlantic and New England states. We believe any adjustment to the current allocation is unwarranted and disproportionately disadvantages North Carolina.

While we understand the issues associated with North Carolina being unable to land summer flounder in their home port due to inlet shoaling and winter weather conditions, North Carolina vessels still have the ability and interest in harvesting their summer flounder allocation wherever they find them. North Carolina vessels are highly mobile and can travel to the fish, whether in North Carolina waters or those waters off Massachusetts. Summer flounder trawling in North Carolina waters, and a small part of Virginia waters, are impacted by TED restrictions that constrain flounder catches and require vessels to travel north. We do not believe a reallocation that disadvantages the highliner state is fair or equitable, or consistent with the interjurisdictional premise of the Commission. There are usually losers in the allocation battles and we believe that revising current allocations based on presumed centers of biomass or shifts in effort is a dangerous precedent and primarily impacts North Carolina fishermen.

Issue 3: Mobile commercial fishing fleets work throughout our respective jurisdictions and the resource is protected by a peer-reviewed stock assessment that provides a responsible catch target. The intent appears to be to reallocate and take advantage of the difficulties North

Carolina has in landing summer flounder in their home port and provide more opportunities to states where they can land them. The current processes for accounting for North Carolina summer flounder that must be landed in other states has worked and provided benefits not only to North Carolina fishermen but the states where they land. We believe the specific processes should be left to the individual states.

In summary, commercial quotas and their allocations, when based on historical landings that are now constrained by quotas, are nearly impossible to redistribute equitably. Whether other states did not have the adequate program or failed to monitor their catches during the qualifying period should not penalize those states that had those programs, especially not 30 years later.

Respectfully Submitted,



Tim Gestwicki
CEO / North Carolina Wildlife Federation



101 South King Street P.O. Box 518 Hampton, Virginia 23669 Phone (757) 722-1915 Fax (757) 723-1184

October 8, 2018

Dr. Chris Moore

Summer Flounder Commercial Issues:

Requalifying is not an issue. Most federal permit holders could not qualify for state landing licenses and there for this is not an issue.

Adding Landing Flexibility is also not needed. State should be able to manage their quota to best suit their needs. Many state already allow flexibility. For the past 4 years there has not been a single good recommendation for how additional flexibility would work. Why waste valuable council time by creating another framework.

Commercial allocation is the main issue and absolutely needs to remain status quo.

- A. This has always been a predominately Virginia and North Carolina fishery. This is actually the only trawl fishery for the southern states. The boats would shrimp or scallop in the summer and fish for summer flounder in the winter. We don't have Scup, Whiting, Yellow Tails, and Monkfish etc... New York could have request an adjustment much like Connecticut, but the fishery wasn't valuable then and they were busy catching other species. The northern fleets still have other fisheries, while most of the southern boats do not have ground fish quota.
- B. Virginia and North Carolina have also done a good job reporting and have solid landings records. This is based in strong enforcement of the management.
- C. New York has many reason/excuses but has poor landings records and everyone knows that many fish were landing and sold illegally. Based on the recent fiasco that was the RSA there is no indication that New York has done anything to strength the enforcement issue.
- D. Virginia and North Carolina have worked well together to manage the quotas, allow for flexibility, and not overlap seasons in order to maximize the value of the landings. Both states have increased landing qualifications to reduce the eligible vessels and eliminate latent effort. While New York has been busy trying to justify taking quota from other states they have done nothing to change the 1 lb. qualifying threshold for commercial Summer Flounder. New York still has almost 500 eligible commercial flounder permits.

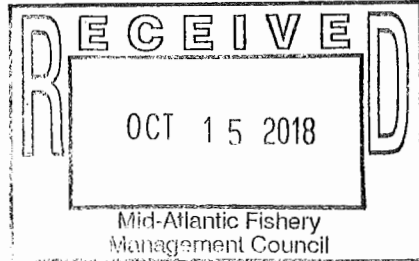
Thank you for your consideration to these comments.

C. Meade Amory

L. D. Amory Co. Inc.

FISHERMAN'S DOCK CO-OP INC

57 CHANNEL DR. PT. PLEASANT NJ 08742



10/8/18

JIM LOVGREN

Summer Flounder Amendment comments

Please accept these comments from the fishermen members of the Fishermans Dock Co-op Inc in regard to the possible changes to the Summer Flounder management plan. I will point out that Point Pleasant has been in the top three landing ports for Summer Flounder for the last 10 years [with at least 80% of those landings coming from the Co-op] so any redistribution of quota will have a substantial negative impact on our boats and our Docks financial health. Since we have suffered through the lowest Summer Flounder quota's in history the last three years any further reduction in our catch could be catastrophic.

First let me address the issue of the stock biomass moving north into the southern New England area, with the southern range moving north from Cape Hatteras. Long time Fishermen have observed this movement over the years with a number of species, and in my opinion the biomass of Summer flounder, Scup, Black Sea Bass, Whiting, Black Back Flounder and even Ocean Quohogs have shifted their center of biomass about 80 miles to the north north east in the last 30 years.

The waters off of New Jersey is now the exact center for the populations of Black sea Bass, Scup, and Summer Flounder, therefore we find it rather ridiculous that New Jersey should be lumped into the Southern States and be facing a reduction in our states quota because we have lost access to them. The New Jersey summer Flounder population remains high and healthy and the fact that we are grouped into the loser's column with Virginia and North Carolina, confirms the fact that this amendment is nothing more than a blatant political attempt to steal quota from New Jersey, something the ASMFC is a master at. I insist that some science be offered that proves that New Jersey has lost access to Summer Flounder and therefore we should give up quota to northern states. Better think about this, because there is no science to support that move, so worse case scenario is a visit to the nearest court room.

Summer Flounder allocation has been a controversial issue ever since the original plan divided the quota into a state by state share based on landings from the 1980's. The states that got the largest shares were the states that caught the most. Plain and simple. Northern states did not target Summer Flounder because they were too busy catching Groundfish, a large portion of the landings in Massachusetts, New York, and Rhode Island were caught by southern boats who landed in those states in the summer time. Now that there are no more Groundfish to target, these fishermen want to take quota from the fishermen who historically targeted them. Certain states did a terrible job of handling state permits for Summer Flounder and now have so many fishermen targeting them that they have tiny trip limits and short seasons. That does not entitle them to steal from other states because of their poor management. In New Jersey we have about 180 Summer

Flounder permits, of those only about 8 are for hook and line. How many hook and line fishermen does New York and Massachusetts have? I can guarantee its in the hundreds. I can also guarantee that none of those hook and line fishermen reported their catch and that they were sold for cash out of the back of their car or truck to avoid income taxes and also not reported as landings. Same goes for trawl fishermen from certain states who sold Flounder for cash to avoid taxes. If you avoid reporting landings to avoid taxes don't complain later that your fish weren't counted.

As for the need to address the shift in the biomass to the north by stealing from the southern states to give to the northern states, I would correctly argue that there has already been a large redistribution of the Summer Flounder quota to the north by the selling of Virginia, North Carolina, and New Jersey permits to boats from New York, Rhode Island, Massachusetts, and Connecticut. Out of state boats now land probably half of the Virginia and North Carolina quota, [hopefully those two states submit that information] so there has already unofficially been a very large shift in landings quota from southern boats to northern boats. I find it rather interesting that this amendment NEVER even thought about gathering that information because it would prove that this amendment is nothing more than out right theft by the northern states.

In regard to revisions to the FMP Objectives, I would add to the current objectives, #7. "No stealing quota from other states".

I would amend #2 to reduce mortality on the SSB by the recreational industry by reducing their size limits so that they are not forced to solely target only large Females. The 18 inch and bigger size limit is the

SOLE REASON that the stock has been declining over the last few years, anyone with common sense would agree that you can't catch all the females and expect a stock to be sustainable. This problem is solely caused by management because they have refused to address a tough issue and always take the easy way out. There have been a number of idea's that have never been seriously looked at over the last 20 years that could possibly address this issue, but nothing has ever been done. Jim Fletcher's total length is one such idea. Slot limits are another.

In regard to the proposed changes to the objectives, I have a problem with goal #3 and 3.1: This wording is nothing more than an attempt to change commercial and recreational allocations by using economic data to prove that one group contributes more to the economy than the other because they spend more money to catch a fish. This would institutionalize inefficiency and be a big step backwards for fishery management. A short example of commercial vs recreational money; both industry's have a secure infrastructure of businesses that depend on fishing for their income, the difference between the users, though, is that recreational fishermen are spending money that they have already earned and will spend it on something regardless of whether its fishing or taking the family out to dinner. Commercial fisherman by the act of catching and selling their fish are literally printing new money that they have created by that act and would not be contributing to the economy if they didn't. So all the money they spend on their boats, and paying taxes would not exist.

In regard to the requalifying options we believe that there are too many permits caused by too lenient qualifying landings, but do not like to see people lose permits, but it is clear by the data provided that there are hundreds of permits that simply do not catch Summer

Flounder, and never have. Therefore we support Alternative 1B-5 a qualifying period from 1999 to 2014 with a 1,000 pound cumulative landings over that period. If a person didn't catch that then its hard to argue they deserved the permit in the first place. Not for nothing but the federal permit is really illrelevant it's the state permit that is important

I have discussed the Commercial quota allocation a bit before, but for the record we support Alternative 2A no Action. We feel that the industry has already addressed this allocation issue by the buying and selling of state permits. If there are problems in regard to boats from Massachusetts having to steam to North Carolina to land their fish that may be addressable by state by state cooperation allowing for some type of landings flexibility.

We strongly oppose alternative 2B using the political based biomass distribution model, not only is it out right theft, but it would cause enormous economic harm to New Jersey Fishermen who have depended on this fishery for generations, and who have reported their landings and paid their taxes on those fish.

In regard to Alternative 2c this is the least damaging to the historical participants, while also redistributing quota evenly to all states at a certain level of Quota. I devised this plan 15 or so years ago while on the council, which proves how long this issue has been around, but I set the division level at a total of 20 million pounds before being divided into the described shares. That would put the commercial allocation at 12 million pounds. The baseline of 10.7 million in Alternative 2c-2 is not that far off and would cause less damage to the states with higher quota's so it is preferable to the lower baseline of

2C-1. While we do not support this alternative it is preferable to the others, but facts being facts no action is still the correct way to go.

Alternative 2d is so radical it should have been thrown in the considered but discarded trash bin.

Lastly, landings flexibility is a complicated issue and can and should be addressed on a state by state cooperative level. We do not support making landings flexibility a frame workable item. Just as fishermen have addressed their states lack of quota, by buying other states permits it's possible that these states can work together to address this problem without substantial council or commission involvement. One last thought regarding those fishermen from the northern states who have spent a lot of money on those southern permits, reallocating quota will cost them a lot of money since their permits would then see a reduction in their allowable catch and devalue their permits and since Virginia and North Carolina would have to reduce their trip limits it might not even be financially possible to make a trip from the Block canyon area to pack down south.

Thanks for your consideration,

Jim Lovgren

Sec. Fishermans Dock Co-op Inc.

F/V Langley Douglas

F/V Bella Sky

10/9/2018

MAFMC & ASMFC

Commercial Summer Flounder Allocation

I own 2 vessels with federal summer flounder permits based out of Scituate Mass. I also have licenses to land summer flounder in NC, VA, and Mass.

The current state by state allocation works well. Many others have bought permits to Land in VA and NC and like me they knew very well the conditions regard where the fish would be landed. We think the allocation should stay STATUS QUO.

As for landings flexibility. Currently we are able to catch both VA NC and NJ quotas all in one trip and land them in each state. Any other type of flexibility would create enforcement and management problems. There is no need to create a framework for landings flexibility. NO

Requalifying isn't an issue because of individual state permits. NO

Best Regards,

Troy Dwyer

A & D Fisheries

Scituate Mass.

10/10/18

Chris Moore
Ph.D., Executive Director
Mid-Atlantic Fishery Management Council

Dear Chris,

Being an advisor to the Mid-Atlantic Fishery Management Council, and my deep passion for our fisheries, I feel it is my responsibility to let the council know of my fishing update for this 2018 summer flounder season. My personal catch this year, along with my fellow fisherman, has been very disappointing and quite disturbing. I don't remember a year that had so few amount of both short and keeper fluke being caught all around Long Island waters. From Montauk, Long Island Sound and central south shore, the lowest catch that I can remember in years, and I have been fishing these waters for over 45 years. It was very difficult to catch a daily limit of 4 fish at 19". Also, very few fluke under 19" were caught in comparison to past years. This lack of recreational fish numbers this year should raise concerns for all.

I think the recreational catch limit should remain at 4 fish per person, same length of season, May 4 to Sept 30, but a decrease in size limit to 18". Also, by decreasing the size limit, it would cut down on fish mortality from catch and release.

I am advising that the fluke regulations be reassessed and commercial take should be cut back. The recreational sector has been cut back enough over the years, not only with lower quotas, but increased size limits as well. Summer flounder is one of the most important and popular recreational target species in our waters. It is a big part of the charter and party boat business. According to data, summer flounder are overfished and the council needs to step up and protect this very important species for all interests. It is better to be on the side of caution in this time of uncertainty in fluke biomass.

I believe giving these fish time to rebuild with less commercial dragging pressure and less dead discarded overage dumped over board. Preventing waste of this valuable resource is mandatory. It will have a positive effect to the overall fishing community to restore these fish, achieving optimal yield on an ongoing basis.

Hopefully, the council will take my observations and recommendations into consideration on a new outlook for summer flounder regulations for the future. We must act now.

Thank you.

Best,

Mark Krause

An Advisor to the Mid-Atlantic Fishery Management Council
Atlantic Mackerel, Squid and Butterfish



Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

October 12, 2018

Dr. Chris Moore, Executive Director, MAFMC, Dover, DE 19901

To: nmfs.flukeamendment@noaa.gov

Dear Dr. Moore:

On behalf of the 200 employees of our family-owned processing and freezing facilities and fishing vessels here in Cape May, NJ, thank you for the opportunity to provide you with these brief comments on the proposed *Summer Flounder Amendment*.

Requalifying criteria for federal commercial moratorium permits:

This is the only portion of the amendment that we can support moving forward. If pressed to choose from the alternatives in the document today, we could support further consideration of Alternative 3, using a 10 year time period and a $\geq 1,000$ pound cumulative catch, with the reasonable goal of reducing permits by about 40%. However, we would strongly prefer to have seen an alternative analyzed that would require ≥ 1000 pounds of landings in any one year, for example, rather than a long-term average, which the document proposes in each instance. We expect this approach would likely protect the majority of the currently productive fleet, as Alternative 3 may also.

Consider modifications to commercial quota allocation:

We strongly oppose each of these options. Our company depends on a supply of summer flounder from our boats and others with a suite of state permits on board. All of this state-generated fishing history should be retained as allocated today since this fleet is mobile and has long followed the fish where they happen to be. The Commission, unfortunately, recently ignored the historic investment in New Jersey's menhaden bait fishery by taking New Jersey quota and allocating it to other states that we compete with, in one afternoon. This should not, also, occur with the New Jersey fluke fishery or with MAFMC support.

Landings flexibility as a framework issue:

As we work with NJ DEP on a solution to this logistical problem, which would allow out-of-state-destined fluke to remain on board after unloading other species here, we have come to the conclusion that this problem can be adequately mitigated by an agreement by the States to work with local industry and their environmental police to authorize this system coastwide.



Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

Revise FMP objectives:

We are not certain how important this is and hope there can be broader discussion before the proposed language in the public hearing document is adopted by the Council and Commission, particularly since it would also affect the scup and black seabass fisheries. Again, has the AP made any recommendations?

We offer two comments, at this time; first, relative to the existing language on reducing fishing mortality on juvenile summer flounder, we would support this language being eliminated as the Commission should immediately address the recreational fisheries' harvest of mature females by allowing some small fish to be retained rather than discarded dead, particularly to be benefit of young anglers.

A slot limit or a total length allowance makes a lot of sense in that fishery in particular, and, second; we would like to see the language in Objective 3.1 be restated to read, "Maximize access to the fishery..." and are concerned that this objective seems to place fishing history, at the same level of consideration as "current importance", which is not well defined in terms of net benefits to the nation. Sustainable seafood production, or maintenance of a strategic food supply from the sea, could usefully added as stated goals.

Thank you for your attention to and your consideration of our comments. We look forward to working with the Council and Commission on the maintenance of a sustainable commercial fishery for summer flounder in our region.

With best regards,

Wayne Reichle

Wayne Reichle
President

October 12th, 2018

Chris Moore, PhD., Executive Director
Mid-Atlantic Fishery Management Director
North State Street, Suite 201
Dover, DE 19901

Dear Director Moore,

I am writing to comment on the Summer Flounder Commercial Issues Amendment. There are two concerns that I wanted to address regarding this Amendment:

Under Commercial Quota Allocation, Alternative 2D: Implement “Scup Model” Quota System for Summer Flounder. Currently there are too many unknowns to consider this alternative. We don’t yet have an idea of what the daily or weekly quota might be. This alternative could very likely turn into a derby fishery where fishermen might take risks in weather they might not normally head out in as to not miss out on a chance to land part of the quota. This alternative also has the possibility to disrupt the fragile markets the industry works hard to maintain. There is a possibility that the quota could be met so quickly that it shuts down the fishery for a significant amount of time. Without inventory, buyers would have to fill their needs elsewhere and sometimes those market losses are hard to recover.

Regarding the Landings Flexibility Alternative, we think that it would be more appropriate for any landings flexibility program to go through the full amendment process rather than through a framework. In the Public Hearing Document, it states that “*frameworks can often be completed in 5-8 months and address one or a few issues in a fishery*”. This alternative could have significant effects on the industry and therefore should be thoroughly analyzed and be required to hold a series of public hearings along the coast. Although frameworks are appropriate for some actions, we feel that this action is too complex for a framework. By taking Landings Flexibility out to scoping it would help identify the key issues that the industry feels are necessary to analyze before implementing a program.

Thank you for the opportunity to comment.

Sincerely,

Katie Almeida
Fishery Policy Analyst
The Town Dock

October 12, 2018

To Whom it May Concern;

As a New York and Federal summer flounder dealer, we hope that the Mid Atlantic Council will reconsider how they split state by state quota's and how the coastwise quota is managed.

It's important to us that being in one of the best fluke grounds in the country that we are able to supply our customers on a consistent basis with summer flounder.

Under the current format, it makes it very difficult for both fisherman to make a living and for us to get a consistent local market for our product.

We hope that you consider flexible landing and/or an increase in the way the coastwise quota is distributed.

Sincerely,

Bob Gosman Co. Inc.
Gosman's Fish Market

CHESAPEAKE BAY PACKING

**800 TERMINAL AVENUE
NEWPORT NEWS, VA 23607
PHONE 757.244.8440
CHESAPEAKEBAYPACKING.COM**

October 12, 2018

Dr. Chris Moore
Mid-Atlantic Fishery Management Council
North State Street, Suite 201
Dover, DE 19901

Re: Summer Flounder Commercial Issues Amendment Comments

Dr. Moore

We appreciate the opportunity to comment on the Council's amendment to the Summer Flounder components of the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan. We understand the Council's interest in updating the FMP's goals and objectives to consider the needs of the current fishery and to reflect on the fishery's regional history.

Our packing operation, located in the small boat harbor in Newport News, was largely built on summer flounder landings in the 1980's and 1990's. In the early years of our operation, our dock packed over 1.3 million pounds of summer flounder annually, and the fishery has been a foundational component of our business ever since. As the Council reviews and updates the overall goals for the FMP, we would urge the Council to build on the fishery's successful history, and consider the historical social and economic dependence of the region's fishing communities on this iconic fishery. These historical characteristics of the fishery should be central to the FMP goals. Our business is one of many commercial seafood packing operations in Virginia and throughout the region that have been highly dependent on the summer flounder fishery.

Over time, the states of Virginia and North Carolina have worked to improve the coordination of their state management measures to enhance the economic performance of this fishery, resulting in higher exvessel landing values, and better economic performance. The states have been able to achieve this coordination under the framework of the current FMP, and this flexibility should be preserved as the Council looks forward in this fishery. Both of these states also took important steps in the early stages of the development of the fishery to qualify permits, beyond the Council's 1-pound qualifier, resulting in an economically viable population of state permits. Virginia's fishery has also had the benefit of an effective catch monitoring and enforcement system.

With respect to specific changes proposed in this amendment, we are not able to support changes to the existing allocations. The allocations were based on historical landings and the modern fishery has been built on that foundation. Summer flounder has been an essential component to our fishing community since the commercial fishery's inception. Virginia's economic dependence on the summer flounder is further amplified by the ongoing decline in landings that have occurred in this fishery since the FMP was implemented (reference Figure 1.) A reallocation of the fishery would pose a risk to our company and to our broader fishing community in the small boat harbor. National Standard 8 provides for the sustained participation of fishing communities and a substantial reallocation action would directly jeopardize our community's ability to sustain our historical participation in the fishery.

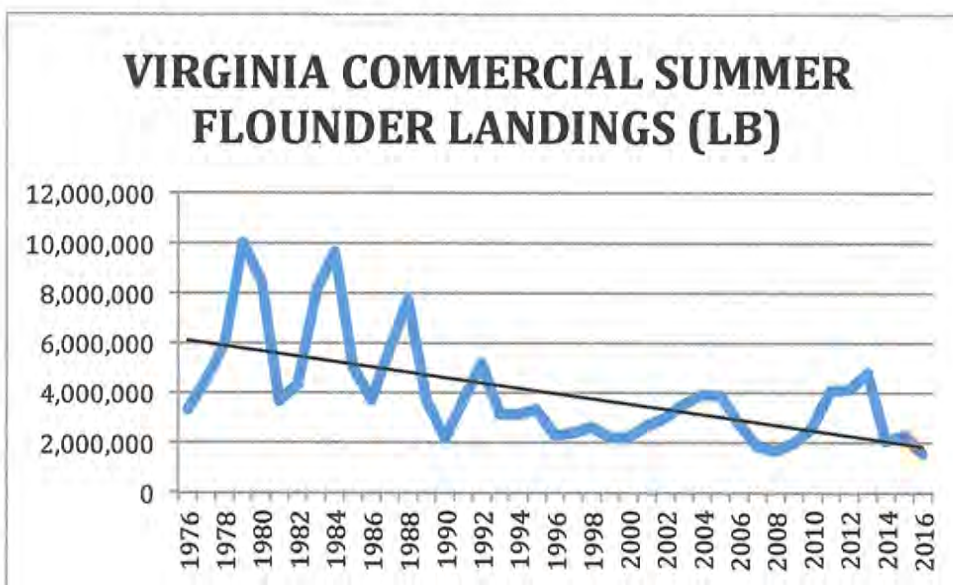


Figure 1. Virginia commercial landings 1976-2016. (reference: st.nmfs.noaa.gov)

We would also be concerned about changes to landings management systems that would raise concerns about catch monitoring or enforcement. Abuses of the RSA program in the absence of an effective catch monitoring system were well documented by NOAA OLE. We believe the options for landings flexibility would pose significant catch monitoring risks that could undermine the overall integrity of the management plan and the performance of the fishery.

Thanks again for the opportunity to comment on the proposed amendment.

Sincerely,

Terry Molloy
General Manager

Virginia Seafood Council

P. O. Box 2

Kilmarnock, VA 22482

vaseafoodcouncil@gmail.com

RE: Summer Flounder Commercial Issues Amendment

1. **Requalifying** Status Quo

If it is the intention to reduce permit capacity it should be pointed out that many states have taken steps to reduce latent effort. These same states have very good quality data for landings with solid enforcement protocols and reliable reporting.

With a recommendation that the Council and Board direct the states to work to reduce Latent effort as it best applies to their management system. Each state has developed a good management system based on landings, gear types and other criteria that best suits their needs and therefore should be better suited to reduce latent effort at their level.

2. **Commercial Allocation:** Status Quo

It must be stressed that in scoping and documents and every series of comments since the majority supports status quo.

This was and has always been a mainly VA, NC & NJ fishery. Most of the states in the northern range were fishing for Yellowtail, black backs, grey sole, scup, etc... The southern states VA NC & NJ have very few fisheries. The summer flounder is 85% of our entire offshore trawl fishery and it has deep historical ties. We have entire communities in small rural towns that depend on this fishery, jobs that rely on summer flounder and have for the past 25 years. The northern states have many other fisheries available, they have ground fish and have catch shares. This is the only fishery we have – Leave the state by state allocation the way it is

3. **Landings Flexibility** Status Quo

Each State has the ability to be flexible with their quota. It happens in many species and happens many times a year with summer flounder.

Any vessels that have purchased a state license knew very well what the landing requirements were when they purchased the license. There has been significant investment in these licenses.

Accountability and enforcement are nearly impossible with any flexible landing options. Landings flexibility is a nightmare scenario for managers.

The council process is already bogged down with enough issues and after discussing this for 5 years there is no actual idea that works. Stop kicking the can down the road!

Executive Committee,

Virginia Seafood Council

BEFORE THE
MID-ATLANTIC FISHERY MANAGEMENT COUNCIL,
the ATLANTIC STATES MARINE FISHERIES COMMISSION,
and the NATIONAL MARINE FISHERIES SERVICE

In the Matter of:

Summer Flounder
Commercial Issues Amendment

STATE OF NEW YORK
and the
NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

WRITTEN COMMENTS

Dated: October 12, 2018

FILED BY EMAIL

INTRODUCTION

The State of New York and the New York State Department of Environmental Conservation (together, “New York”) submit these written comments on the draft August 2018 Summer Flounder Commercial Issues Amendment (“Draft Amendment”) and the Draft Environmental Impact Statement (“Draft EIS”) prepared in connection with the Draft Amendment.¹ The Draft Amendment and Draft EIS present four alternatives for state-by-state allocation of the annual commercial quota for summer flounder. All of those alternatives are rooted wholly or partially in allocations that have been in place since 1993 (the “1993 Allocations”), which are based upon flawed and outdated data that do not reflect the current, undisputed concentration of biomass and fishing effort in the waters proximate to Long Island. New York requests that the Mid-Atlantic Fishery Management Council (the “Council”) and the Atlantic States Marine Fisheries Commission (the “Commission”) reject those four alternatives and, as required by the Magnuson-Stevens Act and the Interstate Fisheries Program Management Charter (“Interstate Fisheries Charter” or “Charter”), evaluate and adopt an alternative allocation that is fair, equitable, and reasonably based on current information about the fishery.²

Even though more reliable and consistent data have become available since 1993, and while both the summer flounder stock and commercial fishing activity have shifted northeast toward the waters off New York since 1993, the 1993 Allocations have continued to allot New York only 7.65% of the total coastwide commercial quota for commercial landings³ of summer flounder while allotting almost 50% of the quota to North Carolina and Virginia, which are located far from the center of the fishery. All the quota allocation alternatives proposed by the Council and the Commission in the Draft Amendment and evaluated in the Draft EIS would either retain this allocation method or modify it only partially. As a result, every alternative proposed in the Draft Amendment and evaluated in the Draft EIS would continue to cause summer flounder to be disproportionately landed

¹ See *Draft Amendment to the Interstate Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass for Public Comment: Summer Flounder Commercial Issues and FMP Goals and Objectives* (August 2018); *Summer Flounder Commercial Issues and Goals and Objectives Amendment: Draft Environmental Impact Statement* (August 2018).

² New York expects that the Council will ultimately adopt a commercial allocation alternative to propose to the National Marine Fisheries Service (“NMFS”), at which point NMFS would solicit public comment on that proposal before deciding whether to approve it. Should the Council propose any of the four alternatives presented in the Draft Amendment and Draft EIS to NMFS for approval, New York intends to provide comments to NMFS explaining why it must reject such a proposal as inconsistent with the Magnuson-Stevens Act.

³ To “land” fish is to “begin offloading fish, to offload fish, or to enter port with fish.” To “offload” is to move fish from a vessel. 50 C.F.R. § 648.2. “Landings” refers to the amount of fish landed, measured by weight.

in southern ports hundreds of miles from the center of the species' biomass and from the center of commercial fishing activity. These alternatives are neither fair, rational, nor efficient. Indeed, in many cases, vessels weather significant time and distance at sea traveling from the northern fishery to southern ports, only to have their summer flounder catch shipped back to northern markets for sale. For New York-based fishermen, the options will continue to be bleak and economically punishing under any of the proposed alternatives: to land summer flounder in New York subject to highly restrictive limits or to purchase costly licenses to land summer flounder in out-of-state ports potentially hundreds of miles further from their fishing grounds. For many, neither option has been economically viable, and without a meaningful change to the allocation model, the impact on New York's commercial summer flounder fishermen and ports will continue to be devastating.

By ignoring current data about the summer flounder fishery, the alternatives evaluated in the Draft Amendment and Draft EIS do not comply with the Magnuson-Stevens Act or the Commission's Interstate Fisheries Charter. Under the Magnuson-Stevens Act, the allocation of commercial fishing quotas by the Council must comply with ten national standards for fishery conservation and management codified at 16 U.S.C. § 1851(a) (the "Magnuson Standards"). Among other things, the Magnuson Standards require that fishery rules be based upon the best scientific information available, not discriminate between residents of different states, consider efficiency in the utilization of fishery resources, minimize costs, and promote the safety of human life at sea.⁴ Similarly, under the Commission's Charter, the allocation of commercial fishing quotas by the Commission must comply with seven interstate standards (the "Charter Standards"), including that fishery rules must be based upon the best scientific information available, be designed to minimize waste of fishery resources, and ensure that fishery resources are fairly and equitably allocated among the Atlantic states.⁵ After decades of change in the summer flounder fishery, the 1993 Allocations violate both the Magnuson Standards and the Charter Standards because they are based upon flawed and outdated data, and as a result are discriminatory, wasteful, and unsafe. For the same reasons, any allocation scheme that is based on these 1993 Allocations would violate the Magnuson Standards and the Charter Standards. Further, the Draft EIS's failure to examine other reasonable alternatives would violate the National Environmental Policy Act.⁶

⁴ 16 U.S.C. § 1851(a)(2), (4), (5), (7), (10).

⁵ Atl. States Marine Fisheries Comm'n, Interstate Fisheries Management Program Charter § 6(a)(2), (4), (7)(ii) (last amended Feb. 2016).

⁶ New York's comments on the Draft EIS are directed to the Council and also to NMFS, to the extent that NMFS would not separately solicit comments in the environmental review process prior to issuing a Record of Decision selecting and approving a commercial allocation alternative.

Instead, the Council and the Commission must evaluate and adopt—and the National Marine Fisheries Service (“NMFS”) may only approve—a commercial allocation proposal that is scientifically sound, fair, efficient, safe, and otherwise compliant with the Magnuson-Stevens Act and the Interstate Fisheries Charter. Optimally, the Council and the Commission would begin by dispensing with the outdated and flawed 1993 Allocations and implementing coastwide management of the commercial quota for an interim period while the Council, Commission, and NMFS (together, the “Agencies”) collect information that allows them to develop and issue new allocations that are scientifically sound, reflective of the fishery as it currently exists, fair to New York, and otherwise consistent with the Magnuson-Stevens Act and the Interstate Fisheries Charter. If the Council and Commission do not adopt this approach, a next-best alternative would be for them to significantly modify the 1993 Allocations in a way that accurately and fairly accounts for what is actually now known about the distribution of the fishery, unlike the alternatives proposed in the Draft Amendment and evaluated in the Draft EIS.

STATUTORY AND REGULATORY FRAMEWORK

A. Management of the Summer Flounder Fishery

The Magnuson-Stevens Act, 16 U.S.C. §§ 1801 *et seq.*, is designed to conserve and manage fishery resources in United States waters and coastal areas.⁷ In general, the Act manages fisheries in the waters between three miles and two hundred miles off the coast of the United States, known as the Exclusive Economic Zone or “federal waters,” while states retain regulatory authority over inland marine waters and ocean waters up to three miles offshore of their respective coastlines, traditionally known as “state waters.”⁸ To regulate fisheries within its jurisdiction, the Magnuson-Stevens Act establishes eight regional fishery management councils subject to Department of Commerce oversight through NMFS, which is part of the Department’s National Oceanic and Atmospheric Administration.⁹

The regional council that manages fisheries in the federal waters of the mid-Atlantic region, including the summer flounder fishery, is the Mid-Atlantic Fishery Management Council, which is composed of voting representatives from the states

⁷ 16 U.S.C. § 1801(b). A “fishery” is “(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and (B) any fishing for such stocks.” *Id.* § 1802(13).

⁸ *See id.* § 1856(a).

⁹ *See generally id.* §§ 1852–54.

of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina, and from NMFS.¹⁰ The Mid-Atlantic Council manages the summer flounder fishery in consultation with the New England and South Atlantic Fishery Management Councils, which include representatives from other states that participate in the fishery, namely Massachusetts, Rhode Island, and Connecticut (New England) and North Carolina (South Atlantic).¹¹

Meanwhile, the Atlantic States Marine Fisheries Commission regulates fisheries in state waters off the Atlantic coast, including the summer flounder fishery, pursuant to the Atlantic States Marine Fisheries Compact formed between the Atlantic states and approved by Congress.¹² Each member state under the Compact is represented on the Commission: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.¹³ The Commission operates through species-specific management boards, including the Summer Flounder, Scup, and Black Sea Bass Management Board (“Summer Flounder Board”), which develops, proposes, and implements fishery management plans for summer flounder, including the commercial fishery.¹⁴ The Commission oversees the states within the fishery with respect to the management measures they must develop and implement pursuant to those plans.¹⁵

Due to the migratory nature of summer flounder between state and federal waters, the Council and the Commission coordinate joint regulatory oversight of the summer flounder fishery in both state and federal waters pursuant to the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. §§ 5101 *et seq.*¹⁶

¹⁰ *See id.* § 1852(a)(1)(B). Among these states, Pennsylvania does not participate in the summer flounder fishery. The Council also has non-voting representatives from the U.S. Fish and Wildlife Service, the U.S. Coast Guard, the U.S. Department of State, and the Commission.

¹¹ *See id.* § 1852(a)(1)(A), (C). North Carolina is represented on both the Mid-Atlantic and South Atlantic Councils. Maine and New Hampshire, represented on the New England Council, also have limited participation in the summer flounder fishery.

¹² Pub. L. No. 77-539 (1942), *as amended by* Pub. L. No. 81-721 (1950) [hereinafter *Atl. Fisheries Compact*]; *see also* *Atl. States Marine Fisheries Comm’n, Rules & Regulations* (last amended Feb. 2016) [hereinafter *Atl. Fisheries Rules*].

¹³ *See Atl. Fisheries Compact*, Art. III; *Atl. Fisheries Rules*, Art. I § 1(A).

¹⁴ *See Interstate Fisheries Charter* § 4.

¹⁵ *See id.* § 7.

¹⁶ States that are party to the Atlantic Fisheries Compact but which are not part of the summer flounder fishery do not participate in the management of summer flounder.

B. Regulatory Process for Federal Waters Under the Magnuson-Stevens Act

Under the Magnuson-Stevens Act, each regional council, including the Mid-Atlantic Council, is responsible for management of the fisheries within the federal waters seaward of the states comprising that council, principally through developing and updating fishery management plans (“FMPs”) that establish the rules for each fishery and by proposing regulations to implement such plans.¹⁷ FMPs consist primarily of “conservation and management measures” that are “necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.”¹⁸ Such measures may include quotas, size limits, and gear restrictions, among others.

A regional council submits any new FMP or FMP amendment to NMFS to review for consistency with applicable law, in particular with the Magnuson Standards.¹⁹ As necessary or appropriate to implement an FMP or amendment, a regional council may also submit proposed regulations to NMFS for review.²⁰

NMFS must approve an FMP or amendment if it is consistent with the Magnuson Standards and other applicable law, and disapprove (or only partially approve) it if not.²¹ Similarly, NMFS must promulgate regulations submitted by a regional council if the regulations are consistent with the Magnuson Standards, other applicable law, and the corresponding FMP or amendment, and return them to the council for revision if not.²² If a regional council fails to develop an FMP or any necessary FMP amendment, NMFS may prepare an FMP or amendment, as appropriate, along with implementing regulations. NMFS may then adopt the FMP or amendment, and promulgate any implementing regulations after a notice and comment process.²³

¹⁷ 16 U.S.C. §§ 1852(h), 1853.

¹⁸ *Id.* § 1853(a)(1).

¹⁹ *Id.* §§ 1853(a), 1854(a).

²⁰ *Id.* §§ 1853(c), 1854(b).

²¹ *Id.* § 1854(a)(1)(A). If NMFS disapproves a proposed FMP or amendment in whole or in part, then it must make recommendations to the regional council as to how to revise the FMP or amendment to comply with applicable law. *Id.* § 1854(a)(3)(C).

²² *Id.* § 1854(b)(1) (providing also that NMFS may make necessary technical changes in the course of promulgating regulations submitted by a regional council). If NMFS rejects regulations proposed by a regional council, it must provide recommendations to the council as to how to revise the proposed regulations so that they comply with applicable law. *Id.* § 1854(b)(1)(B).

²³ *Id.* § 1854(c).

All FMPs, amendments, and regulations must be consistent with the Magnuson Standards.²⁴ The standards include:

- Magnuson Standard 2, which provides that “[c]onservation and management measures shall be based upon the best scientific information available.”²⁵
- Magnuson Standard 4, which provides that
[c]onservation 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.²⁶
- Magnuson Standard 5, which provides that “[c]onservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources[.]”²⁷
- Magnuson Standard 7, which provides that “[c]onservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.”²⁸
- Magnuson Standard 10, which provides that “[c]onservation and management measures shall, to the extent practicable, promote the safety of human life at sea.”²⁹

The Magnuson-Stevens Act directs NMFS to establish guidelines based on the Magnuson Standards to “assist in the development of fishery management plans.”³⁰ These guidelines (the “Magnuson Standards Guidelines”) are codified at 50 C.F.R. §§ 600.305 *et seq.*

²⁴ *Id.* § 1851.

²⁵ *Id.* § 1851(a)(2).

²⁶ *Id.* § 1851(a)(4).

²⁷ *Id.* § 1851(a)(5).

²⁸ *Id.* § 1851(a)(7).

²⁹ *Id.* § 1851(a)(10).

³⁰ *Id.* § 1851(b).

C. Regulatory Process for State Waters Under the Interstate Fisheries Charter

Under the Commission’s Interstate Fisheries Charter, each species management board, including the Summer Flounder Board, is responsible for management of that fishery in state waters. Like the regional councils that manage federal waters, the species management boards manage the fisheries primarily through developing or updating FMPs that establish the rules for each fishery.³¹ States are then responsible for implementing the Commission’s FMPs in their respective waters, subject to Commission oversight.³² Where a fishery is managed cooperatively between state and federal waters, the Commission’s species management boards coordinate with the regional councils to ensure that Commission FMPs (applicable in state waters) are consistent with regional council FMPs (applicable in federal waters).³³

Under the Charter, FMPs—as well as state laws and regulations implementing them—must be consistent with the Charter Standards.³⁴ The standards (which overlap with the Magnuson Standards) include:

- Charter Standard 2, which provides that “[c]onservation programs and management measures shall be based on the best scientific information available.”³⁵
- Charter Standard 4, which provides that “[m]anagement measures shall be designed to minimize waste of fishery resources.”³⁶
- Charter Standard 7, titled “Fairness and equity,” which provides in relevant part that “[f]ishery resources shall be fairly and equitably allocated or assigned among the states” that are party to the Atlantic Fisheries Compact.³⁷

³¹ Interstate Fisheries Charter § 4(a), (e).

³² *Id.* § 7.

³³ *Id.* §§ 4(g), 6(c)(12).

³⁴ *Id.* § 6(a); *see also* 16 U.S.C. § 5104(a)(2) (directing the Commission to establish standards governing FMPs).

³⁵ Interstate Fisheries Charter § 6(a)(2).

³⁶ *Id.* § 6(a)(4).

³⁷ *Id.* § 6(a)(7).

D. The Summer Flounder FMP and the 1993 Allocations

The summer flounder fishery is governed by the Council's and Commission's cooperatively developed Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, as amended ("Summer Flounder FMP").³⁸ The FMP and its implementing regulations, as amended, have been reviewed and authorized by NMFS as required by the Magnuson-Stevens Act.³⁹ Pursuant to the Summer Flounder FMP, each year the Council, Commission, and NMFS (together, the "Agencies") establish an annual fishery-wide catch limit for summer flounder and then formulate a commercial landings quota based on that limit; the commercial quota is allocated among the states based on the 1993 Allocations.

To start, the Agencies develop an "acceptable biological catch" representing the total amount of summer flounder that may be caught each year as necessary to prevent overfishing and sustain the fishery. The Agencies then develop "annual catch limits" that divide the acceptable catch between the commercial and recreational sectors. This process of setting acceptable catches and catch limits may occur annually, or for up to three years at a time subject to annual adjustment.⁴⁰ Specifically for the commercial sector, the Agencies develop an "annual landings quota" (among other measures) designed to achieve the commercial catch limit, accounting for a research set-aside and discards.⁴¹

Once an annual commercial quota is finalized, the total landings are distributed between the states on the eastern seaboard pursuant to the 1993 Allocations. The 1993 Allocations are in Amendments 2 and 4 of the Summer Flounder FMP and 50 C.F.R. § 648.102(c)(1)(i). The 1993 Allocations distribute the commercial landings quota for summer flounder each year as follows:

- 27.44585% to North Carolina;
- 21.31676% to Virginia;
- 2.03910% to Maryland;

³⁸ See generally *Draft Amendment* at 61–66; *Draft EIS* at 36–39. Among the amendments to the Summer Flounder FMP has been its expansion to cover two other demersal species, scup and black sea bass, under distinct management measures.

³⁹ NMFS regulations implementing the Summer Flounder FMP are codified in relevant part at 50 C.F.R. §§ 648.100–648.110. These regulations are promulgated by NMFS pursuant to the Magnuson-Stevens Act, and therefore only apply to the regulation in federal waters by the Council and NMFS. However, the Commission regulates in state waters according to the same terms for the purposes of the discussion herein. For simplicity, where reference is made to provisions of the FMP, these comments generally cite to just the NMFS regulations.

⁴⁰ See 50 C.F.R. § 648.100.

⁴¹ Discards are fish that are caught but not landed.

- 0.01779% to Delaware;
- 16.72499% to New Jersey;
- 7.64699% to New York;
- 2.25708% to Connecticut;
- 15.68298% to Rhode Island;
- 6.82046% to Massachusetts;
- 0.00046% to New Hampshire; and
- 0.04756% to Maine.⁴²

Each state implements management measures (on top of generally applicable measures under the Summer Flounder FMP and regulations) designed so that commercial summer flounder landings in the ports of that state do not exceed the state’s assigned allocation of the annual commercial quota.⁴³ These measures commonly include permitting or licensing requirements, periodic or seasonal landings quotas, and/or landings limits for individual vessels.⁴⁴

E. Environmental Review of FMP Amendments

The Council and NMFS must generally prepare an environmental impact statement (“EIS”) pursuant to the National Environmental Policy Act (“NEPA”) when they propose to amend a fishery management plan. For “major Federal actions significantly affecting the quality of the human environment,” NEPA requires agencies of the federal government to issue a “detailed statement” discussing the “environmental impact of the proposed action” and “alternatives to the proposed action,” among other matters.⁴⁵ Effects on the human environment that must be examined in an EIS include not just ecological impacts, but also aesthetic, historic, cultural, economic, social, and health impacts.⁴⁶

The section of an EIS analyzing alternatives to the proposed action “is the heart of the environmental impact statement.” In order to fulfill its intended role of “sharply defining the issue and providing a clear basis for choice among options by the decisionmaker and the public,” an EIS must “[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.”⁴⁷

⁴² 50 C.F.R. § 648.102(c)(1).

⁴³ See *Draft Amendment at 76* (summarizing state-level management measures).

⁴⁴ See, e.g., 6 New York Codes, Rules and Regulations § 40.1.

⁴⁵ 42 U.S.C. § 4332(2)(C).

⁴⁶ 40 C.F.R. § 1508.8.

⁴⁷ *Id.* § 1502.14(a).

Prior to taking final action, federal agencies must prepare a draft EIS for public comment.⁴⁸

RELEVANT FACTS

A. Summer Flounder

Summer flounder (*Paralichthys dentatus*), also known as fluke, is a demersal (bottom-dwelling) flatfish distributed from the Gulf of Maine through the waters off North Carolina. As an excellent food fish, summer flounder is a valuable species to the commercial fishing industry along the Atlantic coast. The species is also highly sought after by recreational anglers. Important commercial and recreational fisheries exist from Cape Cod to Cape Hatteras.⁴⁹

Summer flounder are concentrated in bays and estuaries from late spring through early autumn, when the fish migrate to the outer continental shelf for the colder months. Spawning occurs during autumn and early winter, with the larvae carried by ocean currents toward coastal areas, where the development of post larvae and juveniles occurs.⁵⁰ Because summer flounder move northeast up the Atlantic coast as they age and grow, the summer flounder population is spatially distributed with larger individuals more abundant toward northern latitudes.⁵¹ Commercial fishing for summer flounder occurs year-round, with the greatest activity between November and April, primarily in federal waters.⁵²

B. Historic Overfishing and Southwesterly Distribution

By the 1980s, the summer flounder stock had been overfished and was severely depleted, reaching a low point in approximately 1989.⁵³ This overfishing

⁴⁸ *Id.* § 1502.9(a).

⁴⁹ See generally Mid-Atlantic Fishery Management Council, *Summer Flounder Fishery Information Document* (June 2018), available at <http://www.mafmc.org/sf-s-bsb> (under “Fishery Information Documents”).

⁵⁰ See *id.*

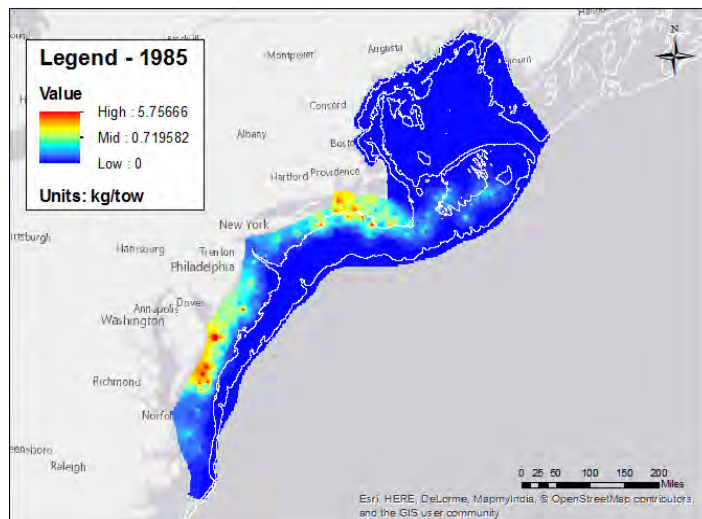
⁵¹ Richard J. Bell et al., *Disentangling the Effects of Climate, Abundance, and Size on the Distribution of Marine Fish: An Example Based on Four Stocks from the Northeast US Shelf*, 72 ICES J. MARINE SCI. 1311, 1318, 1320 (2015).

⁵² *Draft EIS* at 151–152.

⁵³ Mark Terceiro, Northeast Fisheries Science Center, National Marine Fisheries Service, Ref. Doc. 15-13, *Stock Assessment Update of Summer Flounder for 2015*, at 5, 10 (2015) [hereinafter *NMFS Stock Assessment 2015*], available at <https://www.nefsc.noaa.gov/publications/crd/crd1513/crd1513.pdf>.

also truncated the average age and size of summer flounder.⁵⁴ Because younger fish are more heavily distributed toward the southwest of the species' range, researchers believe that overfishing had a southwest-shifting effect on the center of biomass of the stock.⁵⁵ Indeed, trawl survey data indicate that in the 1980s, summer flounder were concentrated between the southern mid-Atlantic waters east of Delaware, Maryland, and Virginia, and the waters east of Long Island and south of Rhode Island (see Figure 1).⁵⁶

Figure 1: Summer Flounder Stock Distribution in 1985⁵⁷



Unsurprisingly, the geographic distribution of commercial fishing for summer flounder in the 1980s roughly corresponded to the distribution of the stock at that time. In 1983–1989, 46% or more of commercial summer flounder landings were caught in the southern mid-Atlantic—that is, in waters south of the southern tip of New Jersey.⁵⁸ Meanwhile, 41% or less were caught in the northern mid-Atlantic

⁵⁴ Mark Terceiro, Northeast Fisheries Science Center, National Marine Fisheries Service, Ref. Doc. 16-15, *Stock Assessment of Summer Flounder for 2016*, at 55–58, 87 (2016) [hereinafter *NMFS Stock Assessment 2016*], available at <https://www.nefsc.noaa.gov/publications/crd/crd1615/crd1615.pdf>.

⁵⁵ Bell et al., *supra* note 51, at 1318.

⁵⁶ OceanAdapt, Rutgers School of Environmental and Biological Sciences, Northeast US fall regional data for summer flounder, available at http://oceanadapt.rutgers.edu/regional_data/northeast-us-fall/summer-flounder.

⁵⁷ *Id.*

⁵⁸ Mid-Atlantic Fishery Management Council, *Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery*, at 107 (Oct. 1991, adopted) (Apr. 1993, approved by NOAA) [hereinafter *Amendment 2*], available at <http://www.mafmc.org/sf-s-bsb> (under “Fishery Management Plan and Amendments”). For the purposes of these comments, the “southern mid-Atlantic waters” are comprised of NMFS statistical areas numbered 621–634. See Nat’l Marine Fisheries Serv., *Greater*

and southern New England waters proximate to Long Island—that is, in waters east of New Jersey and New York, and south of Connecticut, Rhode Island, and Massachusetts.⁵⁹ The remaining approximately 13% were caught further to the east or north of these waters.⁶⁰

C. The Summer Flounder FMP and the 1993 Allocations

As of 1988, management measures in the summer flounder fishery were mostly limited to state-enforced fish size limits: 14-inch minimums in New York, Connecticut, Rhode Island, and Massachusetts; a 13-inch minimum in New Jersey; 12-inch minimums in Maryland and Virginia; and an 11-inch minimum in North Carolina.⁶¹ These measures proved inadequate to address overfishing and in 1988 the Agencies cooperated to establish the Summer Flounder FMP.⁶² Since then the Council, Commission, and NFMS have managed the fishery cooperatively, in consultation with the New England and South Atlantic Fishery Management Councils.

The Summer Flounder FMP has been amended numerous times.⁶³ In 1993, the Agencies adopted Amendments 2 and 4 to the FMP, which established the 1993

Atlantic Regional Statistical Areas, https://www.greateratlantic.fisheries.noaa.gov/educational_resources/gis/gallery/grafostatisticalareas.html (map of NMFS statistical areas). Forty-six percent is an underestimate of the percentage of landings caught in this region from 1983–1989 because this figure does not include data for landings made in North Carolina, Delaware, or Connecticut. See *Amendment 2* at 107. During 1983–1989, North Carolina landings represented the largest share of any state, while Connecticut landings were among the smallest and Delaware landings were de minimis. *Id.* at 98. Had catch location data been available for landings made in these three states, the likely result would have been to reflect an even greater share of catch in southern mid-Atlantic waters, where more North Carolina fishing activity would have occurred.

⁵⁹ *Amendment 2*, *supra* note 58, at 107. For the purposes of these comments, the “northern mid-Atlantic waters” are comprised of NMFS statistical areas numbered 611–616, and the “southern New England waters” are comprised of NMFS statistical areas numbered 533–534 and 537–539. See *Greater Atlantic Regional Statistical Areas*, *supra* note 58. Forty-one percent is likely an overestimate of the percentage of landings caught in these regions for the reasons discussed in note 58, *supra*.

⁶⁰ *Amendment 2*, *supra* note 58, at 107.

⁶¹ Mid-Atlantic Fishery Management Council, *Fishery Management Plan for the Summer Flounder Fishery*, at 64 (Apr. 1988, adopted) (Sept. 1988, approved by NOAA) (the original Summer Flounder FMP), available at <http://www.mafmc.org/sf-s-bsb> (under “Fishery Management Plan and Amendments”). Some states, including New York, also had gear restrictions in the form of mesh size limits.

⁶² See *id.* The Commission had originally adopted its own Summer Flounder FMP in 1982 prior to the first cooperative FMP in 1988.

⁶³ See Mid-Atlantic Fishery Management Council, *Fishery Management Plans and Amendments—Summer Flounder, Scup, Black Sea Bass*, <http://www.mafmc.org/fisheries/fmp/sf-s-bsb>.

Allocations to distribute the annual coastwide commercial landings quota for summer flounder among the states. When they were adopted, the 1993 Allocations were calculated based on commercial landings of summer flounder reported for the respective states between 1980 and 1989.⁶⁴ In New York, landings may have been underreported as a result of the business structure of the state’s fishing industry, which has subsequently been restructured. Landings differences between states would have also been affected by the different size limits in each state.

The Agencies acknowledged that data collection methods used to establish the 1993 Allocations were not uniform between the states, and that in the future, “data collection should be improved” in order to “allow the Council to more finely tune the management system to the needs of the fishery.”⁶⁵ Accordingly, the FMP was amended to establish a standardized reporting system to allow NMFS to reliably track catch and landings locations for summer flounder, among other data.⁶⁶ These “vessel trip report” data have been compiled ever since.

D. Recovery and Northeasterly Shift of the Fishery

The vessel trip report data and other data collected by NMFS—which are corroborated by independent research studies—show that the fishery has materially changed since the 1980s as the summer flounder stock has rebounded: the geographic distribution of both the summer flounder stock and commercial fishing activity have shifted northeast toward the waters off New York. Yet the Agencies have yet to “finely tune” the 1993 Allocations, and each annual commercial quota continues to be allocated among the states according to the 1993 Allocations.

The summer flounder stock has recovered from its former depleted condition as a result of the Summer Flounder FMP and other management measures, reaching peaks in 2003 and 2010.⁶⁷ The stock remains “not overfished,” and although there have been decreases in stock since 2010, the most recent stock assessment indicates that the biomass of the summer flounder stock remains

⁶⁴ *Amendment 2*, *supra* note 58, at 58–59, 129; Mid-Atlantic Fishery Management Council, *Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery*, at 12–13, 29 (Apr. 1993, adopted) (Sept. 1993, approved by NOAA), *available at* <http://www.mafmc.org/sf-s-bsb> (under “Fishery Management Plan and Amendments”). Specifically, Amendment 2 implemented state-by-state allocations based upon the collected data. Just after the approval of Amendment 2, Amendment 4 was adopted to increase Connecticut’s share to account for data collection gaps; the other states’ shares were reduced incrementally to compensate.

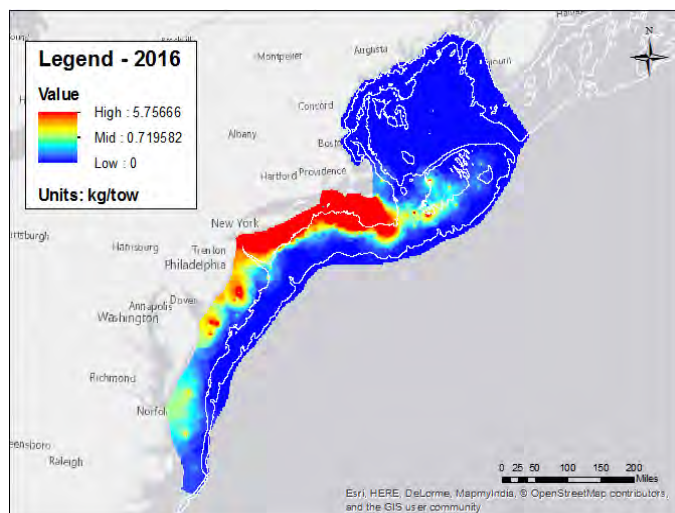
⁶⁵ *Amendment 2*, *supra* note 58, at 13.

⁶⁶ *Id.* at 63.

⁶⁷ *NMFS Stock Assessment 2015*, *supra* note 53, at 5, 10.

multiple times greater than its average level in the 1980s.⁶⁸ This recovery has also led to an increased proportion of older and larger fish among the summer flounder population since the 1980s.⁶⁹ This is reflected in NMFS catch data that show an increase in the age and size of fish among commercial summer flounder landings: the percentage of fish in the total summer flounder catch aged three years and older has increased between 1993 and 2015 from approximately 4% to 75%.⁷⁰

Figure 2: Summer Flounder Stock Distribution in 2016⁷¹



Because older and larger summer flounder are distributed further northeast in the summer flounder's range, and possibly due to other factors, the center of biomass of the summer flounder stock has shifted northeast since the 1980s.⁷² Trawl survey data indicate that the stock is now concentrated in the northern mid-Atlantic waters east of New Jersey and south of Long Island, and in the southern New England waters east of Long Island and south of Rhode Island and Massachusetts (see Figure 2).⁷³ This biomass shift is well-documented and also acknowledged by the Council and Commission in the Draft Amendment and Draft EIS.⁷⁴

⁶⁸ *NMFS Stock Assessment 2016*, *supra* note 54, at 12, 107.

⁶⁹ *Id.* at 55–58, 87.

⁷⁰ *Id.* at 6, 19–23.

⁷¹ *OceanAdapt*, *supra* note 56.

⁷² Bell et al., *supra* note 51, at 1315, 1318; *see also Draft Amendment* at 15–16.

⁷³ *OceanAdapt*, *supra* note 56.

⁷⁴ *Draft Amendment* at 14–16; *Draft EIS* at 87–89. The Draft Amendment and Draft EIS include a link to a video on NMFS's website that shows the increase through 2014 in distribution of summer

The northeast shift in the center of biomass of the summer flounder stock toward the waters proximate to Long Island has in turn driven geographic changes in commercial fishing activity. In particular, the increase in summer flounder abundance and size in waters offshore of New York has been accompanied by an increase in commercial fishing for summer flounder in these waters, as reflected in catch data collected by NMFS. As discussed above, in 1983–1989, when the stock was becoming depleted, 46% or more of commercial summer flounder landings were caught in the southern mid-Atlantic, while 41% or less were caught in the northern mid-Atlantic and southern New England waters proximate to Long Island.⁷⁵ Now, NMFS data show that in 2015–2016, approximately 12% of the commercial summer flounder catch was taken from southern mid-Atlantic waters, while more than 80% was taken from northern mid-Atlantic and southern New England waters.⁷⁶ This 80% of the commercial catch is caught in waters within approximately 150 miles of Long Island. These same waters are no closer than 200 miles, and as far as 400 miles or more, from Virginia and North Carolina.⁷⁷ In the Draft Amendment and Draft EIS, the Council and Commission acknowledge this well-documented spatial shift in commercial fishing activity.⁷⁸

A presentation at the February 2018 meeting of the Council supports this northeast shift in commercial fishing for summer flounder. At the council meeting, researchers presented their findings that the average commercial catch location for summer flounder, as determined based on NMFS vessel trip report data, has been shifting from the southern mid-Atlantic waters offshore of Delaware, Maryland, and Virginia in the mid-late 1990s to the northern mid-Atlantic waters south of eastern Long Island in the early-mid 2010s.⁷⁹ In 2014, the average commercial catch

flounder in the waters proximate to Long Island. See <https://www.nefsc.noaa.gov/ecosys/climate-change/summer-flounder.html>.

⁷⁵ See pp. 11–12, *supra*. The actual distribution of catch locations was likely even further skewed toward the southern mid-Atlantic, because these data did not include North Carolina landings. See notes 58–59, *supra*.

⁷⁶ See Mid-Atl. Fishery Mgmt. Council Demersal Comm. & Atl. States Marine Fisheries Comm’n Bd. Subcomm., *Summer Flounder Amendment—Draft Commercial Alternatives Discussion Document*, at 34–35 (July 2017) [hereinafter *Draft Alternatives*]; see also *Draft Amendment* at 23 (Figure 7). Indeed, most revenue generated from southern landings is derived from summer flounder caught in waters proximate to Long Island. See *Draft EIS* at 143–45.

⁷⁷ Note that the 2015–2016 data report share of catch, while the 1983–1989 data report share of landings (which do not include discards). New York has no basis to believe that the striking contrast between the two data periods would be materially different if the same metric were used for both.

⁷⁸ See *Draft Amendment* at 22–30; *Draft EIS* at 140–50.

⁷⁹ Bradford Dubik et al., National Socio-Environmental Synthesis Center, *Spatial Shifts in the Summer Flounder Fishery*, at 23–42 (Feb. 13, 2018) (presentation to the Mid-Atlantic Fishery Management Council), available at <http://www.mafmc.org/briefing/february-2018>. It should be noted

location was approximately 90 miles from Montauk, New York, approximately 300 miles from Hampton, Virginia, and approximately 450 miles from Beaufort, North Carolina (the largest summer flounder ports in these three states). According to the research findings presented to the Council, this shift in commercial fishing has been driven largely by vessels catching summer flounder in northern mid-Atlantic waters and then landing them in North Carolina and Virginia (and to a lesser extent, Maryland). Between 1996 and 2014, the average catch locations for summer flounder that was landed in Delaware, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts remained roughly consistent and in each case have been situated in the waters proximate to their respective states of landing. In contrast, the average catch locations for landings in North Carolina and Virginia have shifted over that same period from the waters offshore to those states to the waters east of New Jersey and south of Long Island and Rhode Island.⁸⁰

E. New York's Summer Flounder Industry

Historically, fishing for summer flounder has been part of the “bread and butter” of New York’s commercial fishermen: summer flounder’s high value and widespread popularity made it a reliable source of revenue for area fishing.⁸¹ At present, available data report 416 active permits from 2012–2016 to land summer flounder in New York and 214 known commercial fishermen in New York making summer flounder landings on average for the years 2012–2016.⁸² Compared to states with the largest shares of the commercial quota (North Carolina, Virginia, New Jersey, and Rhode Island), New York’s summer flounder landings are highest in the late spring and summer months rather than the winter and early spring; and a comparatively greater share of New York’s landings are from smaller vessels fishing in state waters, rather than larger vessels fishing in federal waters.⁸³

Yet with a high number of active commercial fishermen and licensed vessels, New York must now impose stringent management measures in the summer flounder fishery in order to comply with its small share under the 1993 Allocations.

that while the authors of this presentation are in the process of peer review and publication, that has not yet completed.

⁸⁰ *Id.* at 45–54. In these presentation slides, lighter dots represent earlier years in the time range, and darker dots represent later years. The dots for each state are connected sequentially from 1996 (lightest) to 2014 (darkest).

⁸¹ See Affidavit of Capt. Bruce Beckwith and Affidavit of Capt. John Berglin. These affidavits and others, attached hereto in Exhibit A, were originally submitted in support of New York’s rulemaking petition to NMFS in March 2018. See pp. 18–20, *infra*.

⁸² *Draft Amendment* at 47.

⁸³ *Id.* at 38–41.

In 2016, New York had daily trip limits of 70 to 100 pounds for summer flounder depending upon the time of year, and an alternative 800-pound weekly limit between January and March.⁸⁴ In contrast, North Carolina did not have daily or weekly trip limits, but instead enforced summer flounder possession limits between 9,000 and 12,500 pounds.⁸⁵ The Commonwealth of Virginia had landings limits of 7,500 (allowable once within five days) at certain times of year.⁸⁶ These possession and landings limits in North Carolina and Virginia are equivalent to one thousand or more pounds of summer flounder per day for a typical trip.

The stringent limits on commercial landings of summer flounder in New York ports have made summer flounder fishing no longer an economically viable choice for many fishermen based in New York: the limited revenue generated by a trip often cannot offset the costs, including fuel, time, and vessel wear-and-tear. For many fishermen, this has foreclosed or severely restricted participation in the fishery and New York's commercial summer flounder industry has suffered considerably. In colder months, when fluke are further offshore, it makes little economic sense to travel round trip to and from port under the daily or weekly limits that New York imposes to meet its landings quota. This effectively limits many fishermen to making small day trips in the warmer months—rarely worth the cost or effort for larger vessels—or to landing summer flounder as a secondary catch or bycatch on trips for other fish species.⁸⁷ For those who continue to fish for summer flounder, they must often do so in direct sight of vessels licensed to land summer flounder in Virginia or North Carolina—pursuing the same fish at the same time—who may land those same fish in far greater quantities.⁸⁸

While New York fishermen may purchase licenses to land summer flounder in states with larger quota allocations like North Carolina and Virginia, the price of such licenses—often in the range of multiple tens of thousands of dollars—has been prohibitive for many, especially for those operating smaller vessels.⁸⁹ Some operators of larger New York-based boats have made the business decision to

⁸⁴ New York State Department of Environmental Conservation, *2016 Compliance Report to the ASMFC for Summer Flounder* (Exhibit B). Current regulations are even more stringent.

⁸⁵ North Carolina Division of Marine Fisheries, *2016 North Carolina Summer Flounder Compliance Report* (Exhibit B).

⁸⁶ Virginia Marine Resources Commission, *Virginia's 2016 Compliance Report for Summer Flounder* (Exhibit B).

⁸⁷ See Affidavit of Capt. Bruce Beckwith; Affidavit of Capt. David Aripotch; Affidavit of Capt. John Berglin. These affidavits and others, attached hereto in Exhibit A, were originally submitted in support of New York's rulemaking petition to NMFS in March 2018. See pp. 18–20, *infra*.

⁸⁸ See Affidavit of Capt. Bruce Beckwith (Exhibit A).

⁸⁹ See *id.*

purchase out-of-state licenses. These fishermen catch flounder in the waters near Long Island—the center of the fishery—and then travel to out-of-state ports to land their catch, only to return to their home ports in New York. In favorable weather conditions, it takes a seventy-foot vessel approximately eight hours to travel from prime summer flounder fishing waters to Montauk, New York. In contrast, it takes thirty or more hours to travel to port in Virginia, and forty-eight or more hours to travel to port in North Carolina—with commensurate increases in fuel use and vessel wear-and-tear.⁹⁰ If these New York fishermen were able to land more of their summer flounder catch in their home ports, the time and cost savings would be substantial. The fishermen would also be able to support more downstream industries in their port communities, such as pack houses that pack landed fish to be shipped to market.⁹¹

Meanwhile, summer flounder that is landed in New York is highly sought after by dealers in New York.⁹² Indeed, within the seafood industry, New York has among the largest wholesale/distribution and retail sectors of any state in the fluke fishery, together with New Jersey and Massachusetts.⁹³ Much of the seafood supplied to the New York City metropolitan area passes through the New Fulton Fish Market in the Bronx, New York. Yet as one seller at the market estimates, no more than 5% of summer flounder he handles at Fulton has been landed in New York, while a majority has been landed in Virginia, North Carolina, or New Jersey.⁹⁴

NEW YORK'S RULEMAKING PETITION

In or around 2013, the Council and Commission decided to develop an amendment to the Summer Flounder FMP to address “apparent shifts in the distribution and center of biomass for the summer flounder stock,” among other changes to the fishery. New York’s representatives on the Council and Commission were key voices in identifying changing fishery conditions and the need to update the FMP to remain compliant with the Magnuson-Stevens Act. In 2014, the Council and Commission conducted a scoping process to identify categories of issues to be

⁹⁰ See Affidavit of Capt. David Aripotch; Affidavit of Capt. John Berglin (Exhibit A).

⁹¹ See Affidavit of Capt. David Aripotch (Exhibit A).

⁹² See Affidavit of Warren D. Kremin. This affidavit and others, attached hereto in Exhibit A, were originally submitted in support of New York’s rulemaking petition to NMFS in March 2018. See pp. 18–20, *infra*.

⁹³ National Marine Fisheries Service, NOAA Technical Memorandum NMFS-F/SPO-170, *Fisheries Economics of the United States 2015*, at 122 (May 2017), available at https://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2015/index.

⁹⁴ See Affidavit of Warren D. Kremin (Exhibit A).

explored through the amendment process, including “commercial measures and strategies.” The Council and Commission subsequently decided to separately pursue recreational and commercial amendments, and in 2017, they identified the commercial allocation as a specific commercial management measure to address. The Council and Commission then began to develop specific proposal alternatives, including for the commercial quota allocation.⁹⁵

As the Council and Commission proceeded to develop proposals for the commercial quota allocation, New York’s representatives on those bodies sought to introduce options for consideration that would uncouple the state-by-state allocations from the decades-old 1993 Allocations given the inconsistency between those allocations and the actual geographic distribution of the fishery.

The efforts made by New York’s representatives to institute serious, meaningful reform of the 1993 Allocations were unsuccessful. On March 23, 2018, New York submitted a rulemaking petition to the Council and NMFS, as well as NMFS’s parent agencies, the National Oceanic and Atmospheric Administration and the U.S. Department of Commerce, requesting that the respondents amend the Summer Flounder FMP and its implementing regulations to allocate the commercial quota for summer flounder between states in a manner that complies with the Magnuson-Stevens Act. Specifically, New York’s petition calls on the respondent agencies to repeal and replace the 1993 Allocations, which were based upon data collected during the 1980s. As set forth in the petition, even though more recent, reliable data demonstrate that both the summer flounder stock and commercial fishing activity are currently centered in the waters off of New York, the 1993 Allocations continue to allot to New York just 7.65% of the total coastwide commercial landings quota for summer flounder while allotting almost 50% of the quota to North Carolina and Virginia. As a result, the 1993 Allocations require summer flounder to be disproportionately landed in southern ports hundreds of miles from the center of the species’ biomass and the center of commercial fishing activity. Given the changes to the summer flounder fishery over the last quarter century, the petition argues that the 1993 Allocations violate the Magnuson Standards because they are scientifically outdated and flawed, discriminatory, inefficient, costly, and unsafe.

Instead of continuing to rely on the outdated and flawed 1993 Allocations, New York’s petition has proposed that the respondent agencies revise the allocations in a two-phase process. The first phase is to dispense with state-by-state allocations and to implement coastwide management of the commercial quota for an interim period while the Agencies collect information that allows them to revise the allocations so that they are consistent with the Magnuson-Stevens Act. The second phase is to use the up-to-date information to issue new state-by-state allocations.

⁹⁵ See generally *Draft Amendment* at 6–7; *Draft EIS* at 44–46.

This solution would properly rely on the current distribution of fish, fishing effort, and landings to determine state-by-state allocations.

On July 10, 2018, NMFS announced in the Federal Register that it had received New York's petition for rulemaking and was accepting comments on the petition.⁹⁶ In making its announcement, NMFS "emphasize[d] the importance of the Council process," and "encourage[d] . . . the State of New York . . . to engage in the Council and Commission's development of the Commercial Summer Flounder Amendment[.]" NMFS then noted that before it would decide New York's petition, it would "defer[] to the ongoing Council amendment intended to address the current commercial quota allocation for summer flounder."⁹⁷

THE DRAFT AMENDMENT AND DRAFT EIS

On April 30, 2018, a preliminary version of the Draft Amendment, in the form of a public hearing document, was reviewed for approval by a joint meeting of the Council and the Commission's Summer Flounder Board. The discussion addressed various commercial quota allocation alternatives to be developed for the Draft Amendment and Draft EIS. New York, through its representatives, sought to add an additional commercial allocation alternative, similar to the proposal made in New York's petition for rulemaking. Recognizing that an interim period of coastwide management could result in significant changes to commercial summer flounder landings, New York also proposed an alternative that would use the 1993 Allocations as a starting point to establish substantially revised state allocations based on current data. New York's motion to add these two options to the public hearing document was rejected by the Council. New York also moved to delay release of the public hearing document to allow time for the full development of its proposed alternatives and that motion was also rejected by the Council.

In August 2018, the Council and the Commission, in cooperation with NMFS, released for public comment the Draft Amendment and Draft EIS, which did not include New York's requested alternatives.

⁹⁶ 83 Fed. Reg. 31,945 (July 10, 2018).

⁹⁷ *Id.* at 31,946. Consistent with its petition, which is still pending, New York maintains that if the Council fails to amend the Summer Flounder FMP to comply with the Magnuson-Stevens Act, NMFS should proceed to amend the FMP to dispense with the 1993 Allocations. *See* 16 U.S.C. § 1854(c) (authorizing NMFS to prepare and promulgate necessary FMP amendments).

The Draft Amendment proposes and the Draft EIS evaluates the following alternatives for the annual commercial quota allocation for summer flounder:

- ***Alternative 2A: No Action/Status Quo***⁹⁸

The “status quo” alternative would make no changes to the 1993 Allocations. Under this alternative, New York’s quota allocation would remain at 7.65%.

- ***Alternative 2B: Adjust State Quotas Based on Recent Biomass Distribution***⁹⁹

This “hybrid” alternative would partially modify the 1993 Allocations based on the shift in the geographic distribution of “exploitable” biomass, which the Council and Commission have defined as summer flounder equal to or greater than 14 inches. This biomass shift metric is based upon the shift from the “southern” region (New Jersey and south) to the “northern” region (New York and north) between the 1980–1989 period and the 2007–2016 period.¹⁰⁰ The hybrid alternative would adjust the quota allocation under the 1993 Allocations for states in each region based upon the relative change in exploitable biomass for the two respective regions, so that state-by-state allocations have “some basis in recent biomass distribution.”¹⁰¹ Therefore, states in the northern region would each see the same percentage increase, and states in the southern region would each see the same percentage decrease.

The Draft Amendment puts forward two sub-alternatives: Alternative 2B-1 would calculate the biomass shift as a percent change relative to the northern region starting biomass, resulting in a 6% shift from the southern region to the northern region; and Alternative 2B-2 would calculate the biomass shift as an absolute shift relative to the coast, resulting in a 13% shift from the southern region to the northern region. Under these sub-alternatives, New York’s quota allocation would increase marginally from 7.65% to 9.10% or 10.71%, respectively.

⁹⁸ See *Draft Amendment* at 81–82; *Draft EIS* at 50–51.

⁹⁹ See *Draft Amendment* at 81–90; *Draft EIS* at 51–58.

¹⁰⁰ The dividing line between “southern” and “northern” waters under this alternative is the Hudson Canyon, a submarine canyon that begins near the mouth of the Hudson River and extends seaward to the southeast.

¹⁰¹ *Draft EIS* at 55.

- ***Alternative 2C: Revise State Allocations Above a Commercial Quota Trigger Point***¹⁰²

The “trigger point” alternative would retain the 1993 Allocations except in years of great abundance. For years in which the total quota exceeds a specified trigger point, the quota up to the trigger point would still be distributed according to the 1993 Allocations and excess quota beyond the trigger would be distributed evenly between the states in the fishery, each receiving 12.375% of the excess (with the exception of Maine, New Hampshire, and Delaware, who would split 1% of the excess).

The Draft Amendment puts forward two sub-alternatives. Alternative 2C-1 would use the recent 5-year average of commercial quotas as the trigger point (8.40 million pounds): in a year below the trigger point, New York’s allocation would remain at 7.65%, and in a year of exceptionally high abundance (17.9 million pound quota), New York’s allocation would marginally increase to 10.16%. Alternative 2C-2 would use the recent 10-year average as the trigger point (10.71 million pounds): in a year below the trigger point, New York’s allocation would remain at 7.65%, and in a year of exceptionally high abundance (17.9 million pound quota), New York’s allocation would marginally increase to 9.55%.

- ***Alternative 2D: “Scup Model” Quota System for Summer Flounder***¹⁰³

The “scup model” alternative—which is based on the quota distribution scheme used to manage scup—would likewise be only a partial departure from the 1993 Allocations. Under this alternative, the fishing season would be divided into two winter periods and a summer period. In a given year, the commercial quota would first be allocated between the periods based upon the historic seasonal distribution of landings from 1997 to 2016: approximately 55% to the first winter period (January–April); approximately 17% to the second winter period (November–December); and approximately 28% to the summer period (May–October).¹⁰⁴ During the winter periods, there would be no state allocations, and vessels would be able to land summer flounder in any port for which they are permitted to do so. During the summer period,

¹⁰² *Draft Amendment* at 91–99; *Draft EIS* at 59–66.

¹⁰³ *See Draft Amendment* at 99–106; *Draft EIS* at 66–73.

¹⁰⁴ The scup model alternative has two sub-alternatives that differ in their treatment of Maryland, which has concerns about the scup model’s compatibility with certain aspects of its state management measures. These sub-alternatives would not yield significantly different allocations for other states, including New York.

the approximately 28% of the coastwide quota would be divided between the states based upon their historic 1997–2016 share of May–October landings.

Because New York’s summer flounder industry has historically been comprised of smaller vessels equipped for in-shore summer fishing, New York’s share of landings during the summer period has historically been greater than its overall, year-round share. Therefore, under the scup model, New York would be allocated approximately 18% of the 28% distributed to the summer period. As a result, New York would receive approximately 5% (which is 18% of 28%) of the total annual commercial quota during the summer period. During the winter periods, those New York vessels that are equipped for offshore winter fishing would be on equal footing with vessels from other states in pursuing the remaining approximately 72% of the annual quota. However, it is not expected that New York vessels would participate significantly in the winter periods, because few New York vessels that pursue summer flounder are equipped for offshore winter fishing. For this reason, New York’s total annual share of summer flounder is unlikely to change significantly under the scup model. Indeed, because the 1993 Allocations were the primary driver of landings patterns during the 1997–2016 reference period, both the inter-seasonal and (in the summer period) interstate distributions of quota under the scup model are heavily rooted in the 1993 Allocations.

The Council and the Commission have not yet selected a preferred alternative to propose to NMFS.

The Draft Amendment proposes and the Draft EIS evaluates only the above alternatives. Even though the Draft EIS recognizes the need to “[c]onsider modifications to [the] commercial quota allocation” because the “[c]urrent commercial allocation was last modified in 1993 and is perceived by many as outdated given its basis in 1980–1989 landings data,” which many believe were “flawed,” and because “[s]ummer flounder distribution, biomass, and fishing effort have changed since then,”¹⁰⁵ the Draft EIS does not evaluate alternatives that would not rely upon the 1993 Allocations.¹⁰⁶

¹⁰⁵ *Draft EIS* at 3.

¹⁰⁶ The Draft EIS does acknowledge, but determines not to evaluate, one alternative that would entirely dispense with the 1993 Allocations by implementing periodic coastwide quotas throughout the year. The Draft EIS explains that this option was rejected for full evaluation in favor of the scup model, which would allow states to manage their quota during the summer in-shore fishery. *See id.* at 77.

ARGUMENT

The Draft Amendment acknowledges that “establishing new quota allocation that provide[s] fair and equitable access to commercial fishery participants may enhance social and economic benefits by increasing derived value and economic returns.”¹⁰⁷ Moreover, the Draft EIS recognizes its purpose to “[c]onsider modifications to [the] commercial quota allocation” because the “[c]urrent commercial allocation was last modified in 1993 and is perceived by many as outdated given its basis in 1980–1989 landings data,” which many believe to have been “flawed,” and because “[s]ummer flounder distribution, biomass, and fishing effort have changed since then.”¹⁰⁸ Unfortunately, none of the alternatives proposed in the Draft Amendment and evaluated in the Draft EIS would establish “fair and equitable access to commercial fishery participants,” nor would any of these alternatives address the need to consider modifications to the quota allocation that address the 1993 Allocations’ “basis in 1980–1989 landings data” or changes in the fishery since that time, in a way that complies with the applicable legal standards.

The Council and Commission should therefore reject the commercial quota allocation alternatives proposed in Draft Amendment as inconsistent with the Magnuson-Stevens Act and the Interstate Fisheries Charter. Instead, consistent with the Act, the Charter, and NEPA, the Draft Amendment and Draft EIS should evaluate reasonable alternatives that are rationally based upon current information about summer flounder distribution, biomass, and fishing effort, and the Council and Commission should select such an alternative that is fair, efficient, and safe.

POINT I

THE COUNCIL AND COMMISSION SHOULD REJECT THE ALLOCATION ALTERNATIVES IN THE DRAFT AMENDMENT

The commercial quota allocation alternatives in the Draft Amendment violate the Magnuson-Stevens Act and the Interstate Fisheries Charter. As a result, the Council and Commission should reject them.

A. The Status Quo Alternative (2A) Violates the Magnuson-Stevens Act and the Interstate Fisheries Charter

The Draft Amendment’s “status quo” alternative would retain the 1993 Allocations in full.¹⁰⁹ As set forth below, this alternative is inconsistent with

¹⁰⁷ See *Draft Amendment* at 9.

¹⁰⁸ See *Draft EIS* at 3.

¹⁰⁹ *Draft EIS* at 50–51.

Magnuson Standards 2, 4, 5, 7, and 10 and Charter Standards 2, 4, and 7. The Council and Commission must reject this alternative.

1. The Status Quo Alternative Is Inconsistent with Magnuson Standard 2 and Charter Standard 2 Because It Is Not Based Upon the Best Available Scientific Information

Both Magnuson Standard 2 and Charter Standard 2 provide that fishery management plans must be “based (up)on the best scientific information available.”¹¹⁰ The status quo alternative, which would continue the 1993 Allocations in full effect, is not based upon the best scientific information available because it is not based on current, reliable information about the summer flounder fishery, but rather upon flawed, outdated information. More recent information about the fishery—information that is available to, and in most cases compiled by, or based upon data collected by, the Agencies—shows that the geographic distribution of the fishery bears little relationship to the status quo allocation of fishing privileges under the 1993 Allocations.

The Magnuson Standards Guidelines established by NMFS explain that “relevance” and “timeliness” are among the “[c]riteria to consider when evaluating best scientific information” under Magnuson Standard 2. As to relevance, the Guidelines state that “[s]cientific information should be pertinent to the current questions or issues under consideration and should be representative of the fishery being managed.” As to timeliness, the Guidelines explain that “the temporal gap between information collection and management implementation should be as short as possible,” and “[h]istorical information should be evaluated for its relevance to inform the current situation.”¹¹¹ The 1993 Allocations are based upon commercial landings reports from 1980 to 1989—which are neither relevant nor timely data about the summer flounder fishery.

The best current information about the summer flounder fishery shows that biomass and fishing activity are concentrated in the waters proximate to Long Island, and moreover, that the fishery has moved northeast since the 1980s. Indeed, as the summer flounder stock has recovered in recent decades, the biomass has shifted northward to become increasingly distributed at higher latitudes: summer flounder migrate north as they age, and more fish are living to older ages as a result of effective fishery management. Current NMFS data show that only approximately 12% of commercially caught summer flounder now come from the southern mid-Atlantic waters proximate to North Carolina and Virginia, while over 80% come from the northern mid-Atlantic and southern New England waters in the

¹¹⁰ 16 U.S.C. § 1851(a)(2); Interstate Fisheries Charter § 6(a)(2). The Magnuson-Stevens Act uses “based upon” while the Charter uses “based on.”

¹¹¹ 50 C.F.R. § 600.315(a)(6).

area east of New Jersey and mainland New York and south of Connecticut, Rhode Island, and Massachusetts—the waters in which Long Island is situated. Indeed, the average commercial catch location in 2014 was approximately 90 miles from Montauk, New York; approximately 300 miles from Hampton, Virginia; and approximately 450 miles from Beaufort, North Carolina.¹¹²

This reliable, up-to-date information comes from better—and in particular, more timely and relevant—data on the geographic distribution of the fish stock and fishing activity, than do the 1980–1989 landings data upon which the 1993 Allocations are based. The Summer Flounder FMP itself acknowledged that the 1980–1989 data were flawed and inconsistent, including because different minimum size limits applied between states. The FMP implemented a standardized reporting system specifically to collect more accurate information that could inform future adjustments to the 1993 Allocations.¹¹³ By not relying on timely and current data regarding the fishery, the status quo alternative fails to ensure that the temporal gap between information collection and management implementation is as short as possible—even when more recently collected information is, in fact, available. Moreover, because the summer flounder fishery has changed over the decades, the historical 1980–1989 data are simply not representative of the current fishery. For these reasons, the 1993 Allocations—and therefore the status quo alternative—violate Magnuson Standard 2 and Charter Standard 2 by failing to base annual state allocations of the commercial summer flounder quota on the best scientific information available.¹¹⁴

2. The Status Quo Alternative Is Inconsistent with Magnuson Standard 4 and Charter Standard 7 Because It Is Not Fair to the Commercial Fishing Industry in New York

Magnuson Standard 4 requires that:

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.¹¹⁵

¹¹² See pp. 13–16, *supra*.

¹¹³ See p. 13, *supra*.

¹¹⁴ See *Guindon v. Pritzker*, 31 F. Supp. 3d 169, 195–97 (D.D.C. 2014) (holding that fishery rules may not ignore “superior or contrary data” where it is available).

¹¹⁵ 16 U.S.C. § 1851(a)(4).

Relatedly, Charter Standard 7 requires that “[f]ishery resources shall be fairly and equitably allocated or assigned among the states” that are party to the Atlantic Fisheries Compact.¹¹⁶

In the commercial summer flounder fishery, the 1993 Allocations allocate fishing privileges between the states in a manner that is neither fair and equitable, reasonably calculated to promote conservation, nor carried out in a manner to prevent any entity from acquiring an excessive share. Rather, the 1993 Allocations are unfair to fishermen and other market participants in New York, to the benefit of fishermen and other market participants in North Carolina and Virginia, without any rational conservation basis. The status quo alternative would continue this unfairness, making it inconsistent with Magnuson Standard 4 and Charter Standard 7.

First, the 1993 Allocations are not fair and equitable to New York fishermen. As discussed in Section A.1 above, information collected through 2016 shows that the summer flounder fishery is now concentrated in the waters south and east of Long Island, representing a significant shift from the distribution of the fishery according to information available in 1993. Yet under the status quo, as in 1993, New York would receive only approximately 7.6% of the commercial allocation of summer flounder, compared with approximately 21.3% for Virginia and 27.4% for North Carolina. These allocations affect not just commercial fishermen in New York, but the rest of the summer flounder supply chain, including port-side businesses such as pack houses. As Amendment 2 recognized in 1993, the landings data upon which the 1993 Allocations were based were inconsistent and flawed.¹¹⁷ With the subsequent institution of standardized vessel trip reporting, the best information available now shows that the summer flounder fishery has become centered much closer to New York than to North Carolina and Virginia.¹¹⁸ Fishermen and other market participants in New York are fairly entitled to a share of the annual quota that is more proportional to the geographic distribution of the fish stock, and the continued reliance on the inequitable and outdated 1993 Allocations is inconsistent with Magnuson Standard 4 and Charter Standard 7.¹¹⁹

¹¹⁶ Interstate Fisheries Charter § 6(a)(7).

¹¹⁷ See p. 13, *supra*.

¹¹⁸ See pp. 13–16, *supra*.

¹¹⁹ See *Mass. by Div. of Marine Fisheries v. Daley*, 10 F. Supp. 2d 74, 78 (D. Mass. 1998) (holding that fishery rules cannot rely upon data that is known to be flawed, and that “[t]his is particularly true when doing so will have a discriminatory effect”).

Keeping the state allocations static also does not promote fairness and equity. The Magnuson Standards Guidelines explain that “[a]n allocation need not preserve the status quo in the fishery to qualify as ‘fair and equitable,’ if a restructuring of fishing privileges would maximize overall benefits.”¹²⁰ The unfairness of the 1993 Allocations to New York militate against preserving the allocations simply in order to preserve the status quo for North Carolina and Virginia interests.

Second, the 1993 Allocations are not reasonably calculated to promote conservation. The Guidelines explain that “[a]n allocation scheme may promote conservation by encouraging a rational, more easily managed use of the resource,” or by “optimizing the yield in terms of size, value, market mix, price, or economic or social benefit of the product.”¹²¹ To distribute more fishing privileges to states further away from the fish, as the 1993 Allocations do, is not a rational or easily managed use of the summer flounder resource, nor does it optimize the economic or social benefit of the resource. A reasonably calculated distribution of privileges would more closely track the geographic distribution of the fishery in order to optimize benefits while conserving the summer flounder resource. For this reason as well, the 1993 Allocations are inconsistent with Magnuson Standard 4 and Charter Standard 7.

Third, the 1993 Allocations provide fishermen and the fishing industry in North Carolina and Virginia an excessive share of fishing privileges. The Magnuson Standards Guidelines elaborate that “[a]n allocation scheme must be designed to . . . avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.”¹²² The Guidelines also explain that such considerations are not limited to just fishermen: allocation schemes “should consider other factors relevant to the FMP’s objectives,” including “economic and social consequences of the scheme, food production, [and] consumer interest.”¹²³ Yet the 1993 Allocations unfairly and artificially skew fishing privileges—and thus market control—to fishermen and downstream market participants based in North Carolina and Virginia, to the detriment of fishermen and the seafood industry in New York. Given the northern geographic distribution of the fishery, this gives North Carolina and Virginia interests an excessive share of privileges in the summer flounder fishery, and inordinate control over the fishery.

Furthermore—and fundamentally—the perennial reliance on fixed allocations for approximately two and half decades has had the effect of entrenching control of and access to the fishery with those interests who benefit under the status

¹²⁰ 50 C.F.R. § 600.325(c)(3)(i)(B).

¹²¹ *Id.* § 600.325(c)(3)(ii).

¹²² *Id.* § 600.325(c)(3)(iii).

¹²³ *Id.* § 600.325(c)(3)(iv).

quo, while relegating those who do not benefit to a perpetually disadvantaged status. Because the allocations have been fixed, commercial fishermen in states like New York have been afforded no opportunity to demonstrate their unrealized interest to participate in the fishery. This places some fishermen at a permanent disadvantage by affording no mechanism through which the allocations may be adjusted as underlying fishery conditions change. The status quo alternative would continue to set fixed state-by-state allocations, without any mechanism or practice to update those allocations based upon conditions in the fishery, making it inherently unfair in violation of Magnuson Standard 4 and Charter Standard 7.¹²⁴

3. The Status Quo Alternative Is Inconsistent with Magnuson Standards 5 and 7 and Charter Standard 4 Because It Is Inefficient, Costly, and Wasteful

Magnuson Standard 5 requires that “[c]onservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources,” and Magnuson Standard 7 requires that “[c]onservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.”¹²⁵ Charter Standard 4 requires that “[m]anagement measures shall be designed to minimize waste of fishery resources.”¹²⁶ The 1993 Allocations are inconsistent with Magnuson Standards 5 and 7 and Charter Standard 4 because they do not foster efficiency in utilization of the summer flounder fishery; because there are practicable means to minimize costs; and because they are not designed to minimize waste.

“Fishery” under both the Magnuson-Stevens Act and the Interstate Fisheries Charter refers to both fish stocks and the fishing for such stocks.¹²⁷ Accordingly, the Magnuson Standards Guidelines explain that the “efficiency” of a fishery under Magnuson Standard 5 encompasses the minimization of “economic inputs such as labor, capital, interest, and fuel” for a given yield, and that the “utilization” of a fishery includes “harvesting, processing, marketing, and non-consumptive uses of the resource.”¹²⁸ The Guidelines further explain that, to comply with Magnuson Standard 7, “[m]anagement measures should not impose unnecessary burdens on the economy[or] on individuals.”¹²⁹ Charter Standard 4 warrants a corresponding interpretation: that to comply with that standard, management measures must,

¹²⁴ See *Guindon v. Pritzker*, 240 F. Supp. 3d 181, 194–95 (D.D.C. 2017).

¹²⁵ 16 U.S.C. § 1851(a)(5), (7).

¹²⁶ Interstate Fisheries Charter § 6(a)(4).

¹²⁷ 16 U.S.C. § 1802(13); Interstate Fisheries Charter § 8(r).

¹²⁸ 50 C.F.R. § 600.330(b).

¹²⁹ *Id.* § 600.340(b).

among other things, be designed to minimize to minimize inputs such as labor, capital, interest, and fuel—which are all “fishery resources” within the meaning of the Charter—for a given yield.

As discussed in Sections A.1 and A.2 above, the 1993 Allocations artificially skew the state-by-state quotas inconsistent with the geographic distribution of both the summer flounder stock and actual commercial fishing activity. In particular, North Carolina and Virginia together receive nearly half of the commercial summer flounder quota each year, even though the fishery is concentrated in the waters nearer to Long Island. As a result, boats landing summer flounder in North Carolina and Virginia must, on average, travel further from where they have caught summer flounder to their port of landing, than if those same flounder were landed in New York ports.¹³⁰ Besides greater inputs of travel time, this longer round trip also requires greater use of fuel and results in greater wear-and-tear on vessels. Moreover, in many cases, fishermen with boats licensed to land summer flounder in North Carolina and Virginia do not even reside in those states, but sail out of northern states such as New York.¹³¹ Indeed, there are fisherman who sail out of ports like Montauk, New York to catch summer flounder in the waters off Long Island, only to travel to and from southern ports in order to land their catch—under a license that may have cost tens of thousands of dollars—when they would prefer to save time and expense by landing that catch at home in Montauk, if only New York’s quota allocation allowed for less stringent landings limits.¹³² In some cases these inefficiencies are even further compounded: to the extent that market demand for summer flounder in the New York region is not satisfied by locally landed fish, there are additional shipping costs associated with the transport of summer flounder from southern ports to northern markets.¹³³ These inefficiencies would persist under the status quo alternative. Indeed, the Draft Amendment and Draft EIS effectively concede that the 1993 Allocations are inefficient, noting that updating the quota allocation based on the “apparent shift in the average distribution of biomass for summer flounder” would seek to “improve efficiency in the fisheries by providing more access to the resource for states with higher concentrations of summer flounder off their coast.”¹³⁴

The status quo alternative is therefore inconsistent with Magnuson Standard 5 by failing to consider more efficient alternatives that minimize labor, capital, and fuel inputs for a given yield of fish than is currently wasted by sending fishermen

¹³⁰ See pp. 15–16, *supra*.

¹³¹ See pp. 17–18, *supra*.

¹³² See Affidavit of Capt. David Aripotch (Exhibit A).

¹³³ See p. 18, *supra*.

¹³⁴ *Draft Amendment* at 68; *Draft EIS* at 33.

between southern ports and northern waters, when those same fish could be caught and landed with trips between northern ports and those same waters. For similar reasons, the status quo alternative is inconsistent with Magnuson Standard 7 by failing to minimize costs. The excessive costs created by the 1993 Allocations burden the fishing industry and are passed onto consumers in the form of higher prices. And the status quo alternative is inconsistent with Charter Standard 4 because it is not designed to minimize waste of fishery resources, because waste of labor, capital, and fuel inputs will only be minimized where quota allocations correspond to the geographic distribution of fishing effort.

As the Council and Commission admit, vessels that participate in the winter fishery—which accounts for most summer flounder landings—historically “target prime summer flounder fishing locations offshore even when long travel distances are required to do so,” and “[f]or this fleet, footprints of fishing effort do not necessarily closely correlate with distance from state of landing.”¹³⁵ Yet it is eminently practicable for the annual commercial quota for summer flounder to be allocated in a way that considers efficiency and minimizes costs and waste by no longer skewing the distribution of fishing privileges toward North Carolina and Virginia, which are far from prime summer flounder waters, and away from New York, which has close access to these waters. The state-by-state allocations could simply be readjusted to more accurately track the geographic distribution of the fishery, based upon the best scientific information currently available. Yet in spite of the availability of such practicable alternatives, the status quo alternative would continue to use the 1993 Allocations, at the expense of efficiency and cost considerations.

Because the status quo alternative is inconsistent with Magnuson Standards 5 and 7 and Charter Standard 4, it would further violate both the Magnuson-Stevens Act and the Interstate Fisheries Charter.

4. The Status Quo Alternative Is Inconsistent with Magnuson Standard 10 Because It Does Not Promote Safety

Magnuson Standard 10 requires that “[c]onservation and management measures shall, to the extent practicable, promote the safety of human life at sea.”¹³⁶ The 1993 Allocations fail to do so because they cause fishermen to spend longer at sea than necessary for a given yield of summer flounder.

¹³⁵ *Draft Amendment* at 221; *Draft EIS* at 13.

¹³⁶ 16 U.S.C. § 1851(a)(10). There is no corresponding Charter Standard.

As the Magnuson Standards Guidelines note, “[f]ishing is an inherently dangerous occupation.”¹³⁷ The longer a fishing vessel spends at sea, the greater the risk to its crew. Recognizing this, the Guidelines advise that “[a]n FMP should try to avoid creating situations that result in vessels going out farther[or] fishing longer . . . than they generally would have in the absence of management measures.”¹³⁸

As discussed in Sections A.1 through A.3 above, the 1993 Allocations distribute disproportionate fishing privileges to Virginia and North Carolina, despite the summer flounder concentration in the waters close to New York. The result is that fishermen travel great distances between southern ports and northern waters to catch and land summer flounder that could otherwise be landed by fishermen traveling shorter distances from New York ports, if New York were afforded a greater allocation of fishing privileges. This would continue under the status quo alternative, making it inconsistent with Magnuson Standard 10 by failing to promote the safety of human life at sea where practicable.

Indeed, because the 1993 Allocations were established prior to the addition of Magnuson Standard 10 to the Magnuson Standards, the Agencies necessarily did not originally evaluate the 1993 Allocations for compliance with that standard.¹³⁹ Because the 1993 Allocations are inconsistent with Magnuson Standard 10, the status quo alternative would further violate the Magnuson-Stevens Act.

B. The Hybrid Alternative (2B) Violates the Magnuson-Stevens Act and the Interstate Fisheries Charter

The hybrid alternative would make marginal adjustments to the 1993 Allocations based upon changes in the summer flounder stock distribution over time. Because this alternative would remain tightly yoked to the 1993 Allocations, and because the biomass shift metric used by the hybrid alternative is flawed and unfair, the hybrid alternative would also violate the Magnuson-Stevens Act and the Interstate Fisheries Charter.

1. The Hybrid Alternative Would Remain Tightly Yoked to the 1993 Allocations

Fundamentally, the hybrid alternative would violate the Magnuson-Stevens Act and the Interstate Fisheries Charter because it would remain tightly yoked to the 1993 Allocations, which are seriously inconsistent with multiple Magnuson Standards and Charter Standards.

¹³⁷ 50 C.F.R. § 600.355(b).

¹³⁸ *Id.* § 600.355(c)(1).

¹³⁹ See *Fairweather Fish, Inc. v. Pritzker*, 155 F. Supp. 3d 1136, 1141–42 (W.D. Wash. 2016).

Under the hybrid alternative, each state would start with its share under the 1993 Allocations and then receive a partial adjustment to that share using a factor based on the shift in the geographic distribution of “exploitable” biomass from the “southern” region (New Jersey and south) to the “northern” region (New York and north) between the 1980–1989 period and the 2007–2016 period. The Draft Amendment puts forward two sub-alternatives: Alternative 2B-1 would calculate the biomass shift as a percent change relative to the northern region starting biomass, resulting in a 6% shift from the southern region to the northern region; and Alternative 2B-2 would calculate the biomass shift as an absolute shift relative to the coast, resulting in a 13% shift from the southern region to the northern region. Under these sub-alternatives, New York’s quota allocation would increase marginally from 7.65% to 9.10% or 10.71%, respectively.¹⁴⁰

Critically, the hybrid alternative would use the 1993 Allocations as its starting point and it would not significantly depart from that point, in particular for New York. As discussed in Section A above, the 1993 Allocations are inconsistent with Magnuson Standards 2, 4, 5, 7, and 10, and with Charter Standards 2, 4, and 7. These inconsistencies would persist under the hybrid alternative.

First, because the hybrid alternative uses the 1993 Allocations as a starting point, it would continue to be rooted in the outdated, flawed information from the 1980s upon which the 1993 Allocations were based. However, more recent and reliable information about the fishery that is available to the Agencies shows that the geographic distribution of the fishery is concentrated in northern mid-Atlantic and southern New England waters proximate to Long Island.¹⁴¹ Although the hybrid alternative would adjust the 1993 Allocations based upon more recently available information, the allocations under this alternative would still remain firmly rooted in decades-old data. It is insufficient under the Magnuson-Stevens Act for state-by-state allocations of fishery resources to have merely “*some basis in recent biomass distribution*”¹⁴² while remaining rooted in outdated, flawed landings data. This is inconsistent with Magnuson Standard 2 and Charter Standard 2. Because recent data are more reliable and consistent than the 1980s data used for the 1993 Allocations, the 1993 Allocations should be dispensed with entirely.

Second, the hybrid alternative would continue to allocate approximately 29% or 34% of the fishery to North Carolina and Virginia (depending on the sub-

¹⁴⁰ *Draft EIS* at 51–58.

¹⁴¹ For a full discussion of the comparison between the outdated, flawed information about the fishery available for the 1993 Allocations, and the more recent and reliable information available currently, see pages 24–26 above.

¹⁴² *Draft EIS* at 5.

alternative selected),¹⁴³ even though only approximately 12% of the 2015–2016 commercial summer flounder catch was taken from southern mid-Atlantic waters proximate to those states. Meanwhile, New York would receive only 9.10% or 10.71% of the quota (depending on the sub-alternative selected), even though more than 80% of the 2015–2016 summer flounder catch was taken from northern mid-Atlantic and southern New England waters proximate to Long Island. For this reason, the hybrid alternative would substantially continue the unfair distribution of the 1993 Allocations, harming New York fishermen and New York’s downstream seafood economy. This is inconsistent with Magnuson Standard 4 and Charter Standard 7.¹⁴⁴

Third, the hybrid alternative would substantially continue the inefficiencies and waste of the 1993 Allocations. As discussed above, this alternative would continue to artificially skew the state-by-state quotas inconsistent with the geographic distribution of both the summer flounder stock and actual commercial fishing activity. Specifically, North Carolina and Virginia would continue to receive an outsized share of the fishery, while New York would continue to receive an undersized share, even though the fishery is concentrated in the waters nearer to Long Island. As a result, boats landing summer flounder in North Carolina and Virginia would continue to travel further, on average, from where they have caught summer flounder to their port of landing, than if those same flounder were landed in New York ports—consuming unnecessary travel time, fuel, and capital costs. The hybrid alternative is therefore inconsistent with Magnuson Standards 5 and 7 and Charter Standard 4 by failing to design or consider a more efficient (and less wasteful and costly) allocation scheme that would minimize labor, capital, and fuel inputs for a given yield of fish than is currently wasted by sending fishermen between southern ports and northern waters, when those same fish could be caught and landed with trips between northern ports and those same waters.¹⁴⁵ Furthermore, because the hybrid alternative would continue to cause fishermen to travel great distances between southern ports and northern waters to catch and land summer flounder that could otherwise be landed by fishermen traveling shorter distances from New York ports, fishermen would continue to be unnecessarily exposed to unsafe conditions at sea, in violation of Magnuson Standard 10.¹⁴⁶

¹⁴³ *See id.* at 7.

¹⁴⁴ For a full discussion of the unfairness of the 1993 Allocations, see pages 26–29 above.

¹⁴⁵ For a full discussion of the inefficiency, costliness, and waste of the 1993 Allocations, see pages 29–31 above.

¹⁴⁶ For a full discussion of the 1993 Allocations’ failure to promote human safety, see pages 31–32 above.

The hybrid alternative would rely heavily on the 1993 Allocations, and its marginal departure from those allocations would fail to cure the failures of the 1993 Allocations to be scientifically sound, fair, efficient, or safe. For these reasons, the hybrid alternative would likewise be inconsistent with Magnuson Standards 2, 4, 5, 7, and 10 and Charter Standards 2, 4, and 7.

2. The Biomass Shift Metric Is Inaccurate and Biased

The hybrid alternative calculates “exploitable” biomass shift over time between the southern (New Jersey and south) and northern (New York and north) regions to adjust quota allocations for the states based on their respective regions. While it is necessary and appropriate for the Council and Commission to consider changes in the fishery as they amend the Summer Flounder FMP, their reliance on this particular metric is flawed and unfair. For this reason, too, the hybrid alternative violates the Magnuson-Stevens Act and the Interstate Fisheries Charter.

First, the Council and Commission’s use of a north-south dichotomy does not accurately reflect the summer flounder biomass shift. As discussed above and shown in Figures 1 and 2, the change in the summer flounder stock distribution between the 1980s and present has not been as simple as a geographically homogeneous shift from the southern region to the northern region—e.g., it is not the case that the waters proximate to each northern state have seen the same percentage increase in biomass. Rather, the biomass increase in northern waters has been concentrated in the waters south and east of Long Island.¹⁴⁷ Yet the hybrid alternative’s biomass shift metric treats all northern states the same and all southern states the same, ignoring significant interregional differences. As such, the hybrid alternative provides the same relative allocation increase to New York as it does to all other northern states, even though New York is among the most proximate of all the northern states to both the southern New England and northern mid-Atlantic waters in which the summer flounder stock has seen the greatest growth. The biomass shift metric used for the hybrid alternative thus fails to accurately reflect stock distribution changes. For this reason, the hybrid alternative is not based upon the best available science, making it inconsistent with Magnuson Standard 2 and Charter Standard 2.

Further, because the biomass shift metric underestimates New York’s access and proximity to the increase in stock, it is unfair to New York, making the hybrid alternative further inconsistent with Magnuson Standard 4 and Charter Standard 7. And because this geographic distortion would result in longer trips for vessels landing summer flounder in ports further from New York, the biomass shift metric would result in greater inefficiency, waste, and exposure to danger at sea than if

¹⁴⁷ See pp. 13–14, *supra*.

New York was allocated a more geographically representative share of the northern region's allocation increase. For this reason as well, the hybrid alternative is not consistent with Magnuson Standards 5, 7, or 10 or with Charter Standard 4.

Second, the definition of “exploitable” biomass that the Council and the Commission used to determine the shift in biomass underestimates the exploitable biomass in the southern states in the 1980s, which leads to an inaccurate and unfair calculation of the shift in biomass. As of 1988, minimum size limits for summer flounder were 14 inches in New York, Connecticut, Rhode Island, and Massachusetts; 13 inches in New Jersey; 12 inches in Maryland and Virginia; and 11 inches in North Carolina.¹⁴⁸ However, the Council and Commission define “exploitable” biomass to simply include fish that were 14 inches or larger. Consequently, the Council and Commission underestimate the starting “exploitable” biomass for the southern region and as a result, the biomass shift metric overestimates the southern region's increase in exploitable biomass relative to the northern region's increase, providing a baked-in bias favoring the southern states. For this additional reason, the hybrid alternative is methodologically flawed—and thus not based on the best available science—in violation of Magnuson Standard 2 and Charter Standard 2. This unfair bias is also inconsistent with Magnuson Standard 4 and Charter Standard 7. If the hybrid alternative relied upon truly exploitable biomass, the northern states would see a greater increase in allocation under this alternative.

C. The Trigger Point Alternative (2C) Violates the Magnuson-Stevens Act and the Interstate Fisheries Charter

The trigger point alternative would continue to use the 1993 Allocations except in years of great abundance, when there would be marginal departure from the 1993 Allocations as excess stock is distributed evenly between states. This alternative would also violate the Magnuson-Stevens Act and the Interstate Fisheries Charter.

Foremost, the trigger point alternative would substantially continue the 1993 Allocations. Again, under the trigger point alternative, all quota up to the trigger point would be distributed according to the 1993 Allocations. The trigger point would be either 8.40 million pounds or 10.71 million pounds, depending on the sub-alternative selected. Except in years of great abundance when the quota would substantially exceed the trigger point, all or nearly all of the quota would simply be distributed according to the 1993 Allocations. For all the reasons discussed in Section A above, the 1993 Allocations are inconsistent with Magnuson Standards 2, 4, 5, 7, and 10 and Charter Standards 2, 4, and 7. For these same reasons, the

¹⁴⁸ See p. 12, *supra*.

trigger point alternative violates the Magnuson-Stevens Act and the Interstate Fisheries Charter.

In addition, any quota distribution above the trigger point would have no basis in the Magnuson-Stevens Act or in the Interstate Fisheries Charter. Quota above the trigger point would be distributed evenly between the states, with each receiving 12.375% of the surplus (with the exception of states with de minimis shares of the fishery, who would split 1% of the additional quota). This even per-state distribution has no factual or legal justification. First, the 12.375% distribution of the trigger amount is not based on any scientific data, making it inconsistent with Magnuson Standard 2 and Charter Standard 2. Second, the 12.375% distribution lacks any equitable basis, such as the geographic distribution of fishing effort or stock biomass. The distribution of additional quota is therefore not fair and equitable, making it inconsistent with Magnuson Standard 4 and Charter Standard 7. Third, the even distribution of the trigger amount makes no attempt to consider efficiency, waste, or costs, making it inconsistent with Magnuson Standards 5 and 7 and Charter Standard 4. For these reasons, the trigger point mechanism does nothing to cure the inconsistency of the 1993 Allocations with the Magnuson-Stevens Act and the Interstate Fisheries Charter. If anything, the trigger alternative would increase the legal inconsistencies.

D. The Scup Model Alternative (2D) Violates the Magnuson-Stevens Act and the Interstate Fisheries Charter

The scup model alternative would continue to be rooted in the 1993 Allocations for half the year (May–October), while using coastwide quotas for the other half (November–April). Because this alternative would remain materially based on the 1993 Allocations, and because it is doubtful that it would result in stock distribution that is fair to New York, the scup model alternative would also violate the Magnuson-Stevens Act and the Interstate Fisheries Charter.

First, for the summer period, the scup model alternative would be inconsistent with the Magnuson Standards and the Charter Standards because, as a practical matter, it would simply continue to use the 1993 Allocations. As described above, the scup model would allocate approximately 28% of each annual quota to the summer period and this 28% would be allocated between the states based on their historic share of summer landings from 1997–2016. Because landings during this period were governed by the 1993 Allocations, the state-by-state allocations under the scup model would effectively continue the 1993 Allocations for the summer period. As described in Section A above, the 1993 Allocations are inconsistent with Magnuson Standards 2, 4, 5, 7, and 10 and Charter Standards 2, 4, and 7. The scup model alternative would be likewise inconsistent by relying on the 1993 Allocations during the summer period.

Because New York's summer flounder industry has historically been comprised of smaller vessels equipped for in-shore summer fishing, New York's share of landings during the summer period has historically been greater than its overall, year-round share. Therefore, under the scup model, New York would be allocated approximately 18% of the 28% distributed to the Summer period. As a result, New York would receive approximately 5% (which is 18% of 28%) of the total annual commercial quota during the summer period, as it has historically received.¹⁴⁹

During the two winter periods, the distribution of landings between states is difficult to predict, but New York is unlikely to benefit significantly. Under the scup model alternative, only a coastwide quota would operate during each winter period, with approximately 55% of the annual quota allotted to the first winter period, and approximately 17% to the second winter period. A vessel would be able to land summer flounder in the port of any state in which it is licensed, until the coastwide quota for each respective period is met. For states whose summer flounder landings come from large offshore vessels that operate during the winter months, the scup model's winter periods offer an opportunity to open up participation in the fishery. However, not all states would enjoy this opportunity. Because a relatively small share of New York's fluke landings come from vessels that are equipped for offshore winter fishing, it is not expected that many New York fishermen would be able to participate significantly in the winter periods. In this way, the scup model alternative is unfair to states that are more reliant on the summer fishery: these states are constrained to historic allocations during the summer period, while states that use the winter fishery can take advantage of open landings during the winter periods. For this reason, the scup model is inconsistent with Magnuson Standard 4 and Charter Standard 7.¹⁵⁰

¹⁴⁹ The Council and Commission are incorrect in stating that "smaller vessels that participate primarily in the summer in states with moderate to high summer allocations are likely to benefit" from the scup model. *See Draft EIS* at 17. These vessels will merely continue to experience their status quo.

¹⁵⁰ The Draft EIS did acknowledge but decline to evaluate a commercial allocation alternative that would have used coastwide quotas year-round. The Draft EIS decided to evaluate the scup model instead. *See Draft EIS* at 77.

POINT II

THE DRAFT AMENDMENT AND DRAFT EIS SHOULD EVALUATE AN ALLOCATION ALTERNATIVE BASED ON CURRENT DATA AND THE COUNCIL AND COMMISSION SHOULD ADOPT THAT ALTERNATIVE

Consistent with the Magnuson-Stevens Act, the Interstate Fisheries Charter Act, and NEPA, the Draft Amendment and Draft EIS should evaluate one or more reasonable alternatives that are based on current information about summer flounder distribution, biomass, and fishing effort, and the Council and the Commission should propose such an alternative to NMFS for approval.

A. The Draft EIS Fails to Evaluate All Reasonable Alternatives

The Draft EIS fails to satisfy NEPA's requirement to carefully examine all reasonable alternatives to a proposed agency action. The section of an EIS analyzing alternatives to the proposed action "is the heart of the environmental impact statement," and an EIS must "[r]igorously explore and objectively evaluate *all reasonable alternatives*, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."¹⁵¹ Indeed, the purpose of NEPA is "to insure a fully informed and well-considered decision"¹⁵² by making sure that environmental information is disseminated "early enough so that it can serve practically as an important contribution to the decisionmaking and will not be used to rationalize or justify decisions already made."¹⁵³

The Draft EIS states that the goal of the Draft Amendment with respect to the commercial quota allocation is to "[c]onsider modifications to [the] commercial quota allocation," because the "[c]urrent commercial allocation was last modified in 1993 and is perceived by many as outdated given its basis in 1980–1989 landings data" and as "developed based on flawed data"; and since "[s]ummer flounder distribution, biomass, and fishing effort have changed since then."¹⁵⁴ Under this stated scope, the Draft EIS should have "[r]igorously explore[d] and objectively evaluate[d]" alternatives that do not have a "basis in 1980–1989 landings data" and that take reasonable account for the change in "distribution, biomass, and fishing

¹⁵¹ 40 C.F.R. § 1502.14(a) (emphasis added).

¹⁵² *Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 558 (1978).

¹⁵³ 40 C.F.R. § 1502.5; see also *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371 (1989).

¹⁵⁴ *Draft EIS* at 3; see also *Draft Amendment* at 68.

effort.”¹⁵⁵ However, the Draft EIS did not explore reasonable alternatives that were not based on the flawed 1993 Allocations or that provide a fair allocation to New York given its proximity to the center of the fishery—such as the alternatives that New York’s representatives on the Council and Commission proposed, and that New York proposed in its rulemaking petition to the Council and NMFS.¹⁵⁶

Instead, as discussed extensively in Point I above, all of the proposed alternatives evaluated in the Draft EIS have a significant “basis in 1980–1989 landings data.” Moreover, none of the proposed alternatives would provide New York with a quota allocation that is commensurate with changes in “[s]ummer flounder distribution, biomass, and fishing effort.” Indeed, New York’s best predictable outcome under any of the proposed alternatives is a 10.71% share of the quota,¹⁵⁷ even though the best available data indicate that both the summer flounder stock and fishing effort are concentrated in the northern mid-Atlantic and southern New England waters proximate to Long Island.

For these reasons, the Draft EIS fails to rigorously explore and objectively evaluate all reasonable alternatives, including alternatives that would establish fair and efficient allocations based on the current geographic distribution of the summer flounder fishery.

B. The Draft Amendment and Draft EIS Should Examine Alternatives that Are Based on Current Data and Fair to New York

In order to comply with the Magnuson Standards and the Charter Standards, the commercial quota allocation must, among other things: be based on recent, reliable data; be based on the actual current distribution of the summer flounder fishery, including biomass and fishing effort; and consider and minimize inefficiencies and safety risks, where practicable, including waste and risks

¹⁵⁵ The Draft EIS did acknowledge but decline to evaluate at least one option that would have fully dispensed with the 1993 Allocations—in particular, an option that would have used coastwide quotas year-round. *See Draft EIS* at 77. The Draft EIS decided not to evaluate this coastwide management option because the scup model was similar but “preferable” in that it allowed states to “manage their own quota when summer flounder are inshore in the summer.” *Id.* This stated reason for declining to evaluate this coastwide management option is flawed because a coastwide management system could be designed such that a coastwide quota operates during the summer months, but in which individual states may establish their own management measures applicable to summer flounder landed in their ports. This approach would allow states to manage their inshore summer fisheries while not constraining them to summer landings limitations rooted in the outdated 1993 Allocations, as summer landings are under the scup model. *See pp. 37–38, supra.*

¹⁵⁶ *See pp. 18–20, supra.*

¹⁵⁷ *Draft EIS* at 7. As discussed at pages 37–38 above, New York’s outcome under the scup model is difficult to predict, although it is unlikely that New York’s distribution of landings would be significantly higher than the 7.65% share under the 1993 Allocations.

resulting from unnecessarily long trips between fishing waters and ports. As a result, the Draft Amendment and Draft EIS are required to examine reasonable alternatives for commercial quota allocation that meet these requirements and the Agencies are required to ultimately adopt one such alternative.

New York proposes a two-phase process to establish a fair and representative set of allocations: (1) in the first phase, the Summer Flounder FMP would dispense with state-by-state allocations of the commercial landings quota and implement coastwide management of the commercial quota for an interim period while the Agencies collect information that allows them to revise the allocations so that they are fair to New York and otherwise comply with the Magnuson and Charter Standards; and (2) in the second phase, the FMP would establish new state-by-state allocations that are consistent with the Magnuson and Charter Standards.

Specifically, New York proposes a period of approximately three to five years (the “Coastwide Period”) during which the annual commercial quota for summer flounder is not allocated between states and implemented by state-specific management, but instead is implemented with coastwide management measures developed by the Agencies. Seasonal quotas, trip limits, and other measures would allow the Agencies to enforce the annual commercial quota during the Coastwide Period while achieving balance within the fishery between different participants—e.g., between offshore winter fishermen and inshore summer fishermen. Critically, management measures during the Coastwide Period would apply to all commercial landings of summer flounder regardless of state of landing and commercial fishermen would be permitted to land summer flounder in any state in which they are licensed to do so. This would allow commercial fishermen to land summer flounder in whatever ports present the best opportunities for them, considering factors such as catch location, home port location, market price differentials, available packing and processing infrastructure, safety risk exposure, and other relevant concerns.

After the Coastwide Period, the amended FMP and regulations would then establish new state-by-state allocations (the “New Allocations”) based on the data collected during the Coastwide Period. Consistent with Magnuson Standard 2 and Charter Standard 2, the data collected during the Coastwide Period would allow the Agencies to base the New Allocations upon actual, current landings data that reflect present conditions in the fishery. Consistent with Magnuson Standard 4 and Charter Standard 7, the New Allocations would fairly and equitably distribute fishing privileges between states because they would be based on new landings data from the Coastwide Period. Consistent with Magnuson Standards 5 and 7 and Charter Standard 4, the New Allocations would consider efficiency and minimize costs by allowing commercial fishermen to land summer flounder in one port or another based upon economic considerations. Because the Coastwide Period would allow commercial fishermen to make market-based economic decisions about where

to land summer flounder, the New Allocations would improve economic efficiency and achieve cost minimization going forward. Finally, consistent with Magnuson Standard 10, the New Allocations would promote greater safety of human life at sea by decreasing the collective time and distance spent at sea by commercial fishermen.

Whether or not the Council and the Commission evaluate and select the above two-phase process, New York proposes that the Council and Commission evaluate a revision to the 1993 Allocations that would be based on current data. At a minimum, that allocation should provide New York a share of the quota at least on par with North Carolina and Virginia, which are significantly further from the fishery than New York; and at least on par with New Jersey and Rhode Island, which are New York's neighbors that are similarly situated in the fishery.

New York also submits that any reallocation of fishing privileges need not—and should not—represent a permanent decision on the matter. Instead, future changes in the fishery should lead to new allocations of the annual commercial quota among states according to the best available information and other requirements of the Magnuson-Stevens Act and Interstate Fisheries Charter.

CONCLUSION

For the reasons stated above, New York urges the Council and Commission to reject all commercial allocation alternatives included in the Draft Amendment, and instead to evaluate alternatives in the Draft EIS and Draft Amendment that are scientifically sound, fair, efficient, safe, and otherwise compliant with the Magnuson-Stevens Act and the Interstate Fisheries Charter, and select one such alternative to amend the Summer Flounder FMP.

Dated: New York, New York
October 12, 2018

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Before the

DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE, and
MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

In re:

Petition for Rulemaking to Repeal and/or Amend
the 1993 Commercial Quota Allocations Under the
Fishery Management Plan and Implementing
Regulations for Summer Flounder

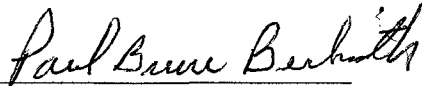
AFFIDAVIT OF CAPT. BRUCE BECKWITH

Paul Bruce Beckwith, being duly sworn, deposes and says:

1. I am the owner and captain of the commercial fishing vessel Allison & Lisa based in Montauk, New York.
2. In this affidavit, I provide information about my experience in the fishery for summer flounder, or fluke.
3. I base this affidavit on my personal knowledge as a Long Island commercial fisherman since 1961.
4. I have fished out of Long Island since approximately 1964, and I have owned my own commercial fishing vessel since approximately 1974.
5. I currently own and captain a forty-five foot dragger crewed by myself and my son. We fish for fluke, along with other species.

6. Fluke is highly valued by consumers, and for most of my career, fluke has been part of the bread and butter of commercial fishing on Long Island.
7. I have always landed all my fluke catch in New York ports, and I currently hold a license to land fluke in New York.
8. I try to fish as much fluke as I can, but with tiny trip limits to landing fluke in New York today, it is impossible for me to continue to rely upon fluke to make a living.
9. Most of the year, when New York has daily trip limits for fluke, I am only able to catch fluke as bycatch on day trips for squid, butterfish, and other species.
10. During the winter, when New York has weekly fluke limits, I am able to make a once a week fluke trip further offshore. Even then, I am fishing in the same waters as boats coming up from North Carolina or Virginia, sometimes within eyesight. These boats can catch up to 10,000 or 15,000 pounds of fluke in a trip, while I am limited to 500 to 1,000 pounds.
11. I do not hold licenses to land fluke in any other states. Licenses to land fluke in states with larger quota allocations, like Virginia or North Carolina, can cost tens of thousands of dollars. I do not have that kind of money to invest in an out-of-state fluke license.
12. I also believe that New York fishermen should not need to rely on out-of-state licenses to be able to land more fluke.

13. New York fluke fishermen need a more fair and equitable share of the coastwide commercial quota for fluke. If New York's fluke limits were more generous, then I would catch and land a greater amount of fluke.


Paul Bruce Beckwith

Sworn to before me
this 27th day of March, 2018



NOTARY PUBLIC

JOHN J. McDONALD
NOTARY PUBLIC, State of New York
No. 01MC5037839, Suffolk County
Commission Expires 20 19

Before the
DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE, and
MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

In re:

Petition for Rulemaking to Repeal and/or Amend the
1993 Commercial Quota Allocations Under the
Fishery Management Plan and Implementing
Regulations for Summer Flounder

Submitted by the
STATE OF NEW YORK and the
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION


AFFIDAVIT OF WARREN D. KREMIN

Warren D. Kremin, being duly sworn, deposes and says:

1. I am employed on the sales staff of Blue Ribbon Fish Co. Inc. (“Blue Ribbon”) at the New Fulton Fish Market (“Fulton Market”) at 800 Food Center Drive at Hunts Point in the Bronx, New York.
2. Blue Ribbon has been involved in wholesale seafood sales since it was established in 1931. Our company buys seafood directly from fishermen and sells it to buyers including distributors, retailers, and restaurateurs. We buy and sell millions of pounds of seafood per year.

3. In this affidavit, I provide information about transactions involving summer flounder, or fluke, at Fulton Market.
4. I base this affidavit on my personal knowledge as a Blue Ribbon employee since October 2008, and from having worked full-time at Fulton Market since 1992, including at the market's former location in lower Manhattan.
5. Fulton Market is the largest consortium of seafood wholesalers in the United States. Each market day, millions of pounds of seafood products enter Fulton Market to be auctioned on commission by wholesalers like Blue Ribbon to buyers including distributors, retailers, and restaurateurs. These buyers are primarily based in New York, New Jersey, and Connecticut (the "Tri-State Area").
6. Fluke is among the products sold at Fulton Market.
7. Fluke entering Fulton Market is labeled to indicate the state in which it was landed. Fluke enters Fulton Market from states all along the Atlantic coast.
8. Blue Ribbon sells fluke at Fulton Market. As with buyers of the other products we sell, the vast majority of our fluke buyers are located in the Tri-State Area.
9. Of the fluke sold by Blue Ribbon, a majority is landed in Virginia, North Carolina, and New Jersey. It can be estimated that no more than five percent is landed in New York.
10. As a wholesaler selling to distributors, retailers, and restaurateurs primarily in the Tri-State Area, I would prefer to sell fluke landed in New York over fluke landed outside the Tri-State Area.

11. If more fluke landed in New York were available, Blue Ribbon would have no difficulty selling it to buyers at Fulton Market.



Warren D. Kremin

Sworn to before me
this 6th day of March, 2018



NOTARY PUBLIC

LEONARD GUERRA
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GU6168693
Qualified in Queens County
My Commission Expires June 11, 2019

Before the
DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE, and
MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

In re:

Petition for Rulemaking to Repeal and/or Amend
the 1993 Commercial Quota Allocations Under the
Fishery Management Plan and Implementing
Regulations for Summer Flounder

AFFIDAVIT OF CAPT. DAVID ARIPOTCH

David E. Aripotch, being duly sworn, deposes and says:

1. I am the owner and captain of the commercial fishing vessel Caitlin & Mairead, based in Montauk, New York. I am also the partial owner of Montauk Inlet Seafood, Inc. ("Inlet Seafood"), which operates a seafood pack house in Montauk.
2. In this affidavit, I provide information about my experience in the fishery for summer flounder, or fluke.
3. I base this affidavit on my personal knowledge as a Long Island commercial fisherman since 1974 and the partial owner of a fish packing operation since approximately 1985.

Commercial Fishing for Fluke

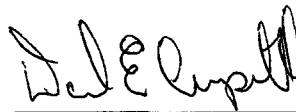
4. During my career, I have fished out of Long Island for fluke, scup, whiting, squid, butterfish, mackerel, ling, weakfish, bluefish, striped bass, and black sea bass, among others.

5. I employ six crewmen on the F/V Caitlin & Mairead, with three crewmen plus myself on a given fishing trip.
6. I bought my first vessel in 1982 and equipped it to begin trawling for fluke in 1983. Since that time I have upgraded to larger vessels, and I have continued to participate in the fluke fishery through to the present.
7. Prior to the adoption of a state-by-state quota system in 1993, I landed all of my fluke catch in New York ports.
8. I now hold licenses to land fluke in New York, New Jersey, and Virginia.
9. I continue to catch most of my fluke within approximately seventy miles of Montauk.
10. I made the decision to purchase licenses to land fluke in New Jersey and Virginia because New York's daily trip limits for fluke are too small for it to be economical for me to land my fluke trips in New York ports.
11. New York must limit fluke landings to fifty to one hundred pounds per day, depending on the season and year, or to approximately five to eight hundred pounds per week at certain times of year. As the operator of a seventy-foot boat, I cannot land enough fluke in New York on a given trip under these limits to offset the time and fuel costs for that trip.
12. Instead, I land my fluke trips in Virginia and New Jersey. Fluke landings limits in New Jersey and Virginia are more generous. Virginia trip limits are 7,500 pounds per trip. New Jersey trip limits vary depending on time of year, but most recently were 1,500 pounds per trip. Last year, I landed approximately 15,000 or more pounds of fluke in each Virginia and New Jersey.

13. The approximately 13,500 pounds of fluke that I landed in New York last year was entirely bycatch from trips for squid, scup, and other species. Because fluke was not my primary object on those trips, the amount of fluke I landed in New York was small enough not to be in excess of applicable limits.
14. In favorable weather conditions, it takes approximately eight hours and approximately one thousand gallons of fuel to travel to Montauk from the offshore waters where I catch fluke.
15. In favorable weather conditions, it takes approximately fifteen hours and approximately two thousand gallons of fuel to travel to port in New Jersey from the waters offshore of New York where I catch fluke.
16. In favorable weather conditions, it takes thirty or more hours and approximately four thousand gallons of fuel to travel to port in Virginia from the waters offshore of New York where I catch fluke.
17. The greater distance I must travel at sea to land my catch, the greater the cost to me in fuel use, the greater the wear and tear on my vessel, and the less time I have available to earn additional revenue by catching other fish. Greater time spent and distance traveled to land fish also present a greater danger to myself and my crew due to the risks inherent in travel at sea, especially risks created by inclement weather.
18. If fluke landings limits in New York were not as restrictive as they currently are, I would prefer to land more fluke in New York to avoid the costs, effort, and risk associated with traveling to more distant ports to land my catch.


Packing Fluke

- 19. I began operating a fish pack house business in approximately 1985 with five other commercial fishermen, using a dock we leased in Montauk.
- 20. In the late 1990s, we purchased the dock and incorporated as Inlet Seafood. Inlet Seafood now employs five individuals and packs approximately seven million pounds of seafood every year, including fluke. We receive fish landed by commercial fishermen in Montauk and pack it to be shipped to markets.
- 21. When Montauk-based boats catch fish such as fluke near Montauk but must land their catch in out-of-state ports, it is a missed business opportunity for Montauk-based pack houses like Inlet Seafood that would earn revenue if those boats landed their catch in Montauk and engaged our services.
- 22. If more fluke were allowed to be landed in New York, I expect that more fluke would be landed in Montauk and other Long Island ports. This would increase the volume of seafood passing through pack houses like Inlet Seafood, allowing us to grow our business and hire more employees.

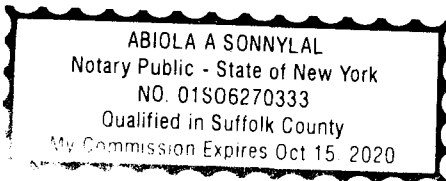


David E. Aripotch

Sworn to before me
this 8th day of March, 2018



NOTARY PUBLIC



DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
and MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

In re:

Petition for Rulemaking to Repeal and/or Amend
the 1993 Commercial Quota Allocations Under the
Fishery Management Plan and Implementing
Regulations for Summer Flounder

AFFIDAVIT OF CAPT. JOHN BERGLIN

John E. Berglin, being duly sworn, deposes and says:

1. I am the owner and captain of the commercial fishing vessel Mary Elizabeth based in Shinnecock, Hampton Bays, New York.
2. In this affidavit, I provide information about my experience in the fishery for summer flounder, or fluke.
3. I base this affidavit on my personal knowledge as a Long Island commercial fisherman since 1985.
4. During my career, I have fished out of Long Island for squid, fluke, scup, seabass, scallops, whiting.
5. I employ 2 crewmen on the Mary Elizabeth, with two crewmen plus myself on a given fishing trip.

6. I bought my first vessel in 1985 and equipped it to begin trawling for fluke in 1985. Since that time I have upgraded to larger vessels, and I have continued to participate in the fluke fishery through the present.
7. Fluke, because of its high value and widespread popularity, is the most reliable source of revenue for area fishing; it is the "bread and butter" of those who make their living as commercial fishermen.
8. Prior to the adoption of a state-by-state quota system in 1993, I landed all of my fluke catch in New York ports.
9. I now hold licenses to land fluke in New York, New Jersey, North Carolina, and Virginia.
10. I continue to catch most of my fluke within 100 miles of Hampton, NY. ^{DAYS}
11. Since I first started fishing, I have noticed that the mass of fluke have moved northwards. Boats licensed in southern states such as Virginia and North Carolina have always fished off Long Island. The fisherman all know each other and boats coming up from southern states fishing for fluke with licenses issued from those states or neighboring states such as New Jersey generally fish within sight of those fishing in New York waters with New York licenses. Yet fisherman with New Jersey, North Carolina, or Virginia licenses are able to catch upwards of 12,000 pounds of fish per trip, while New York boats are limited to fifty to seventy pounds per trip.
12. I made the decision to purchase licenses to land fluke in New Jersey, North Carolina, and Virginia because the allocation of fluke for New York and New York's daily trip limits for fluke are too small for it to be economical for me to land my fluke trips

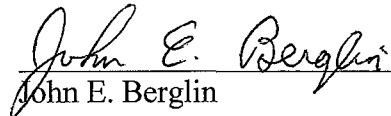
solely in New York ports. Specifically, because New York must limit fluke landings to fifty to seventy pounds per day, depending on the season, as the operator of a 70 foot boat I cannot land enough fluke on a given trip to offset the time and fuel costs for that trip.

13. Because fluke is so important to overall revenue, if you catch enough fluke, then it is economically sufficient to fish for other species at the same time, but there is not enough to be made on other species alone for commercial fishing in New York to be viable.
14. Additionally, because the quota is so low and the daily trip limit is so small, if you catch a lot of fluke you have to discard it by throwing it overboard, which is demoralizing and is clearly a waste of a valuable economic resource. There would be lower rates of discards with a bigger allocation and larger trip limits.
15. Instead, I land the vast majority of my fluke trips in Virginia, North Carolina, and New Jersey. Fluke landings limits in New Jersey, North Carolina, and Virginia are more generous: Virginia, two landings of 7,500 pounds each; North Carolina, three landings of 6,000 to 11,500 pounds each; and New Jersey, weekly or bi-weekly landings of 500 to 2,500 pounds each. Last year, I filled all of my quotas in each state as described above.
16. In favorable weather conditions, it takes approximately thirty hours and approximately 1,600 gallons of fuel to travel to Hampton, Virginia, from the offshore waters where I catch fluke.

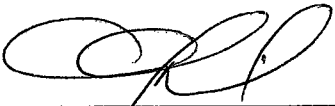
17. In favorable weather conditions, it takes approximately twelve hours and approximately 250 gallons of fuel to travel to port in New Jersey from the waters offshore of New York where I catch fluke.
18. In favorable weather conditions, it takes forty-eight or more hours and approximately 1,500 gallons of fuel to travel to port in North Carolina from the waters offshore of New York where I catch fluke.
19. The greater distance I must travel at sea to land my catch, the greater to cost to me in fuel use, and the less time I have available to earn additional revenue by catching other fish. Greater time spent and distance traveled to land fish also presents a greater danger to myself and my crew due to the risks inherent in travel at sea.
20. If fluke landings limits in New York were not as restrictive as they currently are, I would prefer to land more fluke in New York to avoid the costs, effort, and risk associated with traveling to more distant ports to land my catch.
21. Since the allocation for New York went into effect, the New York fluke fishing industry has suffered considerably. In the winter months, when fluke are further out at sea, it is simply not economical for New York fisherman to commercially fish for fluke due to New York's small allocation and resulting catch limits. As a result, many fisherman have switched from commercial fishing year round to day fishing and summer fishing.
22. In the summer months, I am able to land fluke live in New York, which gets a higher price because it is sushi grade and more valuable. One cannot realistically land live fluke caught in New York in southern ports. However, due to the small allocation, even the summer fluke fishing in New York is under threat because the low volumes

of fish discourage maintaining investments at port such as ice and delivery services that are necessary to ensure my catch stays fresh and gets delivered to market.

23. If the fluke allocation were increased, I am certain that the industry would survive and likely grow. However, if the allocation and trip limits remain as low as they are, I am not sure that my son, who fishes with me, will be able to continue in our family business because it is just too hard and the New York commercial fluke fishing industry may disappear.


John E. Berglin

Sworn to before me
this 8th day of March, 2018



NOTARY PUBLIC

CHRISTIE G. PFEIL
NOTARY PUBLIC - STATE OF NEW YORK
No. 01PF6106368
Qualified in Suffolk County
My Commission Expires March 01, 2020



NEW YORK SPORTFISHING FEDERATION

324 South Service Rd., Suite 302, Melville, NY 11747

www.nysf.org

Dr. Christopher Moore,

I am submitting comments today on behalf of the New York Sportfishing Federation in regards to the Summer Flounder Commercial Issues Amendment. For 20+ years, this antiquated state-by-state allocation issue, using outdated data, has been debated for the commercial industry, as well as the recreational industry. As a member and voice of the New York Fishing Community, I do not believe that any of the commercial quota allocation alternatives listed in this Amendment properly address the issue.

The current state-by-state commercial allocation that was adopted in 1993 is inequitable, disproportionate and inappropriate. It is in fact a violation to the Magnuson-Stevens Act National Standard 2, requiring that the best scientific data available is utilized, for which these allocations are not. None of the alternatives proposed address the real issue, which is the need for a complete overhaul of the state-by-state allocation of the commercial quota for Summer Flounder.

This Amendment falls short of an alternative to reset the baseline landings to more accurately and fairly distribute the quota among the states, reflecting the recovery and northerly shift of the fishery. A coastwide allocation period needs to be implemented to give equal access to the fishery, to create a new baseline, and ultimately update state allocations that reflect the current fishery. Secondly, there needs to be an option added to this Amendment for an interstate quota transfer agreement. This will allow the temporary relief to the northern states by allowing southern states to transfer quota.

Sincerely,

Capt. Joe Paradiso
President- New York Sportfishing Federation
NY Marine Resource Advisory Council

Montauk Inlet Seafood Inc. Inlet Seafood Property LLC
The Other Side at Inlet Seafood Inc. - Inlet Seafood Restaurant

East Lake Drive PO Box 2148 Montauk, NY 11954
Ph 631.668.3419 fax 631.668.1225



Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201

And

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

October 12, 2018

To the Commissioners of the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council Members:

Montauk Inlet Seafood, Inc. and The Other Side at Inlet Seafood hereby requests that the Mid Atlantic Fishery Management Council move to develop two additional options to the summer flounder draft amendment.

The first option is to negotiate new state quota shares of summer flounder, and the second is to include coastwide quota and management of summer flounder.

As New York's State's largest shipper of fresh fish, including summer flounder (fluke,) to Hunts Point Market, Montauk Inlet Seafood has suffered greatly since the initial summer flounder amendment created a state-by-state quota system, which was passed by the council in 1992.

New York deserves to have both motions re-added to the amendment. The inequity of the state-by-state system created a have-and-have-not scenario in which New York's commercial stakeholders lost millions of pounds of landings to their regional neighbors over more than two decades, through an unfair process that was hamstrung by erroneous and inadequate data. A process that NMFS knew was erroneous at the time.

Additionally, we would appreciate if the ASMFC and the MAFMC would take a serious look at considering flexible landings between the states. New York has lost so much economic value in the last 26 years, as a result of the state-by-state quota ruling, that many New York participants in the fluke fishery, including some of the partners of Inlet, have had to spend thousands of dollars to acquire out-of-state permits as a way to maintain solvency in the fishery.

Please accept these comments on behalf of Inlet Seafood's companies. We employ approximately 50 employees in our community of Montauk, and the economic effects of an increased fluke quota to our businesses and communities would be exponential.

Sincerely,

Montauk Inlet Seafood, Inc. and The Other Side at Inlet Seafood

David Aripotch
F/V Caitlin & Mairead

Stuart Foley
Air & Speed

William Grimm
F/V Jason & Danielle
F/V Perception

Richard Jones
Kevin Maguire
F/V Evening Prayer
F/V Pontos

Charles Weimar
F/V Rianda S

OFFICE OF THE COUNTY LEGISLATURE
COUNTY OF SUFFOLK

Bridget Fleming
Second Legislative District

Chair
Ways & Means Committee

Vice-Chair
Health Committee



Committee Member
Public Safety
Environment, Planning
and Agriculture
Public Works, Transportation
and Energy

SENT VIA FAX 1-302-674-5399

October 12, 2018

Chris Moore, Ph.D., Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, Delaware 19901
nmfs.flukeamendment@noaa.gov

Re: Summer Flounder Commercial Issues Amendment

Dear Dr. Moore,

As Legislator of Suffolk County's Second Legislative District, which includes the entire South Fork of Long Island, and on behalf of its fishing community constituents, I support and request that the Mid Atlantic Council move to develop two additional options to the Summer Flounder Draft Amendment. Option One: to negotiate new state quota shares of summer flounder, and Option Two: to include coastwide quota and management of summer flounder.

Very truly yours,

Bridget Fleming
Suffolk County Legislator
Second Legislative District

BF/car

cc: Kirby Rootes-Murdy krootes-murdy@asmfc.org
Kiley Dancy kdancy@mafmc.org
Bonnie Brady greenfluke@optonline.net



TOWN OF EAST HAMPTON

159 Pantigo Road
East Hampton, New York 11937

PETER VAN SCOYOC
Supervisor

(631) 324-4140
pvanscoyoc@ehamptonny.gov

October 12, 2018

Kiley Dancy, MAFMC
Kirby Rootes-Murdy, ASMFC
Nfms.flukeamendment.noaa.gov

Re: Summer Flounder Commercial Issues Amendment

To Whom it May Concern:

As Supervisor of East Hampton Town, home to the largest commercial fishing port in New York State, in the hamlet of Montauk, I am writing to underscore the concerns of our town Fisheries Advisory Committee, and to support the group's recommendations regarding summer flounder, which include the following.

The data collection system used by the National Marine Fisheries Service during the summer flounder baseline period (1980-1989) resulted in significant inadequacies in New York's quota allocation of that species. The system used in New York for collecting and reporting landings data was different from that used in other Mid-Atlantic and New England states at the time; New York was the only state with no weigh-out system, or what today is called "dealer reporting." Consequently, New York's reported landings were far less than what the state's fishermen were actually landing, and the state therefore received a lower quota than it was actually entitled to.

At the joint MAFMC/ASMFC meeting in April, 2018, an effort to correct this was made by New York's representatives, by including two options in the Summer Flounder Commercial Issues Amendment: to negotiation new state quota shares, and/or to include coastwide quota and management.

The Atlantic Marine Fisheries Commission approved the inclusion of these options in the draft amendment, but their addition was blocked by the Mid-Atlantic Fishery Management Council. Therefore, there are no options that might serve to correct the inequitable allocation of the resource that New York was dealt originally. The options listed above should be included in the Summer Flounder Commercial Issues Amendment.

The fishing industry has historically been an important part of East Hampton Town's culture and economy, and remains so today despite ongoing challenges to the economic survival of our commercial fishermen and women. I urge you to carefully consider the concerns outlined by our Fisheries Advisory Committee and to assess the summer flounder quota accordingly.

Thank you for your time and attention.

Sincerely,

Supervisor, East Hampton Town

10/8/2018 18:45:48 (EDT)

greenfluke@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Bonnie Brady, I am the executive director of the Long Island Commercial Fishing Association, P.O. Box 191, Montauk, NY 11954

The present amendment allows no method by which the state by state quota inequity of New York can be truly and fairly addressed. Please include the two added options for development within the amendment. Thank you.

10/8/2018 21:05:09 (EDT)

docktodish@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Sean Barrett, Marine Resources Advisory Council (Member); Community Supported Fishery of New York State (Operator), 14 Trail Road, Hampton Bays NY 11946

- The Community Supported Fishery program of New York State is headquartered in Montauk and depends directly on the commercial fluke fishery and fluke fishermen in order to operate

10/8/2018 22:39:53 (EDT)

12thgenbonacker@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Gary Cobb, 30 Glade Rd, East Hampton, NY 11937

Owner, AMAGANSETT F.I.S.H., LLC

As an owner of a small-scale direct marketing business that is primarily focused on the inshore pound trap fishery of Gardiners Bay, summer flounder represents a substantial portion of our annual income. Myself and my associates are 12th generation natives of Amagansett and our families have been engaged in pound trap fishing here since colonial times. Our ancestors were taught how to build fykes, weirs and pound traps to catch Fluke Algonqian natives who had been catching Fluke here here for 10,000 years before the arrival of our ancestors. Fluke is our money fish. Our bread and butter. If we are to continue to survive here on the east end as commercial fishermen and be allowed to pass on our trade to subsequent generations we must be given access to our fair share of the resource.

10/9/2018 2:01:17 (EDT)

arthur.fkretschmer@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer

flounder, and Two: to include coastwide quota and management of summer flounder
I am a commercial fisherman from NYS that has waited far to long for an equitable share of summer flounder . I've been a commercial fisherman for 47 years ,we were promised more fish and more money 30 years ago and here we are ,it only gets worse for us while I watch boats from other states fish off our shores and land them in there respective states Arthur Kretschmner PoBox 81 Mattituck 11952

10/9/2018 5:28:52 (EDT)

dannylester@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Danny Lester 5 Spruce st East Hampton NY. As a commercial fisherman the quota is to low to make a living.

10/9/2018 6:44:16 (EDT)

bluemoonfish@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I demand state quotas be changed to be fair to all. Alex Villani, 17:5 Breakwater Road, Mattituck, N.Y 11952.

10/9/2018 6:52:56 (EDT)

radefishhead@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I am a commercial fisherman in New York State who basically needs to be able to retain summer flounder on a daily basis to be able to make ends meet. we are forced to discard summer flounder because of low limits or a closure that is really unnecessary. there are millions of pounds of fluke in state waters every year that are underutilized for no reason. please let us catch them and keep our businesses afloat.

10/9/2018 8:15:45 (EDT)

mike@vincenzoseafood.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Michael Bauhs
3 Birchwood Lane
East Quogue NY 11942

I am a full time commercial fisherman that has always depended on fluke. Since I bought my

first boat 9 years ago I have watched the quota go only one direction. DOWN. I always counted on fluke as a significant source of income, but in the last few years I'm lucky if it covers the cost of my lunch.

NY needs to fight for a change so that the quota system needs can be allocated fairly.

10/9/2018 14:04:25 (EDT)

pjmarita@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Paul beckwith 71 Buell Lane ext. East Hampton NY NYS Commercial Fisherman

10/9/2018 17:20:18 (EDT)

belair20@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My name is June Berkun. I live at 2842 Lindale Street, Wantagh, NY 11793 with my partner Timothy Swanson. He has been a Commercial Fisherman all of his life. (Over 45 years). New York State is not giving fluke quotas that are fair to NY fisherman. NY has a much lower quota on fluke than any other state on the eastern seaboard. It is extremely hard to make a living as a commercial fisherman anymore, as the quotas are not fairly distributed. The fishing industry on Long Island has practically disappeared as no one can make a decent living anymore. I urge you to fight for all fisherman's rights and make the quota system fair to our New York fisherman!

10/9/2018 18:28:48 (EDT)

rockbottom937788@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Dan Regan, Owner of DB Fish Inc. Permit number 3222 and holder of a summer flounder endorsement. My address is 674 Horse Race Lane, St. JAMES, NEW YORK 11780.
DOCKAGE, FUEL, INSURANCE PRICES ARE SOARING AND ADDITIONAL QUOTA and longer seasons are REQUIRED TO MAKE ENDS MEET. Thank you. Capt. Dan

10/9/2018 18:34:57 (EDT)

octopus139@hotmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Anthony zucco permit no.361 PO Box 36, 124 edgemere st montauk ny 11954

10/9/2018 19:15:04 (EDT)
tedzotka@aim.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I don't have a commercial fluke permit at this time because New York State Put a "TEMPORARY" 20+ year moratorium on fluke permits and have not issued any but hopefully I will be able to get one soon enough Ted Szczotka, P.O. box 1100, Mattituck ,NY 11952

10/10/2018 8:25:53 (EDT)
commfishmtk@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My name is Wesley Peterson #3 12th Street, East Hampton , NY and I am a full time commercial Fisherman mainly a day boat dragger that depends on fluke for our income. We have been unfairly treated in NYS and we need more quota or at least our fair share.

10/10/2018 11:58:47 (EDT)
dfroelich2@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Denise Froelich 84 Pleasure Dr. Riverhead NY 11901 My husband and son are commercial fisherman

10/10/2018 13:13:41 (EDT)
caskater1@hotmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Christopher Albronda
6 FERNALD RD
Montauk, NY
11954

10/10/2018 13:45:09 (EDT)
sspratford1@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My name is Scott Spratford P.O. Box 978 montauk ny 11954. It's very simple we need a fair share of the coast wide quota. There's plenty of evidence that the numbers used in the original quota assessment were terribly flawed. It's time to make things right. I've been a commercial

fluke fishermen since the late 1970s. Give us a fair shot at still being able to make a living. We need Fluke as an very important part of that. it's not to late to do the right thing.

10/10/2018 14:07:27 (EDT)

flyerjim@hotmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

James Jasuta

P.O. Box 1404

Montauk NY. 11954

Fishermen

10/10/2018 14:38:54 (EDT)

captainsloan@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

I am captain Sloan Gurney, a commercial fisherman permitted with a fluke endorsement. I also am the owner and captain of a sport fishing business in Orient NY where we depend greatly on the fluke fishery.

Captain Sloan Gurney

Black Rock Fishing Fleet

P.O. Box 158

Orient, NY 11957

10/10/2018 14:19:15 (EDT)

lisavalcich@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Charles Morici, Jr., F/V Act I, PO Box 1731, Montauk, New York 11954, I hold both a federal commercial fishing permit (permit #310153) & a NYS commercial fishing permit (permit #1183)...

To sum it up...this is not enough to live on! We (the commercial fishermen) need help! So please help us! Thank you!

10/10/2018 14:48:05 (EDT)

mark@bayparkfishing.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Mark Keller

2942 Eastern Blvd

Baldwin NY 11510

10/10/2018 14:53:32 (EDT)

rmpe61@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
my name Brendan Casey .i am a licensed ny fluke fisherman since 1980 . new york needs to be fairly treated .my fluke landing and other long island sound fishermens fluke landing were never recorded by noaa .during the years used to give new york a fluke quota long island sound had 0 landings of all fish. 15 trawlers fished daily then. i vote to change fluke quota system now.

10/10/2018 15:46:43 (EDT)

pfin44@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Lisa Finley

45 Ira Court Brooklyn NY 11229

Co Owner of a NY Corporate Food Fish License.

Please give NY commercial license holders their fair share of summer flounder.

10/10/2018 15:47:32 (EDT)

fishbones21@verizon.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Victor r Makis jr - 2nd generation commercial fisherman

21 Carter rd

Hampton bays ny 11946

Owner /operator F/V Terri Sue

10/10/2018 16:33:30 (EDT)

fishbones21@verizon.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Tara Makis - commercial fishing

21 Carter rd

Hampton bays ny 11946

F/V Terri Sue

10/10/2018 16:35:00 (EDT)

sammiam1@verizon.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder Samantha Makis - commercial fishing
21 Carter rd
Hampton bays NY 11946
Crew on F/V Terri sue

10/10/2018 16:36:05 (EDT)

fishbones21@verizon.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder Victor Makis
30 summit blvd
Westhampton ny 11977
Commercial fishing

10/10/2018 17:13:03 (EDT)

kahunafish2@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder Vincent Carillo, PO Box 1432, Montauk, NY commercial fluke fisherman

10/10/2018 18:08:34 (EDT)

Matthew.spratford@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder Matt Spratford
2 Lincoln Rd Apt A
Montauk, NY 11954

I've been a deckhand on commercial boats that have relied on fluke as one of our main/ most crucial target species off and on for almost 15 years. I now work for my father who has been a commercial fisherman for over 40 years, during which time his income has been almost entirely dependent on catching fluke. He put 2 kids through college and supported our family almost entirely by catching fluke. He is so fed up with the current state of the fishing industry that he wants to retire and pass the boat and his licenses down to me, and honestly, I'm not even sure I want them anymore- how can you plan for, or have any faith in your future when you can barely catch enough fish to pay your expenses?? I went to college, worked on Wall St, and chose to

come back home and fish not because I had to, but because I thought it was a lifestyle and career that I could be proud of and fulfilled by. But lately I have been seriously regretting that decision, as these quotas have made it almost impossible to make a living on the water. Fishing is one of the hardest, most rewarding jobs there are, but at the end of the day, it comes down to survival. Would you go to work and risk your life to make less than you could make working at a gas station, or pushing a lawn mower? Something tells me probably not... And to make matters worse, we have to watch boats from RI, NJ, etc. fish right next to us, (in NY waters no less!), and make tow after tow for fluke then steam home with 500 or 1000 lbs or whatever their daily quota may be, that they've caught right on our doorstep, while we make our one tow and head home with our measly 50lbs. It is pure lunacy. If you don't want this to be the last generation of commercial fisherman in NY, it's time to step up and make some amendments to these antiquated and borderline criminally unfair fluke quota distributions before it's too late- there won't be any children left to save this fishery for, because nobody can afford to be a fisherman anymore. The mid Atlantic Council has essentially turned the NY fluke industry into the most dangerous, expensive, hobby in the world- and it's about time things change before it's gone forever.

Thank you,
Matt Spratford

10/10/2018 18:16:26 (EDT)
suebeckwith82@msn.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My name is Paul Bruce Beckwith, Captain of the commercial fishing vessel Allison & Lisa. I have been fishing in Montauk since I was 14 years old. Fluke, summer flounder has always been the bread and butter species for New York fishermen since trawling began. I would like to see NY commercial fluke fishermen get the fair share of the coast wide quota on fluke that they deserve so we can compete on a level playing field in the marketplace. We should be able to keep the same amount of fluke as any other fisherman from any other state while fishing in Federal waters. I would like to see a coast wide quota on fluke, the same as the scup model only with smaller sensible and sustainable trip limits for all moratorium summer flounder permit holders. NY commercial fishermen have been at a disadvantage on fluke quota for too many years. It is way past due that NY fishermen get their fair share of the coast wide fluke quota. P.O. Box 1351, Montauk, NY 11954

10/10/2018 18:27:34 (EDT)
suebeckwith82@msn.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My name is Susan Beckwith and I am the wife of commercial fisherman Bruce Beckwith. I am a stakeholder within the fluke fishery. I have been with my husband for over 20 years and have

seen first hand how the regulations have affected the livelihood of my husband and the local Montauk fishermen. The very low fluke quota given to the NY commercial fishermen as compared to the quota given to the fishermen in the surrounding states has had a devastating affect on our income and psychological well being of the fishermen. Imagine what it is like for a man that has many bills to pay having to dump overboard thousands of pounds of regulatory fluke. While boats from surrounding states fishing in the same waters are allowed to keep thousands of pounds more fluke. NY fishermen need to get their fair share of their coast wide fluke quota. P.O. Box 1351 Montauk, NY 11954

10/10/2018 18:42:54 (EDT)

denise@suffolknet.org

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I am a commercial fisherman on Long Island NY

10/10/2018 18:43:30 (EDT)

trevorf612@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My father and brother are commercial fisherman in NY

10/10/2018 18:44:27 (EDT)

matthewf1169@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
My father is a commercial fisherman in NY

10/10/2018 18:58:20 (EDT)

Julierae6@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Julie Lofstad, 177 B Springville Rd., Hampton Bays NY 11946 fisherfamily

10/10/2018 18:59:32 (EDT)

RazorLofstad11@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Ray Lofstad, 177B Springville Rd., Hampton Bays, NY 11946, comm. fisherman

10/10/2018 19:14:28 (EDT)

happ2@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I am Donald Ball owner and sole operator of the F/V KAMMY B a commercial fishing dragger in Montauk NY. I have been fishing all my life and has been certainly screwed on the quota. I am angry and have been angry for so long now. I have written, been to meetings stating how unfair Ny state is treated in the quota share. I will try again stating my views in addition to adding the motions.

REQUALIFYING- I FEEL THE ALTERNATIVE 1B-1 WILL BEST SAVE THE RESOURCE AND THE TRADITIONAL FISHERMAN. IT WOULD BE FOR THE PROTECTION OF BOTH WHICH IS EXTREMELY IMPORTANT.

QUOTA ALLOCATION- WE ALL KNOW THAT ALL THE OTHER STATES GOT HIGHER PERCENTAGE OF THE ALLOCATION THAN NY. THIS WAS WRONG FROM THE BEGINNING. THE SIMPLEST SOLUTION WOULD BE TO TAKE 1% OFF THEIR ALLOCATION AND GIVE IT TO NY.....BUT THAT IS NOT IN THE AMENDMENT.....SO THAT BEING SAID, THE BEST CHOICE FOR ME IS 2B-2.

I'D LIKE TO THANK NYS DEC FOR TRYING TO DO THE BEST THEY CAN FOR NY FISHERMEN.

Sincerely,

Donald Ball
PO Box 210
Amagansett, NY 11930

10/10/2018 19:39:17 (EDT)

cweimar21780@hotmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
I am Charles Weimar jr I have a New York State fluke fishing license and have been captain of the Rlanda S since 2003 . Been discarding fluke in the eez because New York has one the lowest fluke quotas in the mid Atlantic. There shouldn't be a state quota in federal waters should be just like all other species . Equal access for New York fishermen. Something has to change !
Charles weimar jr
PO Box 2166
Montauk New York 11954

10/10/2018 19:48:15 (EDT)

michaelpottsv@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Michael Potts, PO Box 2084, Montauk, NY 11954

10/10/2018 20:22:44 (EDT)

captjamiehummel@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Due to the current quota system fluke fishing in NY is basically a non fishery. As an inshore fisherman and a Bayman it's almost useless to go fishing for 50 pounds Jamie hummel. 9 stonewood lane Hampton Bays NY 11946

10/11/2018 4:39:58 (EDT)

boomertoo@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

I am a commercial fisherman and I am home-ported in Hampton Bays new york

I have been involved in the industry for 45 years. The summer flounder quota for N.Y. fishermen is not fair ,and is based on antiquated data that is severely faulted. Its just plain not fair.

I am currently forced to fish a 65' trawler with no other crew members,

due to the low quota there is no money left after fuel and ice to pay crew members. This is not safe please move to develop two additional options to the summer flounder draft amendment.

One: to negotiate new state quota shares of summer flounder, and Two: to include coastwise quota and management of summer flounder.

Capt. Steven R Bolton

9 Tuttle ave.

Eastport N.Y. 11941

boomertoo@gmail.com

10/11/2018 5:04:42 (EDT)

mentzel.grant@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Jesse Mentzel FF# 1732

10 Columbus st.

E. Patchogue NY 11772

I was a full time fisherman but ridiculously low quotas for New York forced me to get another job and fish part time with a rod and reel to keep expenses down. We need our fair share of the fluke fishery.

10/11/2018 6:12:21 (EDT)

rjones7242@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Richard Jones P.O.Box 2415 Montauk N.y. 11954 fisherman

10/11/2018 10:23:19 (EDT)

fvsaintanthony59@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Patrick Malik POBOX 1194 Montauk NY 11954 Owner/Operator of an inshore dragger

10/11/2018 11:06:25 (EDT)

natgoodamazon@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Andrea Mavro 779 Montauk Hwy, Montauk, NY 11954. I'm a chef restaurant owner and local fluke is a large part of my menu and big part of my business. If my restaurant is successful I am able to (barely) stay open through the winter season and employ many members of the local community and offer healthy food options year round.

10/11/2018 11:18:39 (EDT)

paulfarnham1@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Paul Farnham

PO Box 2048

Montauk NY 11954

I am the owner operator of

Montauk Fish Dock inc.

10/11/2018 12:05:27 (EDT)

rjkatz@rjklp.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Richard Katz 90 S DELREY RD, Montauk, NY 11954

10/11/2018 13:13:52 (EDT)

mike.mason6@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

I'm a nys summer flounder permit holder Mike Mason 7 Norwood rd Hampton Bays N.Y. 11946

10/11/2018 13:32:37 (EDT)

hoops21287@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Daniel Warner, 1 Carter Rd., Hampton Bays, NY 11946. I am commercial fisherman out of Shinnecock.

10/11/2018 13:40:20 (EDT)

thielef@nyassembly.gov

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Assemblyman Fred W. Thiele, Jr.

Room 622 Legislative Office Building

Albany, NY 12248

I am writing as the elected New York State Representative of the 1st Assembly District that is greatly dependent upon the commercial fluke fishery. The state by state quotas created by the Mid-Atlantic Fisheries Management Council and the U.S. Department of Commerce's National Marine Fisheries Service, pursuant to the Magnuson-Stevens Act, are based upon faulty and incomplete collection data, which discriminate against commercial fishermen in the State of New York. As a result of these discriminatory practices, New York's quota for a number of species of black sea bass, bluefish, scup, and fluke are much lower than would be allocated under a fair non-discriminatory system. New York's summer flounder quota was less than half of that allocated to Rhode Island, New Jersey, Virginia, and North Carolina. This inequitable and discriminatory quota system is crippling the economic viability of New York's commercial industry and has resulted in unwarranted economic and job losses. An amendment of this kind is vital.

10/11/2018 13:42:42 (EDT)

rstiansen@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Norman Stiansen jr

55 ocean avenue

Hampton Bays NY 11946

Commercial Fluke permit holder!

10/11/2018 15:05:33 (EDT)

nyseafood@msn.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Roger C. Tollefsen - 23 Bay Ave W, Hampton Bays, NY 11946

I had been a seafood market owner for thirty years and was the past President of New York's Seafood Council. During that time I fought for our local fluke fishermen to receive a "fair" share of the Mid Atlantic's fluke allocation. I watched our seafood community shrink due to regulations that were oppressively not fair.

The way that NY received its share and has continually been denied review is shocking. The state fluke quotas were developed using inconsistent data sources from 1980-1989 that varied for each state. Once the flaws of the data were realized, those members of the ASMFC whose state benefited have refused to consider any modifications that could result in a reduction to their state's share.

After thirty years of species management, it is time to accept the fact that those states that have an inflated fluke quota will simply not be fair or open to suggestions to change it. For the fluke quota issue, change needs to be forced by unbiased more fairly minded parties.

10/11/2018 15:32:25 (EDT)

amandajoy.keyser@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Amanda Jones

PO BOX 45 Montauk, NY 11954

F/V PONTOS

10/11/2018 16:32:44 (EDT)

captron1@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Ronald Onorato PO Box 1628. Montauk NY. 11954. NYS Summer Flounder permit holder.

10/11/2018 16:49:17 (EDT)

offshorefishery@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Dan Farnham, PO Box 2242, Montauk NY. 11954

Commercial fisherman with fluke landings in both NY and MA

10/11/2018 17:02:39 (EDT)

tjkehoe@icloud.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

New York has been at a disadvantage for years when it comes to fluke quotas. NY Fishermen have to get permits in coastal states to catch the fish that they can not catch at home. I have been wholesaler for 40 years and now assist the State on exports and Suffolk County on Marine Industry problems. Please give ourboats an equal share of the fluke quota. Thomas Kehoe 21 McKinney Avenue, Northport, NY 11768

10/11/2018 17:32:55 (EDT)

christina.hoerning@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

I am a permit holder and own a fish market

Christina Hoerning

Christina.hoerning@gmail.com

10/11/2018 17:33:50 (EDT)

brewfish@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

thomas brewer 15 brittle lane hicksville n y 11801

10/11/2018 19:44:44 (EDT)

mjmclintock3@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Malcolm J McClintock, 3 Private Rd., Eastport, NY 11941. Owner/Captain of the F/V Rhonda Denise. The current quota is completely unfair and a coastwide quota should be adopted.

Everybody knows that the current system is based on flawed data from decades ago and as a result has led to the demise of various ports in New York. It's time we got our rightful share of the quota!

10/11/2018 19:57:26 (EDT)

fishbones21@verizon.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Brian Jayne - commercial fisherman

9 Carter lane

East quogue ny 11942

Owner / operator F/V Dorothy M

10/11/2018 20:57:40 (EDT)

jkamins2@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

My name is Cynthia Kaminsky. My mailing address is 75 Woodcliff Drive, Mattituck, NY 11952

I hold a NY summer flounder permit and fish commercially for fluke on my fishing vessel, CATCH THIS. This fishery needs some more equitable quotas. Using data from the 1980s is out dated and inappropriate.

Coast wide measures for each state should be equal percentage allocation - minimum three to five year trial or permanent

Interstate quota transfers should be permitted if quota is not used or if otherwise agreed upon

Not in favor of flexible landings as this would result in harm to all inshore fisherman in all coastal states

Cap off top states at a certain level until lower level states catch up

It is time to bring fairness back into this important fishery. .

10/11/2018 21:13:02 (EDT)

eberglin@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

My name is Erin Berglin (31 Oak Lane, Hampton Bays, NY 11946) and my father is a New York commercial fisherman who has been catching fluke for most of his 4-plus decades in the industry. I understand the importance of a sustainable fishery and livable quotas and how it directly impacts the lives of fishing families and communities.

10/12/2018 13:56:28 (EDT)

joxer821@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Edward Rennar 5 south fairmont street Montauk New York 11954

10/12/2018 11:09:43 (EDT)

chucketzal@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
To Whom It May Concern,

As a fishermen from New York we have suffered from unjust allocations of quota on any species managed state by state. Summer flounder particularly in discussion. Using data from the 1980s is unfair and inappropriate.

I would support a scup model or any option that gives Ny a better share.

I support option 2b-2 and or 2 d-1 regarding allocation.

I do support option 3b for landing flexibility. No vessel should have to sail hundreds of miles to unload to meet ridiculous state regulations .

I do support no action addressing 1a regarding the fed fluke qualifier.

Interstate quota transfers should be permitted if quota is not used or if otherwise agreed upon

Thank you , Charles Etzel

99 cedar drive

East hampton , NY

11937

FV Damariscotta

10/12/2018 12:02:00 (EDT)

jbatky@hotmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

I am a commercial pound net fisherman in New York. We need to have a more equitable share in the fluke quota in New York. Coast wide measures for each state should be equal percentage allocation. All fishermen should have an equal playing field, not handicapped by outdated and erroneous information!

Jeffrey Batky, PO Box 128, Sag Harbor, New York, 11963

10/12/2018 12:28:19 (EDT)

sberglin@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the

summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
John Berglin 31 Oak Lane Hampton Bays, NY 11946. I am the owner/operator and Captain of the F/V Mary Elizabeth 648424, I hold summer flounder permits for four states. I believe its time for a change in the way fluke quotas are distributed between the states. Landings flexibility should be discussed as well.

10/12/2018 14:17:20 (EDT)

jwindels3@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
John Windels III , Owner/Captain FV Mary Rose
52 Squiretown Road
Hampton Bays N.Y. 11946

I have been an active NY State Summer Flounder permit holder/fisherman since New York food fish permits have been required. I also hold a federal summer flounder permit on FV Mary Rose. New York has never had a fair share of fluke quota since day one of the state by state management scheme. Something needs to be done. Basing todays state shares on 40 year old landings data is totally unacceptable. Please help New York fishermen.

10/12/2018 15:56:53 (EDT)

siobhain.heather@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Ryan Fallon, 69 Fleming road, montauk NY
I am a commercial fisherman out of montauk, NY

10/12/2018 16:08:24 (EDT)

hafmjf@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Michael Fallon, 2 Jefferson ave, Montauk, NY

10/12/2018 16:09:22 (EDT)

siobhain.heather@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder
Siobhain Harrington
69 Fleming road montauk ny

10/12/2018 16:10:01 (EDT)

hafallon@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Helene Fallon 2 Jefferson Ave montauk NY

10/12/2018 16:10:11 (EDT)

neenwindels@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Kristina Windels

11 Pondway

Apt. 8 Manorville N.Y.

11949

I have helped with my family's commercial fishing business for my whole life, helping my grandfather my father and my brother. It is a disgrace the way New Yorks fisherman have been practically cut out of the summer flounder fishery compared to other states of the east coast.

Please do the right thing and help !

10/12/2018 16:17:44 (EDT)

ewindels92@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Emily Windels

169 Tremont Street

Apt. 2

Newton ,Ma 02458

I am the grand daughter of a NY fluke fisherman, the daughter of a NY fluke fisherman and the sister of a NY fluke fisherman and i have helped them all with our family's business for years.

These are hard working, honest men that only want a fair chance to work and support thier families. They have been treated very unfairly for many years now in regards to Fluke quotas for NY State. Please make changes. Do the right thing !

10/12/2018 16:20:10 (EDT)

annjack562@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

My name is Annmary L. Windels 562 Pleasure Drive Flanders N.Y. 11901 . My connection to

this fluke issue is that I helped my deceased husband Jack who was a commercial fisherman and now my son John who is a commercial fisherman ! This is a very difficult profession . These captains work so hard for so little money that any positive changes will be a very good thing !

10/12/2018 16:57:43 (EDT)

jakewindels@yahoo.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

John H Windels IV

13 Westbury Road

Hampton Bays

N.Y. 11946

I am a New York State Summer Flounder permit holder. I have been commercial fishing for several years. I currently work on my fathers boat F/V Mary Rose. Please make changes to the fluke quota management regulations. Using landings data from the 1970s and 80s is totally inappropriate for tidays fishery. Please help us

10/12/2018 17:27:21 (EDT)

Ro.windels@aol.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Mary Rose Windels

52 Squiretown Road

Hampton Bays N.Y

11946

Hello. I have helped my dad and my brother with our family's commercial fishing business for many years. Summer flounder regs have been very unfair to NY fishermen and changes need to be made. Please do the right thing. Families livelihoods depend on it

10/12/2018 20:05:48 (EDT)

providencefisheries@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

William Reed

PO Box 375 Hampton Bays NY

Full time 12 months out of every year for the past 30 years commercial stern trawler out of Hampton Bays

10/12/2018 21:33:10

midatlan@optonline.net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

Alex Duchere

10/12/2018 22:17:36

Captainhappy@Optonline.Net

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder.

Dave Aripotch PO. Box 1036, Montauk, NY,. 11954 F/ V Caitlin & Mairead I would also like to see flexible landings during the winter months. It's been extremely frustrating for me being from New York because I started commercial fishing in the mid 70's it's all I've ever done, and I was involved in the management in the beginning with fluke. The older guys from New York said then that they we weren't getting a fair share. Raoul the Swede, Mel Moss from Shinnecock, Brian Trujillo, Chuck Weimar, and Mark Phillips could attest to the fact that we were getting cheated on our quota. I was told we would get it back some time in the future and instead, it just keeps getting worse and worse. I used to make a good percentage, maybe half of my income, on fluke. I would like to see some quota increase and at the very least flexible landings in the winter.

10/12/2018 22:50:59 (EDT)

josephrealmuto@gmail.com

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwide quota and management of summer flounder

josephrealmuto@gmail.com Executive Chef at Nick & Toni's, 136 North Main Street, East Hampton, NY 11937

Name: Scarlett Fallon

Email Address: siobhain.heather@gmail.com

City, State, Zip Code: montauk, NY 11954

Check all that apply: Commercial Industry

Comments: I request that the Mid Atlantic Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwise quota and management of summer flounder.

Name: Jennifer Carney

Email Address: jencarney@optonline.net

City, State, Zip Code: Montauk, NY 11954

Check all that apply: Private Recreational Angler, Other

Comments: I request that the Mid Atlantic Fishery Management Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastal quota and management of summer flounder (fluke).

Name: Christopher Spies

Email Address: crispies@optonline.net

City, State, Zip Code: Holbrook, NY 11741

Check all that apply: Private Recreational Angler

Comments: Chris Spies

1794 Lincoln Ave.

Holbrook, NY 11741

516.607.2393

crispies@optonline.net

I request that the Mid Atlantic Council move to develop two additional options to the summer flounder draft amendment. One: to negotiate new state quota shares of summer flounder, and Two: to include coastwise quota and management of summer flounder.

The NYS Quota is based on decades old data that is long out of date and does not recognize the documented north and eastward shift in the summer flounder population. NY's commercial and recreational anglers are being unfairly regulated out of a fishery which is located primarily right on our coast. As documented in the MAFMC Summer Flounder Management Document (https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5b2aa6801ae6cf54e7958f69/1529521794159/5_Fluke+Fishery+Info+Doc+2018.pdf), 4 of the 5 highest summer flounder production areas, are located immediately adjacent to the Long Island South Shore, accounting for 51% of the summer flounder catch. An additional 29% of the summer flounder harvest comes from two areas immediately to our East.

Despite having 50% of the summer flounder catch coming from our waters and those immediately adjacent to ours, NY commercial fishermen are only allowed 7% of the total coastwise allocation. In comparison, NC commands the highest percentage, at 27% despite being the furthest state away from the epicenter of the fishery itself. VA is 2nd with 21% NJ gets 16% and RI the smallest state on the coast, gets 15%. How does NY, located the closest to the heart of the summer flounder fishery, with the greatest amount of coastline of our neighboring states, and the largest number of fluke dealers, get the smallest quota? It makes no

sense how that was ever justified. How states to our South and East all managed to get more quota than us, right smack in the middle and with the most coastline and largest population within proximity to the coast itself.

Landings numbers mean nothing, because our state is hamstrung by regulations which prohibit us from fishing anywhere near our potential. Instead, we have to watch other states boats harvest fish, which are closest to our shores and ferry them away to their ports to be counted and for their profit.

NY's commercial and recreational fishermen are being abused by this system, and it needs to stop. We need a new state quota share, and coastwise management of summer flounder.

Sincerely,

Chris Spies

From: Melissa Dearborn <melissa@regalbait.com>

Date: Fri, Oct 12, 2018 at 12:02 PM

Subject: Summer Flounder Commercial Issues Amendment

To: <nmfs.flukeamendment@noaa.gov>

Dr. Christopher Moore,

I am submitting comments today in regards to the Summer Flounder Commercial Issues Amendment. For 20+ years, this antiquated state-by-state allocation issue, using outdated data, has been debated for the commercial industry, as well as the recreational industry. As a member of the New York Fishing Community, I do not believe that any of the commercial quota allocation alternatives listed in this Amendment properly address the issue.

The current state-by-state commercial allocation that was adopted in 1993 is inequitable, disproportionate and inappropriate. It is in fact a violation to the Magnuson-Stevens Act National Standard 2, requiring that the best scientific data available is utilized, for which these allocations are not. None of the alternatives proposed address the real issue, which is the need for a complete overhaul of the state-by-state allocation of the commercial quota for summer flounder.

This Amendment falls short of an alternative to reset the baseline landings to more accurately and fairly distribute the quota among the states, reflecting the recovery and northerly shift of the fishery. A coastwide allocation period needs to be implemented to give equal access to the fishery to ultimately update state allocations. Secondly, there needs to be an option added to this Amendment for an interstate quota transfer agreement. This will allow the temporary relief to the northern states by allowing southern states to transfer quota.

Sincerely,

Melissa

Melissa Dearborn

Vice President

Regal Marine Products, Inc.

melissa@regalbait.com

www.regalbait.com

ph:631.385.8284

fx:631.271.5294

Name: Steven Bellone

Email Address: Steven.Bellone@suffolkcountyny.gov

City, State, Zip Code: Hauppauge, NY 11788

Check all that apply: Other

Comments: Dear FMP Coordinator Rootes-Murdy,

On March 23, 2018, the State of New York and the New York State Department of Environmental Conservation submitted a petition to the U.S. Department of Commerce requesting an amendment of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and its implementing regulations to comply with the Magnuson-Stevens Fishery Conservation and Management Act. Importantly, New York State and Suffolk County believe that the decades-old state-by-state allocations of the annual commercial quota for summer flounder fishery violates the Magnuson-Stevens Fishery Conservation and Management Act as outdated, discriminatory, inefficient, costly, and environmentally unsound.

Currently, commercial fishing quotas are based on data collected during the 1980s and allow for more landings in southern ports, which discriminate against commercial fishermen in the state of New York. As a result of these discriminatory practices, we find that New York's quota for black sea bass, bluefish, scup, and summer flounder are much lower than would be allocated under a fair, nondiscriminatory system. For example, New York is allowed just 7.65 percent of the total coast wide commercial landings quota for summer flounder, while North Carolina and Virginia receive nearly 50 percent and New Jersey and Rhode Island get 17 percent and 16 percent, respectively. As a result, New York licensed commercial fishermen are fishing side by side, and in the same waters, as vessels licensed to land fish in Virginia or North Carolina in far greater quantities. These extended travel distances intensifies the industry's carbon footprint and increases both economic and environmental costs associated with managing our fisheries.

The negative impact of these outdated and discriminatory quotas has been substantial on the New York commercial fishing industry. The stringent limits on commercial landings means that the limited revenue generated by a single trip often cannot offset the economic costs associated with that trip. For many fishermen, this has foreclosed or severely restricted participation in the fishery and New York's commercial fishing industry has suffered considerably.

Because these outdated and discriminatory quotas are inconsistent with the Magnuson-Stevens Act and impose a substantial adverse economic hardship on New York commercial fishermen, we urge you to grant the New York State petition and replace the current allocation with a two-phase process, by first dispensing with state-by-state allocations and implementing coast-wide management of the commercial quota for an interim period to permit the collection of information that permits the permanent revision of allocations that are fair to New York and otherwise consistent with the Magnuson-Stevens Act.

Sincerely,
Steven Bellone
Suffolk County Executive

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA)
FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

Re: Summer Flounder Amendment (New York State)

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment.

One: Negotiate new state quota shares of summer flounder, and

Two: Include coastwise quota and management of summer flounder
Increasing the Fluke Quota for New York translates into MORE JOBS, MORE SALES, INCREASED TRANSPORTATION, STABILIZED PRICING, and INCREASED MARKET SHARE for New York.

Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
Weike. Co	Gold City	
Alto Jones	JOLE	sell fish
Robert Oberst	Stettin ct	
Jerry Paul	T. K. K. K. K.	Retail

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA)
FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

Re: Summer Flounder Amendment (New York State)

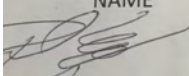

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
	800 FOOD CENTER DR	MONTAUK SEAFOOD
	800 FOOD CENTER DR	Montauk Seafood
Dennis Schwede	147	MONTAUK SEAFOOD

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
Winston Nunez	MANHATTAN	DRIVER
Pedro Castro	MANHATTAN	DRIVER
Carlos Rivera	Bronx	Driver
Carlos Chamizo	QUEENS	DRIVER
Rommel Merino	Bronx	DRIVER
Jose Luis	ST. N.Y. NY	Driver
Kevin C	Queens	Driver
Juan Perez	Bronx	Driver
Belvin Soto	Bronx	Driver
Wili Mejia	Bronx	Driver

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
Nicholas Klein	110 HARVET AVE	Salesman
KleinLine Trucks	PO Box 66	Fish Transport
PAUL SORADY	1898 Hyland Blvd 10305	fish store
Richie KLEIN	800 FOOD CENTER DRIVE unit 30 BRONT NY 10474	Wholesaler
Shinsuke TAMAKI	306 46 st NYC NY 10017	Restaurant
Eddie	Farm Fish unit 21	salesman
John Schnell	559 Lincoln Ave SI NY 10305	Salesman
Joseph KASTANEK	MONT'S SEAFOOD UNIT 27	SALESMAN
Gamaliel Francisco	UW: 30	Buyer
Jose S Requero	PFU.	Salesman

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

Re: Summer Flounder Amendment (New York State)

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
Harry Patt	305 Avenue Lester Monticello	Buyer
David	325 Avenue Mass NY	Buyer
Jimmy	P.O.	Buyer
LOUIE FIDRANO	320 Gen Abbott, NY	Supplier

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

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10/12/18

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
KEITH WILKINSON	800 FOOD CENTER BRONX NY UNIT 98	FRANK W. WILKINSON INC
LUCIO GARCIA	BRONX NY	STAN WONGER.
ALBERTO DROZ	OCEANVIEW NY	SALISMAN
RICKELTIN BATUETA	BRONX NY	DRIVER
DAVID D LIBARD	BRONX NY	PRODUCTION
EDUARDO AGUILAR	BRONX NY	CUTTER.
DANIEL AGUILAR	BRONX NY	CUTTER.
ANGEL RUIZ	BROOKLYN-NY	CUTTER.
RAFAEL MIRENDA	DIONICIO BRONX	CUTTER
ANGEL SEBASTIAN GARCIA	BROOKLYN	CUTTER

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

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NAME	ADDRESS	RELATION TO FISH INDUSTRY
Paul Aksumal	East Meadow NY	SALES production.
Dillon Peter	Brox NY	
Louis. Nozza	Nyc. NY	Wholesale + 20 employees
Shiphreck Seafood Boutique	Brooklyn NY	Retailer + 2
Joey Lig	Brooklyn NY	SALES
GEORGE WALDET	MIDDLEBURY VT	PRODUCTION/MGT
Edward Jan	311 nardgA	(E) / owner.
Lamine Avuilino	New York, NY	Accounting
Han Peier	Bronx	production
DEL RIVAR	QUEENSBORO NY	production
Sp Debra Flick LOISIAN	Fresh Fish Market 447 COUNTY RT 448 SARATOGA 12066	FIS 4 for m file

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

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10/12/18

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
<i>JLB</i>	8 CLIFFORD PLACE EAST BRUNSWICK, N.Y.	BUYER
<i>AM</i>	35 WYOMING RILEY RD.	OWNER
<i>PKL</i>	800 FOOD CENTER DRIVE UNIT #5 B	PRES. CO-OP
<i>H. Hays</i>	16 ASH ST, BRONX, NY	PRESIDENT
<i>J. Hays</i>	800 FOOD CENTER DRIVE UNIT 13-15	Vice President COOP
<i>John Peixoto</i>	BLUE RIBBON CAPTAIN ST	V.P.
<i>[Signature]</i>	Greenwich Harbor NY	

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

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Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
<i>[Signature]</i>	Blue Ribbon Fish New Fulton Fish Mkt. Third Gen.	Wholesale/Processor 1931 Principal Salesman.
	ALDATROSS FISH	Dimitrios Theodoridis
Anthony D'Amico	Fulton Fish Market, Corp	Buyer
PATRICK DONOGHUE	BLUE RIBBON FISH CO.	SALESMAN.
ANTONIO PADINHA	PAIR FISH CO.	SALESMAN.
WASH STAMERIS	Blue Ribbon	WHOLESALE
Carl P...	P & M Seafood	
Matthew Piscitello	P & M Seafood	
ROBERT LOMBARDI	Blue Ribbon	Salesman
Delano Meldor	Blue Ribbon	
Matthew Cole	Montauk	Dispatcher Kerina Fickler

STAPLES

INCREASE THE SUMMER FLOUNDER (FLUKE QUOTA) FOR NEW YORK

To: Mid Atlantic Fishery Management Council

10/12/18

Re: Summer Flounder Amendment (New York State)

I request that the Mid Atlantic Fishery Mgt Council move to develop two additional options to the summer flounder draft amendment.

One: Negotiate new state quota shares of summer flounder, and

Two: Include coastwise quota and management of summer flounder

Increasing the Fluke Quota for New York translates into MORE JOBS, MORE SALES, INCREASED TRANSPORTATION, STABILIZED PRICING, and INCREASED MARKET SHARE for New York.

Please sign your Name, Address, and your relationship to the fish industry.

NAME	ADDRESS	RELATION TO FISH INDUSTRY
WARREN KRENN	800 6th CENTRAL AVE Brook	Wholesaler
SCOTT SMITH	452 BURNING KENNEDY NJ	RESTAURANT
John Yu	171-55 48th Ave Flushing NY 11358	RESTAURANT
Joe Catalano	1 West-64th St. N.Y.C. N.Y.	Buyer
ADAM KOLENBERG	2446 Foster CT Bellmore NY 11710	Buyer
Braun Seafood Mike Checkwick	30840 main RD Cutchogue NY 11935	Buyer
LYNBROOK SEAFOOD PATRICK REGA	246 Hempstead Ave LYNBROOK NY 11563	RESTAURANT

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NAME	ADDRESS	RELATION TO FISH INDUSTRY
Thomas Nobilo	Old Seabrook Ct	Sales
Patrick Lohan	Jericho NY	Sales
Rhymms Edgish	Littleton, NJ	Fluor
Sean Lohan	25 Jericho	Sales
Franco Mohammed	Queens NYC	Manager
Nice Cruz	537 TINTON AVE	Rearr
Miguel Torero	84-24 57 th Elmhurst	Poster
Tomas Caceres	520 East 137 th St Bronx NY	Sales
Wilbert A. Cueva	3334 84 th St Jackson Heights	Cutpost.
Nelson Balaguer	1663 East 64 th Ave	Cutter
FELIPE RAMOS 32-26	48 th ST ALOZIA QUEENS	