



STATE OF NEW YORK  
**EXECUTIVE CHAMBER**  
ALBANY 12224

**ANDREW M. CUOMO**  
GOVERNOR

September 12, 2013

Cameron Kerry, Acting Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230

Dear Mr. Kerry:

I write in anticipation of the fall meetings of the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission to request a major reassessment of the Fishery Management Plan (FMP) for summer flounder. As you know, the Secretary of Commerce, acting through the National Marine Fisheries Service, possesses final authority to approve the FMP for summer flounder based upon recommendations from the Council and Commission. I write to urge you to work with New York to fundamentally change the approach to the summer flounder fishery by applying the best available data and revised management strategies to ensure that New York is allocated an appropriate share of this important resource.

As Attorney General of the State of New York, I filed a challenge against the 2008 Final Management Rule for the recreational summer flounder fishery based on the basic inequities associated with the total allowable landings authorized in New York under the summer flounder FMP. As asserted in the Complaint in that action, the state-by-state landings allowed under the 2008 FMP were based on obsolete, nearly 10-year-old survey data. Although New York has been allowed to slightly relax certain management measures related to minimum size limits, the allowable landing levels in New York remain artificially low based on the application of the same obsolete data. These inequities have only gotten worse as the percentage of summer flounder located off of New York's shores has grown since 1998 when the survey was taken, while New York's allocation has remained the same. In 2011 (the last year for which complete data is available), recreational fisherman from New York caught more than 7,500,000 summer flounder. Because of the state's quota only about 375,000 of these fish could be legally harvested. This approach, which is more restrictive than neighboring states, disproportionately impacts the coastal party boat industry and erodes New York's \$370 million salt water recreational fishing industry.

This problem is not limited to the recreational fishery. Although summer flounder remains one of New York's most important commercial species, accounting for 1.5 million pounds in landings in 2011, the basis for New York's commercial quota for summer flounder is also flawed. Much of the information used to develop New York's commercial quota is based upon historic landings from the 1980s. The decision to ignore the regional nature of this resource, increases in fish abundance, as well as current data about the distribution of fish further compounds the problem. It is fundamentally unfair for out-of-date information and an obsolete state-by-state model to dictate the allocation process for a species which accounts for more than \$3.7 million dollars in revenue to commercial fisherman.

New York has attempted to work with other states to develop alternative solutions. However, we cannot tolerate a management plan that limits an angler on the New York side of Raritan Bay to 4 fish with a minimum size of 19.5 inches but allows a New Jersey angler fishing the same water body to harvest 5 fish of only 17.5 inches or that limits a New Yorker fishing the north shore of Long Island to 4 fish with a minimum size of 19.5 inches but permits a Connecticut angler to take 5 fish of 17.5 inches from the Sound. This situation makes no sense. At the joint Council and Commission meetings this fall New York will once again propose a regional approach to allocation based upon the best available science. It is clear that fundamental change in the management approach is essential to establishing equitable quotas for neighboring states. Unless meaningful progress is made, I will have no choice but to pursue every possible administrative and legal avenue to ensure that New York's recreational and commercial fisherman get a fair deal.

Sincerely,



ANDREW M. CUOMO

cc: Joe Martens, Commissioner NYSDEC  
John Bullard, Regional Administrator of NMFS, Northeast Region  
Robert Beal, Executive Director of ASMFC