June 1, 2022

Mr. Matthew Maraglio
Coastal Resources Specialist
Office of Planning, Development, and Community Infrastructure
New York Department of State
99 Washington Avenue, Suite 1010
Albany, NY 12231

RE: Federal Consistency Determination for Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

Dear Mr. Maraglio:

We request your review of the subject regulatory action, with regard to its applicability to the New York Coastal Zone Management Program (CZMP). We have preliminarily determined that the subject proposed rule is consistent with the enforceable policies of the New York CZMP, and request your concurrence.

The Mid-Atlantic Fishery Management Council (Council) adopted Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) at its December 2021 meeting and the Council submitted Amendment 22 to us on May 1, 2022, for review and approval. Details of this action, including a draft environmental assessment (Draft EA), can be found at https://www.mafmc.org/s/Draft_EA_SFSBSB_com_rec_allocation.pdf. We intend to publish a rule proposing regulations to implement Amendment 22 in the Federal Register in early summer 2022.

If approved, Amendment 22 would establish updated commercial and recreational sector allocations for summer flounder, scup, and black sea bass. This action would also add the option for future modifications to the commercial/recreational allocation and transfer provisions to be considered through an FMP framework action, as opposed to an amendment.

Based on a review of New York’s enforceable coastal zone management policies, and based on the analysis contained in the Draft EA for Amendment 22, we preliminarily determined that the Summer Flounder, Scup, and Black Sea Bass FMP, and the management provisions it includes, are consistent to the maximum extent practicable with these policies. The management measures implemented under this FMP are intended to conserve fish resources that occur in New York state waters by managing catch and preventing overfishing, thereby promoting sustainable utilization.

A general consistency determination was submitted on November 29, 2010, for review by the responsible state agencies under section 307 of the CZMA. The State of New York concurred with this determination by letter. Your general consistency determination meant that any
actions carried out after your general concurrence, and in accordance with the Summer Flounder, Scup, and Black Sea Bass FMP and associated provisions, including routine updates to management measures, were also determined to be consistent with the policies of the Connecticut CZMP. However, we noted that we intend to reconsider this consistency determination and consult with your agency for amendments or other substantial modification actions to the Summer Flounder, Scup, and Black Sea Bass FMP, whether through subsequent individual or omnibus actions. Therefore, we are seeking your concurrence on this action because it is an amendment to the Summer Flounder, Scup, and Black Sea Bass FMP.

This letter is submitted pursuant to provisions of 15 CFR 930 et seq. and section 307 of the Coastal Zone Management Act of 1972, as amended. In accordance with the provisions of 15 CFR 930.41, we are requesting that you advise us of your agreement or disagreement with our determination. In the event that there is no response from your agency within 60 days of receipt of this letter, we will presume your agency’s concurrence with our determination of consistency. If you have any questions, please contact Emily Keiley at 978-281-9116.

Sincerely,

Michael Pento
Regional Administrator