

Atlantic States Marine Fisheries Commission

Winter Flounder Management Board

*February 20, 2013
11:15 – 12:00 p.m.
Alexandria, Virginia*

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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|---|------------|
| 1. Welcome/Call to Order (<i>R. White</i>) | 11:15 a.m. |
| 2. Board Consent | 11:15 a.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from October 2012 | |
| 3. Consider 2012 FMP Review and State Compliance (<i>M. Yuen</i>) Action | 11:25 a.m. |
| 4. Consider Draft Addendum III for Public Comment (<i>T. Kerns</i>) Action | 11:40 a.m. |
| 5. Other Business/Adjourn | 11:55 a.m. |

The meeting will be held at the Crowne Plaza Hotel Old Town, 901 N. Fairfax Street, Alexandria, VA 22314 (888)233-9527

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015

MEETING OVERVIEW

Winter Flounder Management Board

Wednesday, February 20, 2013

11:15 a.m. – 12:00 p.m.

Alexandria, Virginia

Chair: Ritchie White (NH)	Technical Committee Chair: Steve Correia (MA)	Law Enforcement Committee Representative: Kurt Blanchard (RI)
Vice Chair: Mark Gibson (RI)	Advisory Panel Chair: Bud Brown (ME)	Previous Board Meeting: October 22, 2012
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, NMFS, USFWS (10 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from October 22, 2012

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Winter Flounder FMP Review (11:25 – 11:40 a.m.) Action
Background <ul style="list-style-type: none">• State Compliance Reports are due on November 1, 2012• The Plan Review Team reviewed each state report and compiled the annual FMP Review
Presentations <ul style="list-style-type: none">• Overview of FMP Review Report by M. Yuen (Briefing CD)
Board Action for Consideration <ul style="list-style-type: none">• Approve 2012 FMP Review and State Compliance reports, and Delaware's request for <i>de minimis</i> status for commercial and recreational fisheries.

5. Draft Addendum III for Public Comment (11:40 – 11:55 a.m.) Action
Background <ul style="list-style-type: none">• The Board initiated Draft Addendum III in October 2012, to propose changes to commercial trip limits and recreational measures through an annual specification process. This addendum also proposes triggers to reduce trip limits when a percentage of the state water catch limit, to be determined by NOAA, is harvested (Briefing CD).
Presentations <ul style="list-style-type: none">• Overview of Draft Addendum III by T. Kerns
Board Action for Consideration <ul style="list-style-type: none">• Approve Draft Addendum III for public comment

6. Other Business/Adjourn

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**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
WINTER FLOUNDER MANAGEMENT BOARD**

Radisson Plaza-Warwick Hotel
Philadelphia, Pennsylvania
October 22, 2012

**These minutes are draft and subject to approval by the Winter Flounder Management Board.
The Board will review the minutes during its next meeting.**

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INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 7, 2012 by consent** (Page 1).
3. **Move to adopt in Addendum II Section 3.1, commercial measures, trip limits, Option 2; Section 3.2, recreational measures, seasonal measures, Option 2. Addendum II measures will sunset on June 1, 2013** (Page 2). Motion by David Pierce; second by Doug Grout. Motion carried (Page 3).
4. **Move to approve Addendum II as modified today, effective immediately** (Page 3). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 3)
5. **Move to delete language in Option 2, commercial accountability measures, and in its place “reduce the Gulf of Maine winter flounder trip limit set during the specification process to 250 pounds when either 75 percent, 85 percent or 90 percent of that state water ACL subcomponent is projected to be landed; and if the subcomponent is exceeded, begin the following year, May 1, with a 250-pound trip limit** (Page 6). Motion by David Pierce; second by David Simpson.

SUBSTITUTE MOTION: Substitute under Section 3.2, Option 2, under accountability measures, “establish a trigger for state water commercial trip limits that would reduce the trip limit when the trigger is reached. A trigger is met when X percent of the estimated non-federally permitted state water harvest is reached” (Page 9). Motion to substitute carried as the main motion (Page 11).
6. **Move to amend Section 3.1, Option 2, to include under commercial measures that could be adjusted through board action; add Item 5, trigger trip limits** (Page 11). Motion by Doug Grout, second by Terry Stockwell. Motion carried (Page 12).
7. **Move to approve Draft Addendum III for public comment** (Page 13). Motion by Terry Stockwell; second by Pat Augustine. Motion carried (Page 13).
8. **Motion to adjourn** by consent (Page 13).

ATTENDANCE**Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)
 Steve Train, ME (GA)
 Doug Grout, NH (AA)
 G. Ritchie White, NH (GA)
 Dennis Abbott, NH, proxy for Rep. Watters (LA)
 David Pierce, MA, proxy for P. Diodati (AA)
 William Adler, MA (GA)
 Jocelyn Cary, MA, proxy for Rep. S. Peake (LA)
 Mark Gibson, RI, proxy for R. Ballou (AA)
 Rick Bellavance, RI, proxy for Rep. P. Martin (LA)
 Bill McElroy, RI (GA)
 David Simpson, CT (AA)

Lance Stewart, CT (GA)
 Rep. Craig Miner, CT (LA)
 James Gilmore, NY (AA)
 Pat Augustine, NY (GA)
 Brian Culhane, NY, proxy for Sen. Johnson (LA)
 Russ Allen, NJ, proxy for D. Chanda (AA)
 Tom Fote, NJ (GA)
 Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
 Roy Miller, DE (GA)
 John Clark, DE, proxy for D. Saveikis (AA)
 Bernie Pankowski, DE, proxy for Sen. Venables (LA)
 Peter Burns, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members**Staff**

Robert Beal
 Toni Kerns

Danielle Chesky

Guests

Tom McCloy, NJ DFW
 Peter Himchak, NJ DFW
 Derek Orner, NMFS
 Bob Ross, NMFS
 Charles Lynch, NOAA
 Kim Damon Randall, NOAA
 Raymond Kane, CHOIR
 Dan McKiernan, MA DMF
 Russell Dize, Ofc. Sen. Colburn

Mike Armstrong, MA DMF
 Nicola Meserve, MA DMF
 Jim Estes, FL F&W
 Janice Plante, Commercial Fisheries News
 Kelly Denit, NMFS
 Kyle Schick, Ofc. Sen. Stuart, VA
 Pam Lyons Gromen, Leesburg, VA

The Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened in the Radisson Plaza-Warwick Hotel, Philadelphia, Pennsylvania, October 22, 2012, and was called to order by Chairman G. Ritchie White.

CALL TO ORDER

CHAIRMAN G. RITCHIE WHITE: I'll call the Winter Flounder Board Meeting to order.

APPROVAL OF AGENDA

First on the agenda is the approval of the agenda. Are there any changes or additions to the agenda? Seeing none, we will take that as adopted.

APPROVAL OF PROCEEDINGS

Approval of proceedings from August 2012; any changes or additions to the proceedings from August 2012. Seeing none, we will take those as approved.

PUBLIC COMMENT

Public comment; is there any comment on items that are not on the agenda; anybody from the public? Seeing none, final action; Toni.

DISCUSSION OF DRAFT ADDENDUM II FOR FINAL APPROVAL

MS. TONI KERNS: I'm going to go over the options that were contained in Draft Addendum II, the public comment that was received and the advisory panel report. As a reminder to the board, Draft Addendum II considers changes to the Gulf of Maine commercial and recreational fishery measures based on new stock assessment results.

The new stock assessment was the SAW/SARC 52. The stock status changed to not overfishing but the overfished status could not be determined for the Gulf of Maine. As a response to this, the National Marine Fisheries Service took emergency action to double the remainder of the fishing year 2011 ACL and doubled the 2012 ACL.

The technical committee went through and gave us some more information on the Gulf of Maine fishery. The commercial harvest is mainly in the state of Massachusetts. It is 99 percent of all of the non-federal landings for the recent years. New Hampshire has less than 1 percent of the harvest since 2009 and Maine harvest has been zero in recent years.

Prior to the 250-pound trip limit, about 43 percent of the non-federally permitted landings came from 7 percent of the trips that landed more than 250 pounds, and about 19 percent of the landings came from 2 percent of the trips that landed more than 500 pounds. After the trip limit was put in place for the commercial fishery, 88 percent of the trips landed less than 99 pounds, accounting for 44 percent of the Gulf of Maine winter flounder harvest.

The trip limit essentially caused the fishery to switch from a directed fishery to a bycatch fishery. Participation in the Massachusetts commercial groundfish fishery cannot increase due to the limited entry nature of their state's groundfish permit endorsement. NOAA Fisheries harvest estimated about 55 metric tons per year for the recreational harvest since 2006.

A doubling of the recreational catch is unlikely given the expected reduction from the implementation of the 11 percent reduction in the recreational harvest from the closed seasons that were put in place; so even if those seasons were lifted, we don't think that we would have a doubling of that harvest. As a reminder, these measures are being proposed because of the increase in state water sub-component and also to provide relief to state water groundfish fishermen under other restrictions.

Then it would also put in place if the seasons were removed from the three states, then everyone would have completely consistent regulations because each of the states have different seasons currently. The two measures that are proposed in the document; first looking at commercial measures, the first option, status quo, would leave in place the 250-pound trip limit. Option 2 would propose to change that commercial vessel trip limit to 500 pounds.

For the recreational measures, Option 1, status quo, is to keep in place the 11 percent reduction in F for the recreational fishery. The season closures; Maine's season closure is from October 1st through June 30th; New Hampshire is May 15th through May 24th; and Massachusetts is September 1st through October 31st. Option 2 is to remove those requirements for an 11 percent reduction in F and then states would be able to open up their seasons to year round.

For the public comment that we received, we had three hearings; one in Maine, New Hampshire and Massachusetts. At those hearings no one attended the Maine hearing. We only had participants at the New Hampshire and Massachusetts hearings. We had three written comments that were received, and the majority of the commenters favored increasing the trip limit and removal of the recreational season. One commenter favored status quo measures.

For the advisory panel, we had a conference call. There were only three members on the call. There were two recreational fishermen from New Hampshire and Maine and one commercial fisherman from Maine. The members did not think that the current science actually reflects the current status of the stock in the Gulf of Maine fishery.

They feel that they're not seeing any winter flounder fish in their waters, and the group that was on the call favored status quo options. Bud Brown did ask me to say he apologizes for not being able to be at the meeting. He had previous scheduled work where I think some area around a dam was being drained specifically for him so he could not change that. Are there any questions?

CHAIRMAN WHITE: Are there any questions for Toni on her presentation? Doug.

MR. DOUGLAS GROUT: Not so much a question but more of a comment. I was reading through the AP Report and one of the concerns I had, Toni, is that he specifically put editorial comments on that. I feel that is not something that is appropriate for a formal AP Report.

I think if he wants to make personal comments on the addendum in a written form, I think he can do that individually; but to have that included as an AP Report, that may not have been the view of the other two people on the report. I would just like to, if something like that comes up again, see if we can separate those.

CHAIRMAN WHITE: Are there any other questions of Toni on her report? Seeing none, does anybody have a motion? David.

DR. DAVID PIERCE: Toni has done a good job summarizing the background and why the request was made and why this board at our last meeting decided to bring this forward to public hearing for comment. It was a request made by my agency. There was a letter attached to that request describing exactly why we wanted to do it.

I will make a motion specific to this addendum with an understanding that we are going to I believe initiate an additional addendum, Addendum III, to deal with other specific issues that I believe are quite consistent with some technical committee concern regarding accountability measures, which we didn't bring to public hearing, but still we can do that through the next addendum relative to technical committee concerns.

The technical committee has not raised any objection regarding these particular options that are in the addendum; certainly not with reference to the recreational fishery; with reference to the commercial fishery, just as I stated, their preference for some accountability measures. With that said and with an understanding that we will get to Addendum III fairly soon, **I would move to adopt in Addendum II, Section 3.1, commercial measures, trip limits, Option 2; and Section 3.2, recreational measures, seasonal measures, Option 2.**

Those are the only options we have apart from status quo; Option 2 on the commercial measures, the trip limits being the 500 pounds and not status quo, 250 pounds; and then the seasonal measures, Option 2 being no specific seasonal restrictions on the recreation fishery.

CHAIRMAN WHITE: Is there a second to the motion; Doug, thank you. Is there any discussion on the motion? Terry.

MR. TERRY STOCKWELL: I don't have any problem with the motion on the board for this fishing year only; but reflecting back on our discussion at the summer meeting, I raised a number of issues of concern that are going to be in the next addendum. I know staff was extremely short-staffed and these measures couldn't be included in this addendum, but my hope was to bundle them together into a single addendum.

I'm concerned about the uncertainty of the assessment. I'm concerned about the potential for an increased directed fishery. I'm concerned about the impacts on the federal waters fishery. **I don't know whether I need to make a motion to amend or whether Dr. Pierce would accept as a friendly that this motion would sunset on 6/1/13.** If that is acceptable or I get a second, I will provide my rationale.

CHAIRMAN WHITE: Terry, before you make that a motion, David, would you accept that as a friendly?

DR. PIERCE: Because I believe we're going to move forward with Addendum III that will deal with Terry's specific concerns and my own concerns and I'm sure concerns of others around the table, I have no problem with the sunset. I believe we can get the addendum done well in time before the sunset; so if that will give Terry a greater sense of comfort, then I would accept that as a friendly.

CHAIRMAN WHITE: Okay, is there anymore discussion?

MR. STOCKWELL: Just a quick follow-up, Mr. Chairman; thank you, David. I think that this sunset will provide the motivation to get the next addendum done in a timely manner. Having it in June will allow this board to meet at our spring meeting for final action, and it will allow us to review the fishing year and know whether or not we're chasing our tails or not.

CHAIRMAN WHITE: Is there any further discussion on the motion? Is there a need to caucus? I will read the motion: move to adopt in Addendum II Section 3.1, commercial measures, trip limits, Option 2; Section 3.2, recreational measures, seasonal measures, Option 2. Addendum II measures will sunset on June 1, 2013. Motion by Dr. Pierce; second by Mr. Grout. Pat.

MR. PATRICK AUGUSTINE: Are you going to ask the public, Mr. Chairman?

CHAIRMAN WHITE: Are there any members of the public who would like to speak on this motion? Seeing none, is there any need to caucus? **All those in favor please raise your right hand, 7; any opposition; any null votes; any abstentions, one abstention.** Bill.

MR. WILLIAM A. ADLER: Mr. Chairman, is it appropriate at this time to just make a motion to accept or approve the addendum as chose?

CHAIRMAN WHITE: I'm sorry; I was having a sidebar; could you say that again?

MR. ADLER: Is it appropriate for me to make a motion to approve the addendum with the things that were decided.

CHAIRMAN WHITE: Okay, first, I think I did say "motion carries seven, zero, zero, one", so that needs

to get on the record. Do we need a motion; didn't we just do that, Bob?

ACTING EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, I think you do because the way this is worded "move to adopt in Addendum II" and then it goes through and it doesn't really say "move to adopt Addendum II" and it is probably worthwhile to have a discussion about the effective date, which I assume is immediately, but I don't know that for sure.

CHAIRMAN WHITE: That would be appropriate, Bill, if you'd like to make a motion.

MR. ADLER: Yes, I'll make the motion to accept Addendum II with the parts chosen.

CHAIRMAN WHITE: Second by Pat Augustine. Is there any discussion on the motion? Bill, would it be okay to change "accept" to "approve"?

MR. ADLER: Yes, that's okay.

CHAIRMAN WHITE: Bill, was your intent to have this effective immediately?

MR. ADLER: Yes; since you're going to end next June, we might as well do it now.

CHAIRMAN WHITE: And is it acceptable to have that part of the motion?

MR. ADLER: Sure, add it all in.

CHAIRMAN WHITE: **Okay, I'll read the motion: move to approve Addendum II as modified today, effective immediately.** Motion by Mr. Adler; seconded by Mr. Augustine. Is there a need to caucus? Seeing none, all those in favor raise your right hand; any opposition; any null votes; any abstentions, 1 abstention. **Motion carries eight, zero, zero, one.** Okay, next on the agenda is consider Draft Addendum III. Toni.

CONSIDERATION OF DRAFT ADDENDUM III FOR PUBLIC COMMENT

MS. KERNS: At the last board meeting, board members expressed interest to have an addendum that would address the specification process and accountability measures for the winter flounder fishery. This addendum is specifically looking at

that task. It considers changes to the specification process for both commercial and recreational fisheries as well as considers in-season accountability measures for the commercial fishery.

When the New England Fishery Management Council and NOAA Fisheries set specifications for the winter flounder fisheries, they are usually three-year specifications that are subject to review especially in the third year. The council and NOAA Fisheries set sector and sub-sector ACLs. All federal ACLs are subject to accountability measures.

In setting their specifications, they estimate what they believe will be the state water harvest and take that off of the ACL. They do not consider this to be an ACL and they are not subject to accountability measures at all. The state water harvest then is controlled by the states using output controls, including trip limits, season, size and bag limits.

In order to respond to changes in the federal ACL, an addendum must be initiated to change any state water management measures. Potentially at times we may not be able to respond fast enough and so therefore we are not able to fully utilize state water harvest. An example can be what we have gone through in the past couple of months where the fishing year 2012 state water harvest was estimated to be 272 metric tons and the commercial trip limit was still at 250 pounds, where we just increased it to 500, but the fishing year has already been going on, so therefore we may not fully utilize that harvest level.

Also, for the state water harvest the board does not adopt a specific quota and there are no accountability measures to make sure that we do not go over what NOAA Fisheries estimates will be caught in state waters. If there is an overage of what they estimate will be harvested in state waters, they will just increase the harvest level for state waters for what they take off of the ACL, but there is on payback provision of that quota amount within their plan.

If the ACL is exceeded overall, those fish have to be paid back in a future year, but it is not specifically coming from any state waters quota. The technical committee recommended for the board to put in place accountability measures to control harvest to the federal estimated state water harvest level.

The options that are proposed in this document first look at commercial and recreational measures. The first option is status quo; use the addendum process to change any commercial or recreational measure. Option 2 is to put forward a specification process,

and we would set annual or multi-year specifications based on the federally estimated state water harvest.

The technical committee would annually review the best available data in order to make recommendations to the board on any changes to commercial or recreational management measures. Commercial measures that could be adjusted through board action would be trip limits, size limits and seasons. Recreational measures that could be adjusted through board action would be size limits, bag limits and seasons.

The next issue is looking at accountability measures. Option 1 is status quo; not to have any accountability measures in place for state water harvest. Option 2 is to put accountability measures in for the commercial fishery; establish a trigger for state water trip limits that closes state water fisheries when the trigger is reached. A trigger is met when a certain percentage of the estimated state water harvest has been hit, and we propose 85, 90 and 95 percent.

The board may want to consider how timely the commercial landings are done in each of the states when considering these percentages. There are no specific commercial or recreational monitoring requirements for harvest in the FMP, and so a lower percentage may be better utilized with no harvest requirements because the data will not be as precise.

As a side note, the technical committee did recommend paybacks; but because the board does not adopt a quota, the plan development team could not put in place an accountability measure of paybacks for a quota that has never been adopted. If the board does want to look into that recommendation from the technical committee, they would also have to consider setting an annual quota as well.

CHAIRMAN WHITE: Thank you, Toni. Are there any questions for Toni? David.

DR. PIERCE: Well, not so much a question; I wanted to add something to what Toni has provided regarding background information since most people around this table don't know how the New England Council in particular went about developing the so-called set-asides of in this particular case winter flounder for the non-federal permit holders.

I'm on the New England Council, Terry Stockwell, Doug Grout, Mark and David, we're on the New England Council and so there is a history here that is quite fascinating and we need to remember what that history is. A few years ago the council had to come up with hard quotas for all the different groundfish stocks with winter flounder Gulf of Maine being one notable example.

The problem in setting aside the amount of fish that would be caught by non-federal permit holders was that the database wasn't that great. Actually, it was quite poor in most cases for the groundfish stocks. For some stocks the data were better than others; for example, Gulf of Maine cod, Gulf of Maine winter flounder, perhaps, so much of the numbers that were selected for these so-called state waters ACL subcomponent – that is the annual catch limit subcomponent, the set-aside, was, best guess, best scientific information available, back-of-the-envelope calculations.

I believe that most of the states, if not all of us, were uncomfortable with the numbers, but something had to be comfortable, something had to be adopted and put in the plan to deal with some amount of state waters catch by non-federal permit holders. We ended up with the amounts that we now see in the Federal Register announcement every year relative to what is there for non-federal permit holders, and it can change from one year to the next subject to the specification process.

Frankly, it can be a bit strange in terms of how those numbers are handled by the National Marine Fisheries Service, and this is not a criticism. Gulf of Maine codfish, for example, just recently for the current fishing year, in order to provide for about a 6,700 metric tons for the Gulf of Maine cod, in order to provide for that number, to keep the commercial fishery in particular viable, NOAA Fisheries had to take away Gulf of Maine cod that had been set aside as part of the state waters ACL subcomponent, and it was done without any consultation with the states.

It was done, taken away and given to the federal permit holders. I think most of us, if not all of us, said that is fine, hey, federal permit holders are awful important, so if that is what has to be done, then do it. So, it is a dynamic thing. That is why I offer this information as an indication of why it is not a hard quota, why these numbers are a bit squishy; some squishier than others.

So that is just a little bit of background relative to how these numbers were derived. They're not hard

quotas. They're assumed amounts of catch that would occur from non-federal permit holders. Thank you, Mr. Chairman, for allowing me to provide that explanation.

MR. DAVID SIMPSON: My question or point is more about the term "AM" or "accountability measure" that was in the slide. If I understand the way you described it, Toni, it is not an AM in the sense that the federal government uses that term. It sounds more like it is a quota management measure or a harvest control measure, and I want to make sure that we don't use the term for different things and cause confusion among ourselves and with the public.

MS. KERNS: I can change the language. If the board does move forward with the document, I can change it to a harvest control. I am not sure quota management would be the best description since there is no quota unless the board goes in that direction.

MR. GROUT: Well, I can see it being called proactive because we're talking about establishing a trigger for state waters commercial trip limits, but we would close state waters when it reaches a certain percentage, so that is a proactive accountability measure. That is just sort of my aside; I think it is an accountability measure.

My bigger concern here with state waters non-federally permitted is our ability to collect data and have that data in hand that will tell us when that trigger is hit. What is the reporting requirement? I assume we might do this with dealer data. What is the reporting requirement within I have to say primarily state? Do you have like state dealers; do they have weekly reporting, monthly reporting? What is the timeliness of the reporting for dealers on this as to whether we could even implement something this as an in season? Do you have any idea; does Toni have any idea?

CHAIRMAN WHITE: David Pierce, could you answer that?

DR. PIERCE: Yes, in Massachusetts' waters for those non-federal permit holders we have trip-level reporting, trip-level reporting that is supposed to be done I believe every month. It is timely. We know what is going on obviously not on a daily basis, but we do get that reporting so we know what is happening on a monthly basis.

Depending upon on how things evolve in the future regarding ASMFC management of winter flounder – and never mind that, council management of all the groundfish species, we may have to modify that so that the reporting period is even more timely, but for now it seems to be fine with the monthly reporting.

MR. GROUT: If the data comes in monthly, I think we might have to look to potentially a more conservative option here than 85 or 95 percent because a lot of landings can come in a month. A lot of landings can come in a week. I have no idea how quickly that comes, but we might want to be looking at maybe closing at 75 or changing a trip limit or closing it at 75 percent. Just a thought and if we need a motion, I will do that.

MR. ADAM NOWALSKY: We're talking specifically about Gulf of Maine measures here or would this apply to all three sub-stocks?

MS. KERNS: From the guidance that I received from the board, this would apply to all three sub-stocks. It doesn't have to be done every year, but it gives the tool in the toolbox to be done for all the stocks.

DR. PIERCE: I agree with Doug in terms of the need to be more cautious as to how we move forward as to when the trigger would be pulled. With winter flounder, of course, the fishery is seasonal in nature so it is not as if it is every day, every day, every week. It is seasonal in nature, so that does help us out.

But, anyways, regarding a motion, Mr. Chairman, I would like to make one that references one of the options in the addendum. Actually it is a substitute for – I assume this is how you want to proceed. Okay, under Section 3.2 where it says accountability measures, Option 1, status quo; then Option 2, commercial accountability measures; for Option 2 it says very specifically that we would close state waters when the trigger is reached, and I think that is inappropriate.

It makes no sense to bring that out to public hearing. It makes no sense to close down state waters especially because the 250 pounds that we discussed earlier on and at our last meeting as noted by Toni is basically a bycatch amount. Why not reduce the fishery down to a bycatch amount as opposed to closing the fishery and then having bycatch occurring while they're fishing for something else and then throwing the flounder over the side.

It seems to me that it makes more sense to go in a different direction and to have a number of options regarding the degree of caution we would adopt and bring out to public hearing for comment. **I would move that we delete the language in Option 2, commercial accountability measures, and have in its place “reduce the 500-pound trip limit back to 250 pounds when either 75 percent, 85 percent, 90 or 95 percent of the Gulf of Maine” – this is for all stocks – okay, “when 75 percent of the winter flounder state waters ACL subcomponents are projected to be landed.”**

I will read that again and there is something else I've got to add to that, so move to delete the language – reduce the 500-pound trip limit to 250 pounds when either 75, 85 – okay, good, **and if the subcomponents are exceeded, beginning the following fishing year, May 1, with a 250-pound trip limit.** That is my motion, Mr. Chairman, which is an in-season accountability measure and a measure that would deal with any attainment of the – or exceeding, that is – and the exceeding of the ACL subcomponent, with the emphasis being on 250 pounds as a bycatch. Let's not talk about shutting down the fishery entirely; let's focus on bycatch with the alternative being that which we just did, increase it up to 500 pounds consistent with the most recent assessment information.

CHAIRMAN WHITE: Is there a second to that motion? David Simpson seconds. Toni has raised some concern that this motion is pretty specific to the Gulf of Maine stock and would this give the flexibility of tools in the toolbox for other stocks? I guess I throw that out there as a question.

DR. PIERCE: Let me clarify. I made the motion with the intent to deal with all of the stocks because that is what Toni said initially; that this was an addendum that would deal with all of the components, all the stocks. My initial thinking was to keep it specific to the Gulf of Maine cod stock. Now if that is a preferred way to go, maybe that is the preferred to go especially in light of some recent notification from the National Marine Fisheries Service about the Southern New England stock, and I can't recall the exact language.

If I may, Mr. Chairman, in order not to complicate matters, I think it would make more sense to make this specific to the Gulf of Maine cod stocks since it does follow up logically on what we just did

with Addendum II. I would say move to delete the language in Option 2, commercial accountability measures, and in its place reduce the 500-pound Gulf of Maine winter flounder trip limit to 250 pounds when either 75 percent, 85 percent, 90 percent or 95 percent of that state waters ACL subcomponent is projected to be landed.

Of that, get rid of the winter flounder; of that state waters ACL subcomponent is projected to be landed; that is right, is projected to be landed not “are”; is projected to be landed and if the subcomponent is exceeded – all right, that makes it specific to the Gulf of Maine stock. If anyone cares to make any reference to the other stocks, then, fine enough, but that may become more complicated, as I said, in light of the more uncertain status of that Southern New England stock status.

CHAIRMAN WHITE: Are those changes okay with the seconder? You’re nodding in the affirmative. David Simpson, you want to speak to that?

MR. SIMPSON: Yes, I think this makes good sense because recall that in Southern New England in state waters we have a 50-pound bycatch or 38 fish, whichever you prefer, limit already, so I don’t know what more we can do. We arrived at that 50 pounds as the lowest level of unavoidable bycatch that is probably going to get thrown over dead, anyway.

If you look at the stock assessment and the number of dead discards in federal waters, it is substantially above that. With the greater latitude we have in the Gulf of Maine, I think this makes perfect sense, 500 pounds but drop down to 250 and make sure we’re not undermining the federal management plan. I think this makes perfect sense.

ACTING EXECUTIVE DIRECTOR BEAL: Just a question maybe for my own clarification, but the motion starts out and it is working on the assumption that the Gulf of Maine winter flounder trip limit is 500 pounds. As the board moves forward and sub-ACLs change over time, is 500 pounds always going to be the initial trip limit? At some point is this board going to say, well, you know, at 500 it really switched to a targeted fishery, so 400 or 350 is the right initial trip limit or go the other way where the subcomponent for state waters has gone up quite a bit and the board says, well, you know, we could even go to 750 or a thousand pounds, whatever it may be, but is that 500-pound trip limit the starting point for all seasons?

CHAIRMAN WHITE: David, would you like to respond to that?

DR. PIERCE: Yes, I was thinking that if this motion passes, then another option would be to provide flexibility for the board to make a change in the upper number during the specification process, so that would give us the flexibility to depart from 500 pounds if indeed that was necessary.

Although I find it hard to believe that we would be 500 or 250 – when we start to slice the pie a little bit thinner, one begins to wonder what it means, especially because of what happens in federal waters and in state waters by federal permit holders who fish with no trip limits and no at-sea sampling coverage or very little observer coverage, maybe 25 percent of all the trips, and perhaps an inadequate amount of monitoring of what they’re actually landing.

So what happens in state waters, frankly, is relatively, I think, minor compared to what may be happening in federal waters with our not really understanding what is happening in federal waters. Again, I understand Bob is saying, but it may not be necessary for us to get too fine tuned on this.

MR. AUGUSTINE: Mr. Chairman, would it be too open if you were to take the 500 pounds out and it read commercial accountability measures and in its place reduce the Gulf of Maine winter flounder trip limit as appropriate. In other words, as Bob suggested, why put a cap on it? This way you don’t need another option. It gives the board the flexibility to either go up or down.

That would follow through then when you had a trip limit of 250 pounds. Could we not either use percentages as opposed to putting in a top number or a bottom number, because it goes on to say and if the subcomponent is exceeded, begin the following year you want to start with the 250-pound trip limit when in fact you may not be able to start with a 250-pound trip limit if in fact you have far exceeded the subcomponent quota. It is very self-limiting on the one hand but it is guaranteeing a minimum of 250 pounds on the other hand when in fact you may not even be eligible to catch that if the subcomponent has been surpassed by a great number. Does that make sense, Mr. Chairman?

CHAIRMAN WHITE: Pat, I think that makes a lot sense. David Pierce, would you consider that?

DR. PIERCE: I would and in consideration of that suggestion, if the seconder doesn't object, it could read "and in its place reduce the Gulf of Maine winter flounder trip limit set during the specification process to 250 pounds." Would that do it?

CHAIRMAN WHITE: Toni would like to comment.

MS. KERNS: David, in order to get your concept of the reduction to 250 pounds specifically; I think it would be cleanest if we had sort of two issues to consider under this harvest control. One is to establish that tool in the toolbox that says when we hit a certain trigger, we're going to reduce the trip limit; and then, secondly, for fishing year 2012, since that is how long that 500-pound trip limit is in place for, we would set that trigger at whatever it is we deem for fishing year 2012; and that trip limit would be reduced to 250 pounds.

First is establishing the tool in the toolbox that just says when you hit a certain trigger, you would reduce the trip limit; and then, secondly, for the fishing year we're going to reduce to 250 pounds. Annually when you did the specifications, this trigger and amount that the trip limit lowers to would be set. Under the annual specifications I would need to add an additional option that said trigger percentages.

DR. PIERCE: If I may, Mr. Chairman, I'm not quite following all of Toni's logic relative to how I would have to change this motion to make it consistent with her logic, so I'm tempted to leave it as it is because it is specific to the specification process when we would determine whether it is going to be 500 pounds or maybe some other number. The 250 pounds would stand because that is the bycatch amount.

Then we would have again the 75 percent, the other percentages that would enable us to drop it down from whatever is set during the specification process to 250 pounds if we deem it necessary because the catch rates happen to be higher than what they should be. I prefer to leave it as is.

CHAIRMAN WHITE: Are there any other comments on the motion? Peter.

MR. PETER BURNS: Mr. Chairman, I appreciate Dr. Pierce's efforts to add some teeth to the accountability measures here for this and adding the triggers that are in place. I think the only thing that gives me a little bit of concern is waiting until 95

percent to make these adjustments given the uncertainties with reporting and such.

I think we need to keep in mind that this isn't a TAC. This is just an estimate of what the council believes that the states will catch; so that if this is exceeded, any overages are going to be paid back pound for pound against the entire ABC for the fishery, which will cut into probably the federal quota for this stock. It wouldn't necessarily go against or lowering any fish that might be available for the state in the following year. Just something to keep in mind that maybe we could be a little bit more conservative on the trigger percentage. Thank you.

CHAIRMAN WHITE: Peter, would you have any suggestions on what would be the top limit you would be comfortable with?

MR. BURNS: I would say the 85 percent is a good ending point.

DR. PIERCE: I only have 85, 90 and 95 in the motion because that is what is before me. Toni offered that up. I likely would never support the 95, but this is to go to public hearing and public comment. We would get comments at that time, but I'm sure the comments would reflect – many of the comments would reflect the specific concerns that Peter has offered up. It's up to you, Mr. Chairman, a wide range of percentages or strike the higher values out. I am open to any suggestion on that but subject to your guidance.

CHAIRMAN WHITE: I am going to take the next three in the order of which people have not spoken. Terry Stockwell.

MR. STOCKWELL: Thank you, Peter; and following my train of thought I would like to know if Dr. Pierce would consider dropping the 95 percent. It is just a non-starter to me from the very beginning. I realize we don't want to cherry-pick our options here during the public comment period, but why take out something to public hearing that is not going to ever likely go through this board?

DR. PIERCE: He speaks to my heart, Mr. Chairman, and I would strike out 95 percent.

MR. GROUT: Mr. Chairman, I think this has been clarified for me but those three percentage options are ones we're going to take out to public hearing; and then when we approve the addendum

after the public hearing, we will choose one of those to go into the final document; is that the understanding?

The second question I have, and it sort of gets to some of the discussion that we were having about setting a trip limit at the beginning of the season; and then if we find out that we've hit whichever trigger we're going to hit, we're going to reduce it.

What happens if we – in this case it says we're going to reduce to 250 pounds – well, what happens if the state-level ACL in the future gets so low that we decided we're going to set the trip limit at the beginning of the year to 200 pounds? It says if we hit the trigger, we will go to 250.

That is where I think Toni was coming from here that we need to have something set in the specifications that says at the beginning of the year we're going to set a trip limit of some amount; and if we hit that 75, 80 or 90 or whatever percent, we're going to reduce it and we will set ahead of time what we're going to reduce that by.

Now, the only way I could see this motion going forward is if it is the board's intention here that we never go below 250. If this goes forward and we're going to set a specification of a trip limit, we're clearly going to stay at 250 and we will never go below that even if we're approaching – we won't even have an accountability measure, if you see what I mean at that point, because you won't go below 250.

Unless our intent is never ever to go below 250, I think we have to make a modification here to just to say to set in the specification process the trip limit at the beginning of the season and what the trip limit will be reduced to when we hit that accountability measure, which could potentially make it below 250, but that would be up to the board at the specification process. I would like to make a motion to change that.

CHAIRMAN WHITE: First, Doug, could we see whether David would take a friendly on that?

DR. PIERCE: I would rather see what Doug has to offer as a motion to amend.

MR. GROUT: All right, my motion would be to amend that we would reduce the Gulf of Maine – give me a minute here to look at this.

CHAIRMAN WHITE: Do you want to work on that? I had Pat Augustine who wanted to make some comments while you write something down.

MR. AUGUSTINE: Doug, you're doing exactly what I suggested we try to do, but just change the language in there to set during the specification process to a level as recommended by – if it is the technical committee or whoever is going to do it for us. That way it leaves an open door. It could be down to a hundred pounds; it could be closed; or it could be significantly higher. I think taking the 250 out will give us that flexibility that you're looking for, Mr. Chairman.

CHAIRMAN WHITE: Thank you, Pat; I think that makes sense and let's wait for Doug to fine tune his wording. Do you have something, Doug?

MR. GROUT: I'll see if this works and I'm a little bit concerned about the parliamentary procedure on this. The cleanest way that I can see to do this is in two phases; one, that we would essentially go back to the original language that is in Option 2 and then we have to add another specification item up in the specification, so what **I'm going to try and do here is start with under Section 3.2, under Option 2, a motion to substitute with the wording that says, under commercial accountability measures, to establish a trigger for state waters commercial trip limits that would reduce the trip limit when the trigger is reached.**

And then another sentence – and this goes back essentially to the original motion that says a **trigger is met when X percentage in one of the options below of the estimated harvest is reached.** Then we would still have – but now the percentages, the board is considering triggers at the following levels and it would be 75, 85 and 90 percent based on the discussions before. Then I will have a follow-up motion that in the setting of the specifications, under commercial measures that could be adjusted through board action; we would add a five, to set a trip limit associated with the trigger.

CHAIRMAN WHITE: Doug, would you add 80 percent in there, too, just so you have –

MR. GROUT: Did we have 75, 80 and 85; is that what was up?

CHAIRMAN WHITE: Okay, you were matching

—

MR. GROUT: Yes, 75, 85 and 90; that is what it should be, yes.

CHAIRMAN WHITE: All right, David, would you comment whether you would take that as a friendly?

DR. PIERCE: Well, I have a suggestion for Doug to see if it makes matters simpler because that is a lot of language and it is not quite clear what is meant. The same word is used a number of times, and your intent is not clear. Perhaps, if I may, Mr. Chairman, just make a simple suggestion to Doug to see if it is consistent with his intent.

That would be if you could scroll back up to the motion that I made; how about after 250 pounds, “set during the specification process to 250 pounds, in parentheses, or a lower amount if appropriate, and then close parentheses. That would give us the ability to not go to 250 if something happens. If we get some additional information, a new ACL subcomponent to set the state waters that is much lower, that would then enable us to not go with the 250 pounds but to some lower number; or a lower amount, if appropriate.

CHAIRMAN WHITE: Doug, does that meet your needs?

MR. GROUT: Personally I think that makes it more complicated and actually gives us less flexibility, David, because I think what if we have a situation where we decided that based on experience down the road – and again we’re looking at this a little bit beyond the immediate future – that we set an initial trip limit at 800 pounds because the stock level has gone up again, then we are going to be lowering it to 250.

I’m just thinking by doing it the way I was suggesting, that give the board at the time of the specification process the ability to set whatever the initial trip limit is and then the trigger – whatever the trip limit would be when we hit the trigger. It gives us much more flexibility.

DR. PIERCE: Mr. Chairman, subject to your approval, it would be useful if Doug would read his motion out loud because I don’t think it says what he intends. It is confusing to me; so if he would read it, if you’re satisfied with it, fine, but I don’t think it makes sense.

CHAIRMAN WHITE: Doug, would you read your motion to amend?

MR. GROUT: I will be glad to, and again keep in mind there is a follow-up motion that is going to be to amend the specifications process. Okay, this is only dealing with the accountability measure. We are going to move to substitute under Section 3.2. Option 2 under the commercial accountability measures; establish a trigger for state waters commercial trip limits that would reduce the trip limit when the trigger is reached.

Then the second sentence is a trigger is met when X percentage – and there are three percentages that we will have the option to choose from in the addendum, when we approve the addendum – when X percentage of the estimated state waters harvest is reached.

MR. AUGUSTINE: Point of information, Mr. Chairman.

CHAIRMAN WHITE: David Pierce, I need to know at this point whether this is gone to – we’ve gone beyond stretching the friendly where I’m comfortable so either you accept this as a friendly or I’m going to ask for a second.

DR. PIERCE: Well, I think it should be a motion to substitute; however, the language is incorrect at the end. I suggest it should be of the estimated harvest by non-federal permit holders; because federal permit holders catch fish in state waters, so if you could clarify that, Doug.

MR. GROUT: I would definitely take that as a clarification, estimated non-federally permitted state waters harvest.

CHAIRMAN WHITE: Okay, is there a second to this motion to substitute; Pat Augustine. Is there any discussion on the motion? Peter Burns.

MR. BURNS: Mr. Chairman, again, I appreciate the efforts of the folks here on the board to add some strength to the accountability measures here in Option 2, but I just want to point out – I think this is going in the right direction, by the way, but I just want to point out that we have sort of deviated a little bit from Option as it was written in the initial document where when the trigger was reached, the percentage, that would call for the states to close the fishery.

Here we have introduced the use of trip limits, which is good, but it only reduces the trip limit and it doesn’t really close the loop on how the

fishery would be closed or what kind of projections would be made to maybe make a date for closure when a certain percentage trigger is reached. I can see if 90 percent was chosen and we reduced the trip limit by however much we want to reduce it by, given unaccounted for landings and other things, that could get us into a sticky situation for the following year.

CHAIRMAN WHITE: Are there any other comments to the motion? Are there any comments from the public on the substitute motion? Seeing none, any need to caucus?

(Whereupon, a caucus was held.)

CHAIRMAN WHITE: Okay, are we ready? All those in favor to the substitute motion please raise your right hand; opposed; null votes; abstentions, 1 abstention. **The motion passes seven, zero, zero, one. Doug.**

MR. GROUT: Okay, I have another motion, Mr. Chairman.

CHAIRMAN WHITE: Sorry, **we now have to vote on the main motion now that the substitute becomes the main motion.** Is there any discussion on the main motion now? Seeing none, is there any need to caucus?

(Whereupon, a caucus was held.)

MR. SIMPSON: In terms of process, when we decide what the trip limits were and all that; when will the board decide those things?

MS. KERNS: As Doug indicated before, he would have a two-part motion and we would do an annual specification of these measures following the release of the federally set ACLs. I think Doug plans on adding to the annual specifications the trip limit amount for the trigger.

MR. AUGUSTINE: Mr. Chairman, to Peter's point, we're assuming that when we reach that trigger, the states, if they have to close the fishery, will close the fishery; is that what we're assuming? That was the question he asked; and I went to according to your original option, under 2 it said establish a trigger for state water commercial trip limits that would close state water fisheries when the trigger is reached, and then we went on to say the trigger is met when X option – so, Doug, in our motion were you inferring that or were you just referring that we would go to a

reduction? Mr. Chairman, can we get an answer on that?

MR. GROUT: No, the motion that I made referred strictly to the trip limits, so adjustment to trip limits. I thought the original amendment that Dr. Pierce was making was to get away from closing the fishery and just reducing the trip limit to try and avoid moving forward. That is one of the reasons that I think it is important that we have 75 percent level in there. Quite frankly, I don't support a 90 percent level either with this kind of – but it strictly the trip limit.

MR. AUGUSTINE: That was why I agreed with the motion at 75 percent, but again is the language strong enough to indicate that we would shut the fishery down if we had to? I know it is not in this motion, but I guess I want to beat it to death because it is a public document that is going to go out there. Do we want that as a part of the public document or let the public come back to us and say there is nothing in there that would indicate if you reached your X number that you wouldn't close the fishery down. Just clarification, Mr. Chairman.

MS. KERNS: No, there is nothing in this document if this main motion passes to close the fishery. One of the reasons the plan development team did make that recommendation to have those triggers, the percentages there was because we will not be able to account for in-season recreational harvest. When that state waters harvest is estimated, it is estimated for both the commercial and the recreational harvest, and so therefore we tried to add a buffer in there for the recreational harvest.

CHAIRMAN WHITE: Pat, I think there is – in this we certainly could lower the number so low that in essence it is a closing. We could mirror Southern New England. Okay, are we ready to vote? All those in favor raise your right hand; opposed; null; abstentions, 1 abstention. **The motion passes eight, zero, zero, one.** Doug, are you ready for another motion?

MR. GROUT: **Yes, my second motion is to amend Section 3.1, Option 2, to include under the commercial measures that could be adjusted through board action; add an Item 5, trigger trip limits.** If that is clear to people, we're talking about the trip limit that we would be reducing to.

CHAIRMAN WHITE: Is there a second to this motion; Terry Stockwell. Is there discussion on the motion? No discussion; are we ready to vote? Is there a need to caucus? Seeing none, all in favor raise your right hand; those opposed; null votes; abstentions. **The motion passes eight, zero, zero, zero.** Doug, go ahead.

MR. GROUT: Just one more question and it brings up something that was brought up by Pat. When we pass this addendum, no matter what is in here, we don't have specifications right now. When would we be developing specifications; at the time this motion passes because otherwise we won't have anything in place for the 2013 fishing year?

MS. KERNS: Because I'm new to winter flounder, I do not recall off the top of my head if the ACL specification included the 2013 and 2014 fishing year.

MR. GROUT: Yes, I think the point is in federal waters we've already set – well, we're going to be setting the specifications here soon, but our recreational measure trip limits and commercial trip limits have not been set by us because right now we have an addendum with a 500-pound trip limit that is going to sunset in June.

We will need either in this addendum or somewhere in the process before June to set the trip limit for 2013 and the trigger, and so we might, just to be complete on this – and I'm asking you as a staff member that maybe we should have a second section in here, another section in here that says the trip limit and the trigger trip limit will be X for the fishing year 2013 beginning in May.

DR. PIERCE: I would turn to Terry on this as chair of the groundfish committee. I think that in the next framework we have the specifications for state waters ACL subcomponents for 2013 and 2014 as well, so we know what they are. I think they're status quo for Gulf of Maine winter flounder, but I would have to look at the table to verify that.

If nothing changes via the framework that the council is working on and if nothing changes subject to the National Marine Fisheries Service review and then implementation, I don't think there will be a need for us to make any wholesale changes in the numbers.

MR. STOCKWELL: I don't remember the specifications off the top of my head either, but we are scheduled to vote on them in November. The

vote might be delayed until December because of staff issues, but, Toni, I can get back to you.

MS. KERNS: If we don't have the actual specifications and the board wants to release this document for public comment for the winter timeframe, I think that we could delay the document for going out for public comment to a certain time period; but if we don't get the specifications before that, I think it would be best to have the board not include those specifications in this document.

If you approve annual adjustment through specification, then after you approve this document, you could then set the specifications for the 2013/2014 fishing year after approval of this document because you would have that ability to do so through board action. I think probably we wouldn't want to delay the release of this document any later than December 10th, probably. I wouldn't release it any later than that because we want to have it out for at least 30 days prior to the February board meeting and be able to establish public hearings, et cetera.

MR. GROUT: I'm fine with that as long as we keep that in mind when we pass this, that we need to have an action item on the agenda before June 1st that we're going to set the specifications.

CHAIRMAN WHITE:: Okay, are there any other additions or changes to the addendum? Adam.

MR. NOWALSKY: Mr. Chairman, I just need to go back to my earlier question about the intention of this. Going back to the summer meeting when Addendum II was initiated, the request at that time was to initiate an addendum specifically to address Gulf of Maine commercial and recreational measures.

That was specifically what that request was at that time. I understand the decision to go ahead and split this into two pieces in Addendum II and III and it looks like we're going to get more flexibility here. I have to ask the question still about going through this entire process for the other stocks as well and how we got to that point.

Going back to Addendum I basically got us to 12 inches and two fish recreationally and now we're basically saying, well, Southern New England is also going to implement an annual specifications process, which is basically what this addendum says. I had heard earlier the comment that we

may specify but this addendum says the board will annually set commercial and recreational specifications.

I am just trying to get clear in my mind if there is a need to apply all of this to Southern New England at this time; and if so, how we got to a point where the charge from the summer meeting was to develop this addendum for the Gulf of Maine and then it became we're going to apply it to all of the stocks and how this is actually going to work with the Southern New England component here as well.

CHAIRMAN WHITE: How this transpired, Toni and I had discussions about going forward with this addendum, and I felt it might make sense for Southern New England to have the tools in the toolbox for the time when the stock recovers and you're going to be able to increase things. We don't have to do it that way; so I guess if Southern New England is uncomfortable with that, this could be just for the Gulf of Maine. David Pierce.

DR. PIERCE: I would suggest that this board would not be in the position to deal with that Southern New England issue at this time largely because of what the National Marine Fisheries Service has just announced regarding the Southern New England stock. I can turn to Peter or Bob for elaboration but I think it is kind of bad news for Southern New England winter flounder.

We're already extremely restricted with that Southern New England stock; so if there is any suggestion that we should make some modifications on how we deal with that stock in anticipation of some positive news, that is not forthcoming, and I suspect it won't be forthcoming for quite a long time. Again, I think I stated it correctly regarding what the Service has just released on that stock.

CHAIRMAN WHITE: Does someone want to make a motion to – is there agreement around the table that this will apply only to the Gulf of Maine stock? I'm seeing all heads nodding in the affirmative. Okay, Terry.

MR. STOCKWELL: Mr. Chairman, given that agreement, **I would make a motion to approve Draft Addendum III for public comment.**

CHAIRMAN WHITE: Terry Stockwell made the motion; seconded by Pat Augustine. Is there any discussion on the motion? None from the board; is there any member of the public that would like to make comments on this motion? Seeing none, do we

need to caucus? Seeing no request for caucus, all those in favor please raise your right hand; any opposition; any null votes; any abstentions. **The motion passes nine, zero, zero zero.** Toni, do you want to talk about timing going forward on this?

MS. KERNS: I will discuss further with Terry what we think may be – or get in touch with the New England Fishery Management Council just to confirm whether or not we could include the 2013/2014 specifications. If we can, then I need to delay a little, but I will do so. We release the document this winter. I will contact the states to see who would like to have public hearings and then we will review the public comment at the February meeting and consider final action at the February meeting.

CHAIRMAN WHITE: Okay, thank you, Toni. The next agenda item, election of a vice-chair. Are there any nominations? David Simpson.

ELECTION OF A VICE-CHAIR

MR. SIMPSON: I would nominate Mark Gibson.

MR. AUGUSTINE: **Move to second and close nominations and cast one vote, Mr. Chairman.**

CHAIRMAN WHITE: Congratulations, Mark. Is there any other business to come before this board? Toni, you have something?

OTHER BUSINESS

MS. KERNS: Several board members have been alluding to the Federal Register Notice that the Southern New England stock of winter flounder is no longer overfishing but remains overfished, and the stock's rebuilding plan has not resulted in adequate progress towards the rebuilding of this stock. That notice was included in your briefing materials. I just wanted to let everybody know that it was there. That's all.

ADJOURNMENT

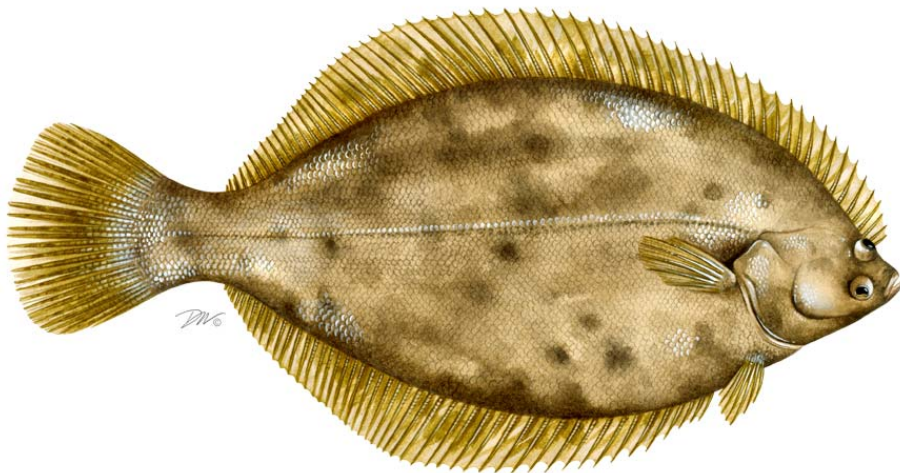
CHAIRMAN WHITE: Okay, thank you, Toni. Seeing no other business, a motion to adjourn.

(Whereupon, the meeting was adjourned on October 22, 2012.)

2012 REVIEW OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION'S
INTERSTATE FISHERY MANAGEMENT PLAN FOR

WINTER FLOUNDER
(Pseudopleuronectes americanus)

2011 FISHING YEAR



Draft for Board Review
February 2013

Prepared by the Winter Flounder Plan Review Team:
Sally Sherman, Maine Department of Marine Resources
Melissa Yuen, ASMFC, Chair

2012 Review of the Atlantic States Marine Fisheries Commission's
Interstate Fishery Management Plan for Winter Flounder
2011 Fishing Year

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I. Status of Fishery Management Plan in Fishing Year 2011

<u>Date of FMP Approval</u>	Original FMP (October 1988)
<u>Amendments</u>	Amendment 1 (November 2005) <i>Completely replaced all previous management documents</i>
<u>Addenda</u>	Addendum I (May 1992) Addendum II (February 1998) Addendum I to Amendment 1 (May 2009)
<u>Management Units</u>	Atlantic States Marine Fisheries Commission: two inshore stocks in the Gulf of Maine (GOM) and Southern New England/ Mid-Atlantic (SNE-MA). New England Fisheries Management Council: one stock in offshore waters of Georges Bank (GBK)
<u>States with Declared Interest</u>	Maine New Hampshire Massachusetts Rhode Island Connecticut New York New Jersey Delaware
<u>Active Boards/Committees</u>	Winter Flounder Management Board Advisory Panel Technical Committee Plan Review Team

The Atlantic States Marine Fisheries Commission (Commission) authorized development of the first Fishery Management Plan (FMP) for Winter Flounder (*Pleuronectes americanus*) in October 1988. The purpose of the plan was to: 1) address management of inshore stocks of winter flounder; and 2) prominently consider habitat and environmental quality as factors affecting the condition of the resource. The FMP includes states from Maine through Delaware, although Delaware has been granted *de minimis* status (habitat regulations are applicable, but fishery management is not required).

The Commission manages inshore winter flounder as two stocks: the Gulf of Maine stock in waters north of Cape Cod, and the Southern New England/Mid-Atlantic stock in waters south of Cape Cod to the Delaware-Maryland border. The decision to consider only inshore stocks of winter flounder was based upon the Commission's focus on fisheries in state waters, and the differences in biological characteristics from the offshore stock in Georges Bank, which is managed by the New England Fisheries Management Council (Council). Although a large percentage of landings are presently taken from federal waters, this species migrates inshore every winter to spawn. Increased fishing mortality on spawning populations in state waters will have a direct impact on the entire GOM and SNE/MA stock complexes.

The original FMP and Addendum I called for reductions in fishing mortality on winter flounder. It allowed states the flexibility to achieve those reductions based on the life history characteristics of the particular stocks inhabiting each region. Implementation of the plan required the interaction and cooperation between state fishery management agencies, National Marine Fisheries Service, the Council, and the Commission.

Although all states submitted plans that were approved by the Winter Flounder Management Board (Board), results from a 1995 stock assessment concluded that none of the states achieved a fishing mortality rate corresponding to F_{30} . Subsequent analyses in early January 1997 indicated that fishing mortality on a coastwide basis was slightly higher than the F_{30} target for the SNE/MA stock complex. Fishing mortality in the GOM stock was presumed to be higher and the spawning stock biomass at a low level, indicating that the GOM unit might be in greater need of rebuilding than the SNE/MA unit.

In February 1998, the Board approved Addendum II to the FMP. Addendum II adjusted the implementation schedule for management measures by the participating states and called for plans to reach the target fishing mortality goal for rebuilding (F_{40}).

Amendment 1 (2005)

In May 1999, the Board acknowledged that it was necessary to update the Interstate FMP for Inshore Stocks of Winter Flounder through an amendment. The original plan and addenda did not prove successful in rebuilding inshore winter flounder populations. The FMP also needed an update to reflect the goals and objectives of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), which was established in 1993, after the original FMP was approved. The ACFCMA governs preparation and adoption of interstate fishery management plans to provide for the conservation of coastal fishery resources, and requires states to implement and enforce FMPs. The Board further noted that an upcoming stock assessment would likely provide new information on the status of winter flounder stock complexes. After the assessment was completed in late 2002, the Commission began development of Amendment 1 in February 2003.

Amendment 1 to the Interstate FMP for Inshore Stocks of Winter Flounder, approved in November 2005, completely replaced all previous Commission management plans for inshore stocks of winter flounder (see Section V). It focused on joint management of winter flounder between the Commission and Council, and was designed to rebuild and maintain spawning stock biomass at or near target biomass levels. In addition, Amendment 1 prioritized

restoration and maintenance of essential winter flounder habitat. The new plan established the following goals and objectives:

Goals

- To promote stock rebuilding and management of the winter flounder fishery in a manner that is biologically, economically, socially, and ecologically sound.
- To promote rebuilding of the inshore and estuarine component of the winter flounder stock.

Objectives

- 1) Manage the fishing mortality rates for the Gulf of Maine and Southern New England/Mid-Atlantic Stocks to rebuild the stocks and provide adequate spawning potential to sustain long-term abundance of the winter flounder populations.
- 2) Manage the winter flounder stocks under an ASMFC rebuilding plan designed to rebuild and then maintain the spawning stock biomass at or near the target biomass levels and restrict fishing mortality to rates below the threshold.
- 3) Establish an interstate management program that complements the management system for federal waters.
- 4) Foster a management program for restoring and maintaining essential winter flounder habitat.
- 5) Establish research priorities that will further refine the winter flounder management program to maximize the biological, social, and economic benefits derived from the winter flounder population.
- 6) Restore the winter flounder fishery so that inshore recreational and commercial fishermen can access it throughout its historical range and at the historic age structure.

Addendum I to Amendment 1 (2009)

Addendum I was approved in May 2009, following the 2008 GARM III stock assessment. GARM III indicated that the SNE/MA spawning stock biomass was only 9% of the target and the GOM stock was likely to be overfished and experiencing overfishing at the time. For the GOM, Addendum I required an 11% reduction in fishing mortality for the recreational sector and a 250 pound possession limit for non-federally permitted commercial fishermen (estimated 31% reduction in harvest). Recreational reductions may be achieved by using possession limits, seasons, or other measures. Commercial measures under the final interim rule were intended to achieve at least an 11% reduction in fishing mortality. For the SNE/MA stock, Addendum I established a two fish recreational bag limit with current size limits and seasons maintained and a 50-pound possession limit for non-federally permitted commercial fishermen. Both measures allow for the consistent application of management measures in state water fisheries and are intended to complement the federal interim rule which prohibits any take of SNE/MA winter flounder from offshore waters (an estimated 62% reduction in fishing mortality). The Board set bag and possession limits that are low enough to discourage directed fishing, but allow fishermen to keep their winter flounder bycatch. The two fish recreational bag limit was estimated to achieve approximately a 50% reduction in harvest, while the 50-pound commercial possession limit is estimated to achieve approximately a 65% reduction in harvest.

II. Status of Stocks

The most recent benchmark stock assessment for all three winter flounder stocks was the 52nd Northeast Regional Stock Assessment Workshop (SAW52), which convened in Woods Hole, MA in June 2011. It included data through 2010. The Stock Assessment Review Committee (SARC) determined that the SNE/MA stock, with a scientifically sound assessment, was overfished and not experiencing overfishing in 2010. The GOM stock did not appear to have experienced overfishing in 2010; however, the overfished status remained unknown. Following a scientifically credible approach, the offshore Georges Bank (GBK) stock was found to be not overfished and not undergoing overfishing in 2010. The previous stock assessment for winter flounder was the Groundfish Assessment Review Meeting (GARM) III in 2008, which was not accepted.

Gulf of Maine

SAW52 concluded that **GOM winter flounder was likely not experiencing overfishing, while the overfished status remained unknown.** The overfishing definition was determined by comparing the 2010 catch (195 mt) to a survey-based swept area estimate of biomass for winter flounder larger than 30 cm in length (6,341 mt). The exploitation rate was estimated to be 0.03 in 2010, which is lower than the threshold exploitation rate of 0.23. This $F_{\text{Threshold}}$ was derived by using $F_{40\%}$ (0.31) as a proxy for F_{MSY} .

It was not possible to estimate the stock biomass and overfished status for GOM winter flounder. Since GARM III was not accepted, the most recent biological reference points came from the SARC36 stock assessment in 2003. It was not appropriate to compare the 2010 exploitation rate and stock size estimates to these biological reference points. The 2011 stock assessment used new population models developed in ADAPT VPA, SCALE, and Age-structured Assessment Program (ASAP). These models had difficulty with the conflicting data trends within the assessment, specifically, the large decrease in catch over the time series with very little change in the indices or age structure in catch and surveys. Consequently, an analytical assessment model was not accepted, and biomass-based reference points or proxies could not be estimated.

Southern New England/Mid-Atlantic

SAW52 determined that the **SNE/MA winter flounder stock was overfished, but not experiencing overfishing.** Biological reference points were estimated from an external stock-recruitment model and proxy BRPs are based on 40% MSY.

$SSB_{\text{Target}} = B_{\text{MSY}}$	43,661 mt	96,256,028 lbs
$SSB_{\text{Threshold}} = \frac{1}{2} SSB_{\text{MSY}}$	21,831 mt	48,129,116 lbs
MSY	11,728 mt	25,855,814 lbs
$MSY_{40\%}$	8,903 mt	19,628,000 lbs
$F_{\text{MSY}} = F_{\text{Threshold}}$	0.290	

The 2010 spawning stock biomass was estimated to be 15,599,891 lbs (7,076 mt), which equates to 16% of B_{Target} and 32% of $B_{\text{Threshold}}$. Fishing mortality (F) for fully recruited fish at ages 4-5 was estimated to be 0.051, or 18% of $F_{\text{Threshold}}$. The SARC predicted that even with a fishing mortality of 0.000 from 2012-2014, there is less than 1% chance for SSB to rebuild to SSB_{MSY} of 96.26 million pounds (43,661 mt).

The SNE/MA stock's spawning stock biomass peaked in recent history at 44.3 million lbs (20,108 mt) in 1982. Since then, SSB declined to a record low of 8.7 million lbs (3,941 mt) in 1993, but increased to 19.7 million lbs (8,941 mt) in 2000. SSB dropped again in 2005 to 9.9 million lbs (4,505 mt). That year, Amendment 1 was approved. SSB has increased to nearly 15.6 million lbs (7,076 mt) in 2010 (Figure 1).

Recruitment and low reproductive rate are key sources of vulnerability for winter flounder in the SNE/MA complex. Stock-recruit modeling suggests that warm winter temperatures can negatively impact recruitment of SNE/MA winter flounder. Since 1981, the estimated number of age-1 fish has declined from 71.6 million in the 1980 year class to a record low of 7.5 million in the 2001 year class. Estimates for the last decade have been lower than predicted, averaging at 10.6 million fish each year from 2001-2010. Recruitment for the 2009 year class was estimated to be 8.7 million (Figure 2).

III. Status of Assessment Advice

The stock assessment completed at SAW52 for the SNE/MA stock complex was accepted as scientifically sound. For the GOM stock unit, however, biological reference points or proxies could not be estimated by SAW52 or the previous stock assessment at GARM III.

IV. Status of the Fishery

Gulf of Maine

Commercial landings of Gulf of Maine winter flounder have substantially declined since the early 1980s, with recent landings being roughly 5% of harvest levels in the 1980s. From 1964 through the mid-1970s, commercial landings were near 2.2 million lbs (1,000 mt). Productivity peaked at nearly 6.2 million lbs (2,793 mt) in 1982, and has steadily decreased to a record low of 308,647 lbs (140 mt) in 2010 (Figure 3).

The primary **commercial gear** used to harvest GOM winter flounder is the otter trawl. From 1964 to 1985, otter trawls accounted for an average of 95% of the landings. From 1986 to 2001, an average of 26% of landings were taken by gillnets, while otter trawl catches reduced to an average of 74% of landings. A majority of the landings, averaging 93.5% for the past three years, have been taken in Massachusetts waters (Tables 1 and 4). Although taken year-round, winter flounder are more commonly landed during the third quarter of each year for the past decade. **Commercial discards** generally made up a small percentage of the total catch, about 5%. The largest annual total amount of commercial discard was 771,617 lbs (350 mt) in 1982. Similar to the landings, discards have decreased over the time series, reaching the lowest level in 2010 with 8,818 lbs (4 mt). Discard mortality from gillnet, large mesh, and the northern shrimp fishery was estimated to be 50%.

Recreational landings also peaked in 1982, at 6.7 million lbs (3,024 mt). Landings have generally declined; since 1994, annual totals are typically less than 220,462 lbs (100mt) (Figure 4). **Recreational releases** make up a small portion of catch. Over the time series, about 3% of GOM winter flounder have been released by anglers. The discard mortality from recreational fishing for winter flounder was estimated to be 15%. New York and Massachusetts account for a majority of the coastwide recreational winter flounder landings (Tables 2 and 3).

Southern New England/Mid-Atlantic

Commercial landings of SNE/MA winter flounder generally declined throughout the time series from 1964 to 2010, with periodic peaks and dips. After reaching a historical peak of 26.4 million pounds (11,977 mt) in 1966 and then declining through the 1970s, total U.S. commercial landings again peaked at 24.6 million pounds (11,176 mt) in 1981. After 1981, SNE/MA commercial landings declined to 4.7 million pounds (2,159 mt) in 1994 and then increased to 10.3 million pounds (4,672 mt) in 2001. Commercial landings have generally decreased since the 2001 peak, never exceeding 7 million pounds. Harvest levels fell to the lowest ever in 2010 with 383,604 pounds (174 mt) (Figure 4).

The primary **commercial gear** is the otter trawl that accounts for an average of 98% of landings since 1989. Scallop dredges, handlines, pound nets, fyke nets, and gill nets account for the remaining 2% of total landings. **Commercial discards** peaked in 1985 with 3.3 million pounds (1,534 mt). With the exception of 1997, discards from the commercial fishery have decreased to less than 408,000 pounds (185 mt) each year since 1995. Discard mortality was estimated to be 50%.

Recreational landings of SNE/MA winter flounder peaked in 1984 with 12.1 million pounds (5,510 mt) and substantially declined until reaching an all-time low of 61,729 pounds (28 mt) in 2010 (Figure 4). The principal mode of fishing is private/rental boats, with most recreational landings occurring during January to June. **Discard** from the recreational fishery peaked in 1985 with 507,063 pounds (230 mt), or 718,000 fish. Since 2000, discards have been below 44,000 pounds (20 mt), or less than 100,000 fish. A discard mortality rate of 15% was applied to live discard estimates.

V. Status of Research and Monitoring

Under Amendment 1 to the Interstate Fishery Management Plan for Winter Flounder, Massachusetts, Rhode Island, New York, and Delaware are required to continue annual surveys of juvenile recruitment to develop an annual juvenile abundance index. Massachusetts, Rhode Island, Connecticut, and New Jersey are required to continue annual surveys to develop an index of spawning stock biomass. These states have conducted the appropriate surveys to meet the research and monitoring needs as required by Amendment 1 (Table 4). State research and monitoring programs are summarized below.

Maine

The MEDMR conducts spring and fall bottom trawl surveys in cooperation with the New Hampshire Fish and Game Division. The Maine-New Hampshire (MENH) Inshore Trawl Survey collects length, weight, maturity stage, and age samples for winter flounder.

Maine does not conduct fishery-dependent monitoring for winter flounder, but monitors the recreational fishery via MRIP and commercial fishery via NMFS commercial landings data.

New Hampshire

The New Hampshire Fish and Game Department (NHFG) conducts an annual seine survey of juvenile fish in its estuaries from June through November. The survey produces an index of relative abundance for each species encountered using a geometric mean catch per seine haul. The index value (0.20) is a slight increase from 2010 and the second lowest value in the time series (presented below) for winter flounder, but the index has been highly variable. In addition, NHFG has worked with Maine Department of Marine Resources (MEDMR) since the fall of 2000 to conduct an inshore trawl survey off of Maine and New Hampshire. Winter flounder are regularly caught in this survey.

NHFG monitors the recreational fishery via MRIP and the commercial fishery via NMFS commercial landings data.

Massachusetts

The Massachusetts Division of Marine Fisheries (MADMF) completed spring and fall bottom trawl surveys covering its state waters through 2012. It also completed its annual young of the year (YOY) winter flounder survey in June 2012 to provide an index for recruitment of the SNE/MA stock.

MADMF monitors the recreational fishery via MRIP. Commercial vessels without federal permits for groundfish are required to report all landings at trip level.

Rhode Island

Except for the ichthyoplankton survey, which was discontinued in July of 2008, Rhode Island's Division of Fish & Wildlife continued four ongoing studies to monitor juvenile and adult winter flounder in its state waters. The trawl survey has been undergoing a calibration study since 2011, after new doors were purchased for the RIDFW trawl. The Narragansett Bay Juvenile Finfish Survey, which proceeded without any changes in protocol from previous years, sampled 18 stations once a month from June through October. The coastal pond survey added 7 permanent stations for a total of 24 stations in 8 coastal ponds. The new stations provide more comprehensive coverage of the RI south coast. The original survey protocols are still in place. During 2011, RIDFW partnered with staff from the EPA Atlantic Ecology Division in Narragansett, RI to sample an additional pond, Charlestown Pond. Winter flounder were collected and tagged with fyke nets of similar dimensions to those used in Point Judith Pond. Sampling took place concurrently with the sampling in Point Judith Pond.

RIDWF monitors the recreational fishery via MRIP and the commercial fishery is monitored via NOAA Fisheries port sampling program.

Connecticut

Winter flounder have been monitored through the Long Island Sound Trawl Survey since 1984. Spring (April, May and June) and Fall surveys (September and October) are conducted each year. The overall spring index for winter flounder (April-June) for 2011 was 16.68 fish/tow (geometric mean). This makes the spring index for 2011 the thirteenth consecutive annual index below the time series average of 57.67 fish/tow. The lowest value in the 26-year time-series was the 2006 spring index of 7.50 fish/tow. The April-May index used to develop abundance indices at age was 27.95 fish/tow while the average for the time series was 69.03 fish/tow.

Connecticut DEEP monitors the recreational fishery via MRIP and the commercial fishery is monitored via NOAA Fisheries port sampling program.

New York

The NYSDEC has been conducting a small mesh trawl survey targeting juvenile finfish since 1985. The survey runs from May through October in Peconic Bay. Using a small mesh sixteen foot semi-balloon shrimp trawl, a total of 136 randomly chosen stations were sampled during June and July 2011 (time series average = 139 tows). Environmental data - (temperature,

salinity, dissolved oxygen) was recorded at each station at both the surface and bottom. In addition, turbidity and the depth were also recorded at each station sampled. A total of 659 winter flounder were caught in June and July of 2011, up from the survey's low in 2002 when only 83 winter flounder were captured, but considerably lower than the survey max (25,782) in 1992 and the survey average of 3,541 fish. The lengths ranged from a minimum of 25 mm to a maximum of 304 mm for 2011 and the length-frequency distribution indicates several year classes are present in the bay at the time of sampling. The winter flounder catch per tow (CPUE, expressed as an arithmetic mean) in June & July 2011 was 4.8, down slightly from 5.0 in 2010.

New York does not conduct fishery-dependent monitoring.

New Jersey

The Bureau of Marine Fisheries has conducted an Ocean Trawl program in nearshore ocean waters since 1988. Winter flounder are most abundant during April, and data from this cruise have been used to develop an index of abundance for winter flounder in New Jersey waters. For each tow, information is collected on total number, total weight, and individual lengths. Catch per tow (numbers) in 2011 was 8.67, approximately 50% lower than the time series average of 17.42. Biomass in 2011 was 4.91 kg/tow, approximately 13% lower than the time series average of 5.64. Beginning in 1993 for the Ocean Trawl survey and in 1995 for the Spawning Survey, scales or otoliths have been collected in order to develop annual age-length keys and catch at age estimates.

New Jersey does not conduct fishery-dependent monitoring.

Delaware

Delaware was approved for *de minimis* status for 2011 and does not conduct biological monitoring of winter flounder. Amendment 1 provides that states that are granted *de minimis* status are exempted from biological monitoring/sub-sampling activities for the sector for which *de minimis* has been granted.

VI. Status of Management Measures and Issues

Amendment 1

Winter flounder is managed under Amendment I to the Interstate Fishery Management Plan for Inshore Stocks of Winter Flounder, implemented in November 2005 to completely replace all previous management plans for winter flounder in state waters. Amendment I required a minimum size limit of 12 inches for commercial and recreational fisheries for both GOM and SNE/MA stock units. Recreational creel limits were ten (10) fish in the SNE/MA stock area and eight (8) fish in the GOM. There are no required closed recreational seasons in the GOM, while there must be a closed season of 20 days during March and April in SNE/MA. The 60-day open season for recreational winter flounder fishing can be split into no more than 2

blocks. States must implement a minimum size of 6.5 inches square or diamond mesh for the cod-end in both GOM and SNE/MA inshore waters. Additionally, a 100-pound trip limit is required if smaller mesh is being used in the SNE/MA. This “mesh trigger” is intended for the landing of a small amount of winter flounder as bycatch in small-mesh fisheries.

Addendum I to Amendment 1

Implemented in June 2009, Addendum I aimed to reduce fishing mortality and rebuild the GOM and SNE/MA stocks. This addendum does not rescind the management required by Amendment 1, and states are required to continue implementing all measures in Addendum I and Amendment 1. These regulations only applied to non-federally permitted vessels that fish for winter flounder in state waters.

Gulf of Maine: For the GOM commercial fishery, the maximum possession limit is 250 pounds per vessel. This limit was estimated to reduce 2006-2007 harvest levels by 31% for state water fishing vessels. For the GOM recreational fishery, Addendum I required states to implement regulations to reduce fishing mortality by 11% from the average of 2006-2007 levels. This 11% reduction was estimated to reach F_{MSY} . States were allowed to achieve reductions through possession limits, seasons, or a combination of both, and also had the option to submit conservation equivalency proposals to achieve the necessary reductions through alternative management measures, subject to approval by the Board.

Southern New England/ Mid-Atlantic: Addendum I’s management measures were designed to reach the lowest F rate possible with minimal economic and social impacts and dead discards, and to prevent an influx of effort into state waters. Non-federally permitted commercial vessels may possess a maximum of 50 pounds of winter flounder. This level was estimated to reduce harvest by 65%, and was intended solely to allow for bycatch. Recreational fishermen may possess a maximum of two (2) winter flounder from inshore waters of the SNE/MA stock area. All winter flounder must be at least 12 inches in length (Section 4.1 of Amendment 1). This bag limit was estimated to reduce harvest by 46%.

De Minimis: Amendment I allowed a state to be granted *de minimis* status if their fishery constitutes less than 1% of the coastwide commercial or recreational landings for the preceding three years for which data are available. A state that qualifies for *de minimis* status based on their commercial landings will qualify for exemptions in the commercial fishery only, and a state that qualifies for *de minimis* based on their recreational landings will qualify for exemptions in their recreational fishery only. States that apply for and are granted *de minimis* status are exempted from biological monitoring/sub-sampling activities for the sector for which *de minimis* has been granted.

Northeast Multispecies Fishery; Gulf of Maine Winter Flounder Catch Limit Revisions

NOAA Fisheries doubled the catch limit for GOM flounder for the remainder of the 2011 fishing year, which ended April 30, 2012. This emergency action¹, which raised the state waters sub-component from 132,277 pounds (60 mt) to 359,353 pounds (163 mt), would

¹ Federal Register 50 CFR Part 648

eventually be increased again for the 2012 fishing year and lead to the development of Addendum II to Amendment 1 in late 2012.

VII. Implementation of FMP Compliance Requirements

State Compliance

All of the states with a declared interest in the management of winter flounder have commercial and recreational regulations in place that are compliant with ASMFC regulations (Tables 6 and 7).

De minimis Status

Delaware was the only state that requested *de minimis* status. Harvest levels averaged less than 1% of coastwide landings of winter flounder in both the commercial and recreational fishery for the last three years (2009-2011). It is the recommendation of the PRT to grant Delaware *de minimis* status for their recreational and commercial fisheries (Tables 1 - 5).

VIII. Research and Monitoring Recommendations

SAW52 produced new research recommendations based upon reviewed assessments and review panel reports for 2011 SAW52, 2008 GARM III, 2002 SARC 36, and prior assessments.

Coastwide (from 2008 GARM III)

1. Assessment approaches needs to be explored that consider all three Winter Flounder stocks as a stock complex within which there is significant interaction amongst the individual stock components. The Panel also had concerns about the unit stock, not only for this stock, but for all of the Winter Flounder stocks assessed. It recommended an analysis of Winter Flounder as a stock complex, rather than as individual stocks, be undertaken.

Southern New England - Mid-Atlantic

- 1) Update and investigate migration rates between stock and movement patterns. The most recent comprehensive tagging study was completed in the 1960s (Howe and Coates), and a new large scale effort is warranted. Further investigate localized structure/genetics within the stocks.
- 2) Investigate the feasibility of port samplers collecting otoliths from large and lemon sole instead of scales because of problems under-ageing larger fish.
- 3) Investigate use of periodic gonad histology studies as a check to make ensure maturity estimates are accurate, with particular attention to obtaining sufficient samples from the Georges Bank stock. Explore options to conduct periodic maturity staging workshops involving State and NEFSC trawl survey staff.
- 4) Investigate the skipped spawning percentage for each stock, and estimate interannual variation when sufficient data have been collected.
- 5) Investigate ways to improve compliance to help VTR reporting. Currently about 300 of the 1,500 permitted vessels consistently under-report the number of statistical area fished.
- 6) Encourage support for Industry Based Surveys, which can provide valuable information on stock abundance, distribution, and catchability in research surveys that is independent of and supplemental to NMFS efforts.
- 7) Explore use of a more complex Stock Synthesis model with small rates of migration between stocks.
- 8) Develop time series of winter flounder consumption by the major fish predators of winter flounder.
- 9) Conduct studies to better understand recruitment processes of winter flounder, particularly in the GOM and on GBK.
- 10) Revise the NEFSC assessment software to include the ability to model S-R functions including environmental factors with errors/probabilities.

- 11) Further explore the relationship between large scale environmental forcing (e.g., temperature, circulation, and climate) for effects on life history, reproduction, and recruitment in the Georges Bank stock.
- 12) Explore development of an index of winter flounder larval abundance based on MARMAP, GLOBEC, etc., time series.

Gulf of Maine

- 1) Update and investigate migration rates between stock and movement patterns. The most recent comprehensive tagging study was completed in the 1960s (Howe and Coates), and a new large scale effort is warranted. Further investigate localized structure/genetics within the stocks.
- 2) Investigate the feasibility of port samplers collecting otoliths from large and lemon sole instead of scales because of problems under-ageing larger fish.
- 3) Investigate use of periodic gonad histology studies as a check to make ensure maturity estimates are accurate, with particular attention to obtaining sufficient samples from the Georges Bank stock.
- 4) Investigate the skipped spawning percentage for each stock, and estimate interannual variation when sufficient data have been collected.
- 5) Investigate ways to improve compliance to help VTR reporting. Currently about 300 of the 1,500 permitted vessels consistently under-report the number of statistical area fished.
- 6) Encourage support for Industry Based Surveys, which can provide valuable information on stock abundance, distribution, and catchability in research surveys that is independent of and supplemental to NMFS efforts.
- 7) Explore use of a more complex Stock Synthesis model with small rates of migration between stocks.
- 8) Develop time series of winter flounder consumption by the major fish predators of winter flounder.
- 9) Conduct studies to better understand recruitment processes of winter flounder, particularly in the GOM and on GBK.
- 10) Revise the NEFSC assessment software to include the ability to model S-R functions including environmental factors with errors/probabilities.
- 11) Further explore the relationship between large scale environmental forcing (e.g., temperature, circulation, climate) for effects on life history, reproduction, and recruitment in the Georges Bank stock.
- 12) Explore development of an index of winter flounder larval abundance based on MARMAP, GLOBEC, etc. time series.

IX. List of References

National Oceanic and Atmospheric Administration. Commercial Fisheries Statistics Tool. Access: <http://www.st.nmfs.noaa.gov/commercial-fisheries/commercial-landings/annual-landings/index>

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Northeast Fisheries Science Center. 2008. *Assessment of 19 Northeast Groundfish Stocks through 2007: Report of the 3rd Groundfish Assessment Review Meeting (GARM III)*, Northeast Fisheries Science Center, Woods Hole, Massachusetts, August 4-8, 2008. US Department of Commerce, NOAA Fisheries, Northeast Fish Science Center Ref. Doc. 08-15; 884 p + xvii.

X. Figures and Tables

Figure 1. Southern New England/ Mid-Atlantic winter flounder spawning stock biomass and biological reference points.

Data Source: SAW52 (2011)

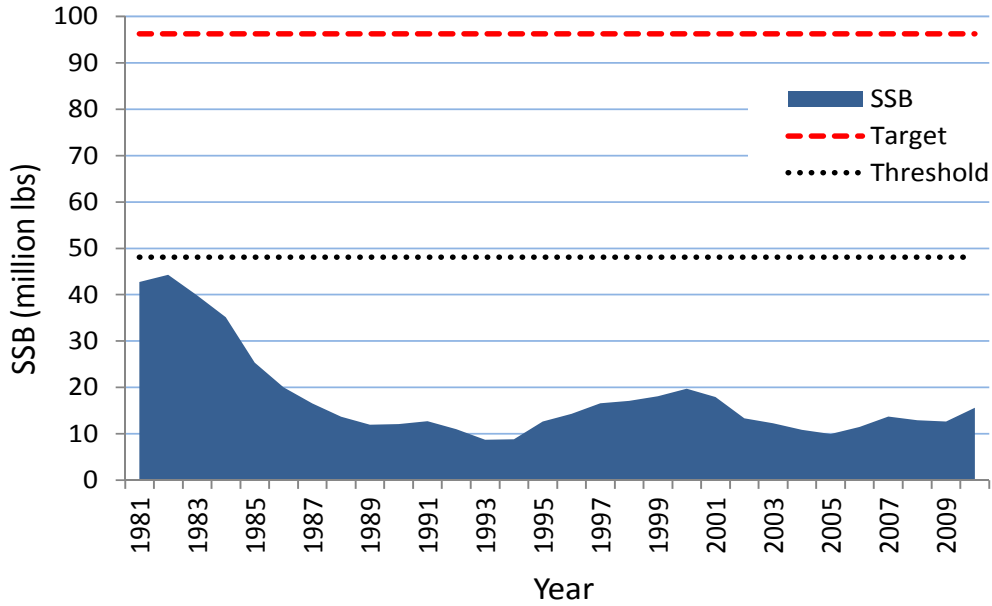


Figure 2. Southern New England/ Mid-Atlantic winter flounder recruitment.

Data Source: SAW52 (2011)

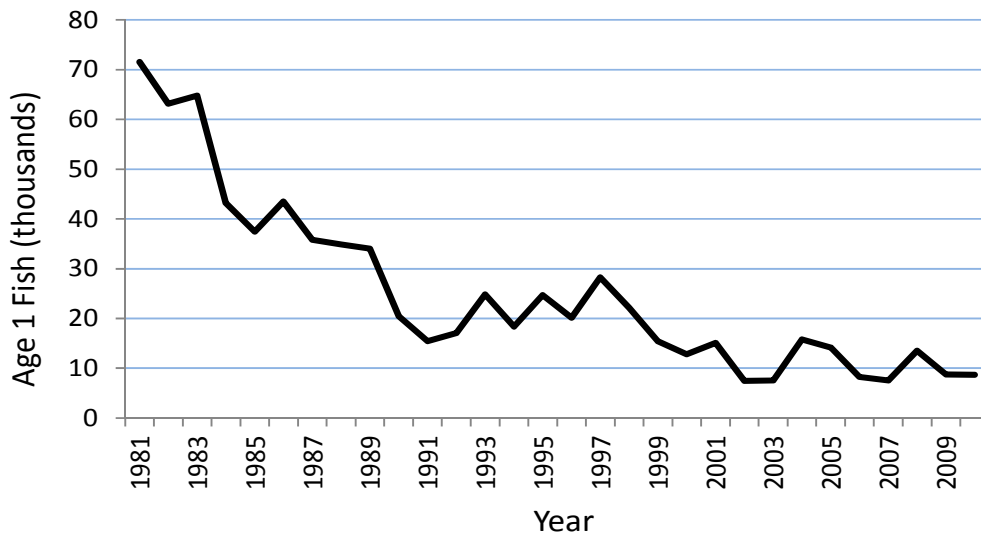


Figure 3. Gulf of Maine winter flounder commercial and recreational landings.

Data Source: SAW52 (2011)

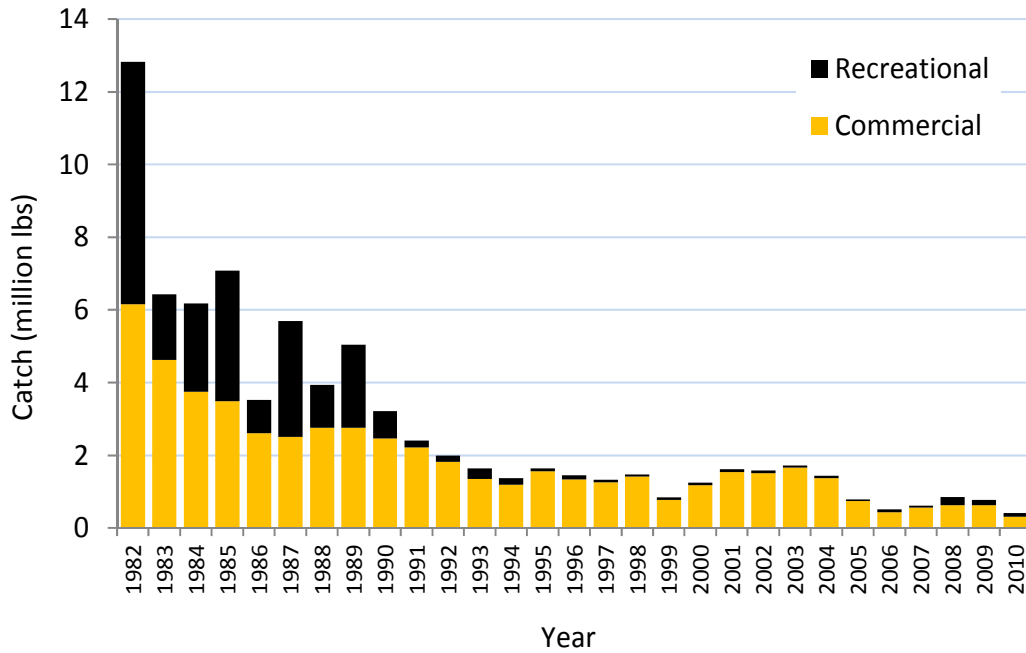


Figure 4. Southern New England/Mid-Atlantic winter flounder commercial and recreational landings. Recreational time series began in 1981.

Data Source: SAW52 (2011)

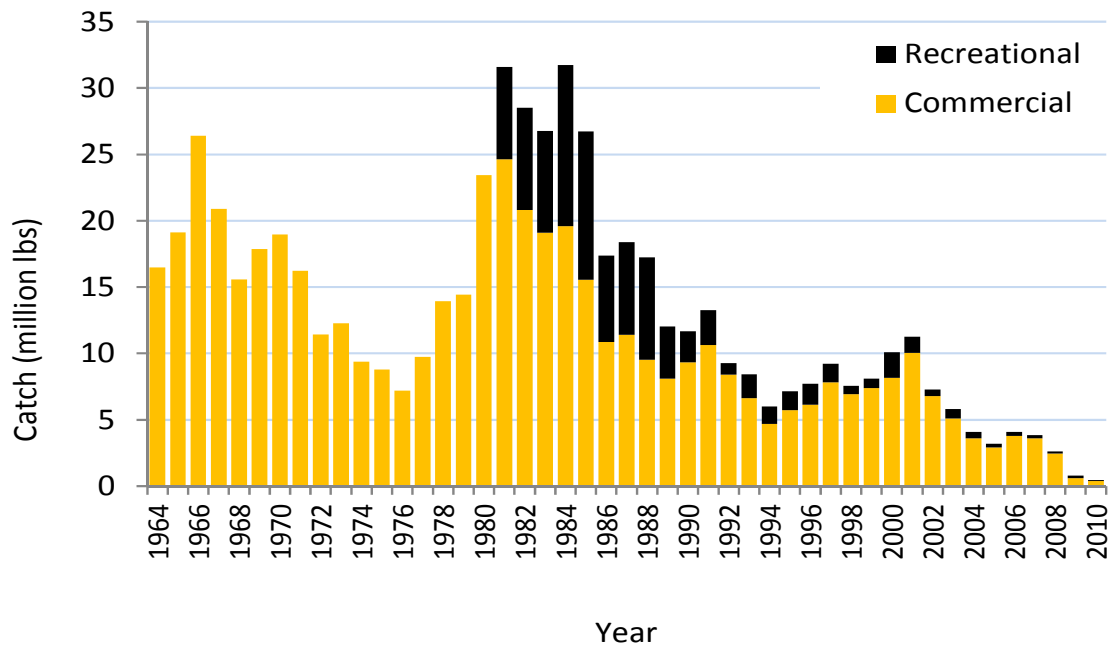


Table 1. Winter flounder commercial landings and percentage by state from 2009-2011.

Source: Personal communication from the NMFS Fisheries Statistics Division, Silver Spring, MD

State	2009		2010		2011	
	Pounds	%	Pounds	%	Pounds	%
Massachusetts	4,350,100	89.3	3,341,962	95.5	4,474,275	95.6
Rhode Island	330,404	6.8	76,413	2.2	84,759	1.8
New York	92,578	1.9	17,421	0.5	11,952	0.3
New Jersey	58,146	1.2	6,938	0.2	6,051	0.1
Connecticut	28,407	0.5	6,075	0.2	7,175	0.2
New Hampshire	10,221	0.2	3,245	0.1	5,189	0.1
Maine	<i>Confidential: please see three-year averages</i>					
Delaware	0	0.0	0	0.0	0	0.0
Annual Total	4,872,718		3,498,577		4,683,577	

Table 2. Recreational harvest (A + B1 + B2) by weight (pounds) by state 2009-2011.

Source: Personal communication from the NMFS Fisheries Statistics Division, Silver Spring, MD

State	2009		2010		2011	
	Pounds	%	Pounds	%	Pounds	%
New York	121,704	42.23	40,095	20.19	66,012	31.54
Massachusetts	121,752	42.25	86,220	43.42	66,728	31.88
Connecticut	17,897	6.21	20,196	10.17	25,449	12.16
New Hampshire	12,215	4.24	1,930	0.97	17,385	8.31
New Jersey	9,380	3.25	48,481	24.42	33,744	16.12
Rhode Island	5,226	1.81	1,640	0.83	0	0.00
Maine	NA		NA		NA	
Delaware	0	0.00	0	0.00	0	0.00
Annual Total	288,174		198,562		209,318	

Table 3. Recreational harvest (A + B1 + B2) in numbers of fish by state 2009-2011.

Source: Personal communication from the NMFS Fisheries Statistics Division, Silver Spring, MD

State	2009		2010		2011	
	Number of Fish	%	Number of Fish	%	Number of Fish	%
New York	178,808	41.86	94,223	27.12	165,650	43.82
Massachusetts	171,195	40.07	153,949	44.32	126,674	33.51
New Jersey	33,978	7.95	62,897	18.11	52,346	13.85
Connecticut	18,368	4.30	26,310	7.57	19,761	5.23
New Hampshire	14,421	3.38	6,637	1.91	13,551	3.58
Rhode Island	5,221	1.22	2,551	0.73	29*	0.01
Maine	4,675	1.09	NA		NA	
Delaware	536	0.13	810	0.23	0	0.00
Annual Total	427,202		347,377		378,011	

* There was a high PSE in 2011, likely due to low number of trips intercepted.

Table 4. Three-year average commercial landings by state from 2009-2011.

Source: Personal communication from the NMFS Fisheries Statistics Division, Silver Spring, MD

State	3-Year Averages from 2009-2011	
	Pounds	%
Massachusetts	4,055,446	93.5
Rhode Island	163,859	3.6
New York	40,650	0.9
New Jersey	23,712	0.5
Connecticut	13,886	0.3
New Hampshire	6,218	0.1
Maine	1,204	0.0
Delaware	0	0.0

Table 5. Three-year average recreational harvest by state from 2009-2011.

Source: Personal communication from the NMFS Fisheries Statistics Division, Silver Spring, MD

State	3-Year Averages from 2009-2011			
	Pounds	%	Number of Fish	%
New York	146,227	37.6	75,937	31.3
Massachusetts	150,606	39.3	91,567	39.2
New Jersey	49,740	13.3	30,535	14.6
Connecticut	21,480	5.7	21,181	9.5
New Hampshire	11,536	3.0	10,510	4.5
Rhode Island	2,600	0.7	2,289	0.9
Delaware	449	0.0	0	0.0
Maine	NA		NA	

Table 6. State-by-state compliance with ASMFC winter flounder commercial regulations

State	Stock Unit	Size Limit	Trip Limit	Seasonal Closure (dates inclusive)	Recruitment Assessment	SSB Assessment	Min. Mesh Size	<i>De minimis Request</i>
Maine	GOM	12"	250 lbs	May 1 – June 30	N/A	N/A	6.5"	No
New Hampshire	GOM	12"	250 lbs	April 1 – June 30	N/A	N/A	6.5"	No
Massachusetts	GOM	12"	250 lbs	Open all year	YOY Seine Survey (June)	Bottom Trawl Survey (May, Sept)	6.5"	No
	SNE/MA	12"	50 lbs	Open all year	YOY Seine Survey (June)	Bottom Trawl Survey (May, Sept)	6.5"	No
Rhode Island	SNE/MA	12"	50 lbs	Open all year	Narragansett Bay Juvenile Finfish Survey	Trawl Surveys	6.5"	No
Connecticut	SNE/MA	12"	50 lbs or 38 fish	March 1 – April 14	N/A	Long Island Sound Trawl Survey	6.5"	No
New York	SNE/MA	12"	50 lbs	June 14 – Nov 30	Small Mesh Trawl Survey, Seine Survey	N/A	6.5"	No
New Jersey	SNE/MA	12"	38 fish	June 1 – Nov 30. Fyke net closed Feb 20 – Oct 31	N/A	Ocean Trawl Survey	6.5"	No
Delaware	SNE/MA	12"	50 lbs	N/A	Juvenile Trawl Survey	N/A	Trawling prohibited	YES, Recommended

Table 7. State-by-state compliance with ASMFC winter flounder recreational regulations

State	Stock Unit	Creel Limit	Size Limit	Seasonal Closure (dates inclusive)	Qualifies for <i>de minimus</i> ?	<i>De Minimis Request?</i>
Maine	GOM	8	12"	October 1 – June 30	Yes	No
New Hampshire	GOM	8	12"	May 15 – May 24	No	No
Massachusetts	GOM	8	12"	September 1 – October 31 February 1 – May 31 (spawning closure)	No	No
	SNE/MA	2	12"	OPEN from 4 th Saturday in April and Sept., to remain open for 30 consecutive days	No	No
Rhode Island	SNE/MA	2	12"	OPEN from 4 th Saturday in April and last Saturday in Sept., to remain open for 30 consecutive days	No	No
Connecticut	SNE/MA	2	12"	May 31 – March 31	No	No
New York	SNE/MA	2	12"	May 31 – March 31	No	No
New Jersey	SNE/MA	2	12"	May 22 – March 22	No	No
Delaware	SNE/MA	2	12"	April 11 – Feb 10	Yes	YES, Recommended

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Atlantic States Marine Fisheries Commission

**DRAFT ADDENDUM III TO AMENDMENT 3 TO THE
WINTER FLOUNDER FISHERY MANAGEMENT PLAN**



This draft document was developed for Management Board review and discussion.

This document is not intended to solicit public comment as part of the Commission/State formal public input process. Comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting.

If approved, a public comment period will be established to solicit input on the issues contained in the document.

ASMFC Vision Statement:

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

February 2013

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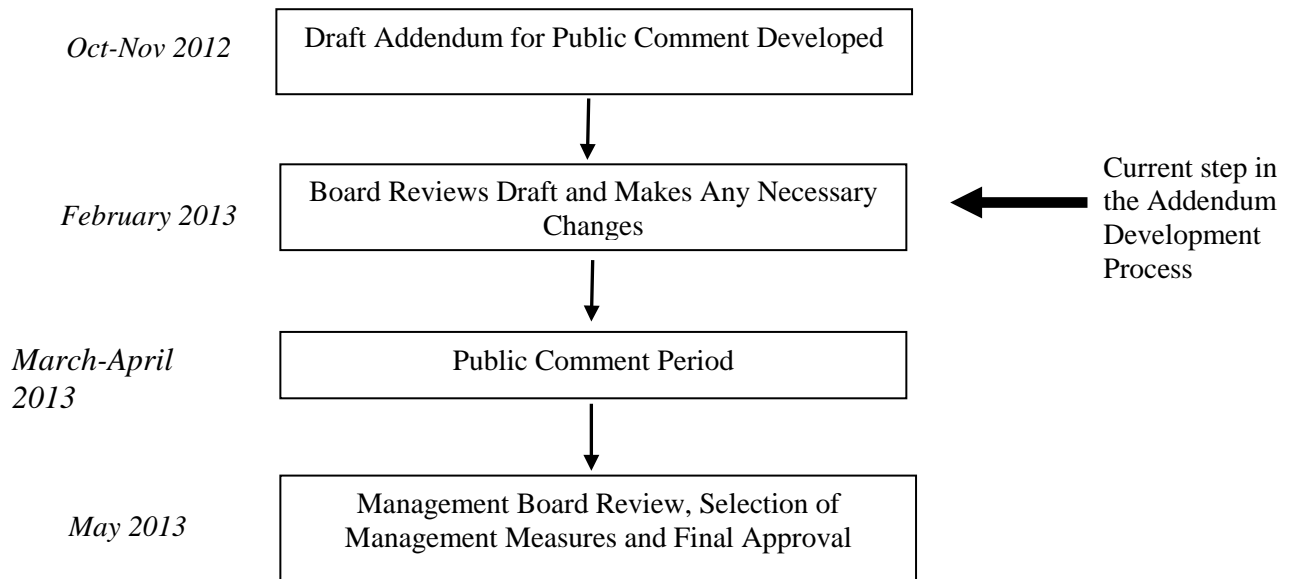
Public Comment Process and Proposed Timeline

In August 2012, the Winter Flounder Management Board approved a motion to initiate the development of an addendum to the Interstate Fishery Management Plan (FMP) for winter flounder to consider changing commercial trip limits and recreational measures through an annual specification process. The Board also tasked the PDT to propose accountability measures for the winter flounder fishery. This draft addendum presents background on the Atlantic States Marine Fisheries Commission’s (ASMFC) management of winter flounder, the addendum process and timeline, and a statement of the problem. This document also provides options of winter flounder management for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the addendum process. **The final date comments will be accepted is XXXXX, 2013 at 5:00 PM eastern standard time.** Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Melissa Yuen
Atlantic States Marine Fisheries Commission
1050 North Highland Ave, Suite 200
Alexandria, VA 22201

Email: myuen@asmfc.org
Phone: (703)-842-0740
Fax: (703)-842-0741



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1.0 Introduction

The Atlantic States Marine Fisheries Commission (ASMFC) and New England Fishery Management Council (NEFMC) have had complementary management plans for winter flounder since 1992. ASMFC manages winter flounder under Amendment 1 and its Addendum (I). The NEFMC manages winter flounder under Amendment 17 and Framework 47 to the Northeast Multispecies FMP, which focuses on offshore commercial fisheries and aims to rebuild overfished fisheries by reducing fishing mortality and minimizing adverse effects on all essential fish habitat. The resource is assessed and managed as three stocks: Gulf of Maine (GOM), Southern New England/Mid-Atlantic Bight, and Georges Bank. Cooperative management between state and federal waters is necessary because of the unique migration patterns and spawning site fidelity of this species. When winter flounder migrate to inshore state water spawning grounds, they become concentrated in certain areas. This makes it easy for fishermen to locate and remove a substantial number of spawning fish without adequate regulations. Concentrated fishing effort on spawning females can result in a larger impact on the population than the landings may suggest, due to the loss of spawning potential. Nearshore fishing grounds are also vulnerable to water pollution and habitat loss which are threats to winter flounder stocks.

In August 2012, the Winter Flounder Management Board initiated the development of an addendum to the Interstate Fishery Management Plan (FMP) for winter flounder to consider changing commercial trip limits and recreational measures through an annual specification process for the Gulf of Maine winter flounder fishery only. The Board also tasked the PDT to propose in- and post-season accountability measures for the winter flounder fishery.

2.0 Background

The New England Fishery Management Council makes recommendations to NOAA Fisheries to set specifications for the winter flounder stocks. Specifications are set every 3 years and are subject to review. For each winter flounder stock, NOAA Fisheries establishes an annual catch limit (ACL) and accountability measures (AMs). The ACL is divided into various sub-components of the fishery (allocation of quota to those sub-components). The federal sub-components of the ACL are subject to the established AMs. AMs can include season closures and payback of quota overages. In order to set an ACL, NOAA Fisheries must account for all winter flounder harvest, therefore state water harvest is estimated in the federal specification process. The state water estimate is not an allocation (ACL or a target), but an estimate of catch based on the state water landings history and state regulations in both the commercial and recreational fishery. The Commission plan has not adopted an allocation for winter flounder. The plan controls harvest through commercial and recreational measures, including trip limits, seasons, size limits, and possession limits. The Commission's Winter Flounder FMP allows for changes in the commercial and recreational measures via the addendum process.

2.1 Statement of the Problem

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The Commission has approved changes to the commercial and recreation measures through the addendum process. Addendum I to Amendment 1 made changes to measures in for state water management in both GOM and SNE/MA stocks. The measures were developed and approved in response to findings of the most recent stock assessment at that time (GARM III). Addendum II made changes to the GOM commercial and recreational measures in response to the most recent stock assessment and specifications for GOM winter flounder finalized by NOAA Fisheries. Changes to the measures have been in response to updated stock assessments or changes in federal specifications. The timing of the addendum process has not allowed for the Board to timely respond to specification changes. For the most recent fishing year, concerns were raised that without changes to commercial and recreational measures, state water industry will not be able to fully utilize the estimated state water harvest.

In reviewing the available data for specifying commercial trip limits in Addendum II, the TC recommend the Board adopt in-season accountability measures such as trip limit triggers, trip limit adjustments, and/or season closures, because the TC cannot predict possible changes in effort. Accountability measures would prevent large overages of the estimated state waters harvest if significant increases in effort were to occur. In order to establish AMs states would need to implement timely reporting in order for in-season accountability measures to be effective, particularly in Massachusetts where the majority of the commercial harvest is occurring. The TC also recommends the Board adopt a payback provision. In order for the Board to adopt a payback provision, a quota would first need to be established.

3.0 Proposed Management Changes

The proposed changes are for the GOM winter flounder fishery only.

3.1 Changes to Commercial and Recreational Measures

Option 1. Status quo

Section 4.4 Adaptive Management of Amendment 1 specifies that changes to commercial and recreational measures can be made through the addendum process.

Option 2. Annual Specification Process

The Winter Flounder Board will set annual specifications based on the federally established State waters subcomponent Annual Catch Limit (ACL) based on the following procedure:

The Winter Flounder Technical Committee (TC) will annually review the best available data including, but not limited to, NOAA Fisheries specifications, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock status, survey indices, assessment modeling results, and target mortality levels. Based on their data review, the TC will make recommended changes to commercial and recreational specifications to the Board.

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The Board will annually set commercial and recreational specifications based on the TC recommendation through Board action. Specifications could be set for up to 3 years with the option to review the trip limit if new information is released with the 3 year period.

Commercial measures that could be adjusted through Board action:

1. Trip limits
2. Trigger Trip Limits
3. Size limits
4. Season
5. Area closures

Recreational measures that could be adjusted through Board action:

1. Size limits
2. Bag limits
3. Season

3.2 Harvest Control Measures

Option 1: Status Quo

There are no harvest control measures in the Winter Flounder FMP

Option 2. Commercial Harvest Control Measures

Establish a trigger for state waters commercial trip limits that would reduce the trip limit when the trigger is reached A trigger is met when X% (options below) of the estimated state water harvest (determined by NOAA Fisheries in their specification setting process) by non-federal permit holders is reached.

- a. 75%
- b. 85%
- c. 90%

4.0 Compliance

The measures contained in section 3.0 would become effective on XXXXX.