



Atlantic States Marine Fisheries Commission

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MEMORANDUM

October 16, 2012

To: Winter Flounder Management Board
From: Toni Kerns, Acting ISFMP Director
RE: Draft Addendum II to the Winter Flounder FMP

The following represents the comment received by ASMFC by October 15, 2012 on draft Addendum I to the Winter Flounder FMP. The comment period will be open an addition 2 days before it closes on October 17 at 5:00 pm. Any comments received after the 15th will be summarized at the Board meeting on October 22, 2012.

A total of 3 written/mailed comments have been received.

Public hearings were held in 3 states: Maine, New Hampshire, and Massachusetts. Ten individuals attended all of the hearings combined.

Summary of comments received

Comments	Commercial Measures: trip limit		Recreational Measures:	
	Option 1: Status Quo	Option 2: Increase trip limit	Option 1: Status Quo	Option 2: Remove closed season
Written		3		
Hearings	1	5	1	5

Public Hearing Summary

Maine

October 10, 2012- No Attendees

Portsmouth, NH

October 2, 2012: 11 people present

Recreational Management Measures

-One person suggested maintaining an 8 fish bag limit is hurting the Party Boat business and there should be a doubling of the bag limit. They think this option should be added and eliminating the seasons does not do much for them.

-One person is in favor of option 2, having a 12 month season.

Commercial Management Measures

-One person is concerned that the science may not be accurate because the last time the AP met they were considering a moratorium, have things really changed that much, if that is the case should measures be changed?

-One person is in favor of option 2, an increase to the 500 lb trip limit.

Gloucester, MA

October 4, 2012: 4 attendees

Recreational Management Measures

-There was consensus from the attendees that eliminating the season closures and having a year round recreational fishery is fine.

Commercial Management Measures

-Three trawl fishermen are in favor of Option B, a 500 lb trip limit.

-Two people noted that if you target winter flounder, you will end up catching yellowtail flounder at the same time as bycatch so that may be an issue for increasing yellowtail flounder landings.

- One person noted that he fishes further south (south of line between Provincetown and Scituate and there is less of a bycatch issue of catching yellowtail flounder with winter flounder.

-They also noted that an increase in the trip limit to 500 lbs may help with bycatch, because the 250 lb limit is not enough to make a trip so they have to go and target other species on the same trip. Therefore, with a trip limit at 500 lbs of winter flounder they could just make a trip on winter flounder.

MEMO

From: Bud Brown, Chair, ASMFC Winter Flounder Advisory Panel
To: ASMFC
Date: October 14, 2012
RE: Winter Flounder Advisory Panel Report

The Winter Flounder Advisory Panel (AP) had a Conference Call on Thursday, October 11, 2012. Participants included Toni Kerns, ASMFC Staff; Gary Libby, Commercial Member from Maine; Don Swanson, Recreational Member from New Hampshire; and me. This Memo reports the discussions.

Toni began the Call by reviewing Draft Addendum II. She also noted that the Board tasked the PDT to draft a new Addendum to consider annual specifications through board action and accountability measures, which will be presented to the Board at the October meeting. Her presentation was useful to all because it brought the issues back into focus for us.

I asked both Gary and Don for their observations and experiences with Winter Flounder in the Gulf of Maine (GOM). Gary reported that he has no direct experience with GOM W/F since (a) he fishes well offshore and (b) he has no allocation for them because there were none to catch when the Catch Share experience levels were being established. He also reported that no one in his Harbor of Port Clyde was seeing or catching any W/F. Finally, he said that he had caught no W/F in his lobster traps this year.

Don reported that there were some W/F being caught in his area, which does include portions of Maine along the Maine/NH border. I recollect that he said it wasn't like it used to be but am not positive that he said it. I reported that nothing has changed here in Maine since I started my Quest to re-establish them here which began in 1993.

The AP voted on and approved Don's motion to oppose the Massachusetts proposal based upon the uncertainty of the Stock Assessment as well as the need to protect any populations of Winter Flounder which may contribute to Stocks off Maine and New Hampshire.

EDITORIAL COMMENTS

I was watching On the Water Television on CSNE today where a show about catching Winter Flounder out of Quincy and around Hull in Boston Harbor re-instilled my passions. The discussions

about people coming from New Jersey and New York by the hundreds every year for that fishery just shows how out of touch the Stock Assessment really is. My believe is that the Board, the Technical Committee, and NOAA's Science Center need to take a critical look at the Models and come up with a methodology which demonstrates what everyone in Maine knows to be true. Namely, that from a fishery standpoint this Stock is extinct. Almost no one catches any.

How the Technical Committee can look at the Landings data, the Maine Trawl Survey, and be aware of the complete lack of Winter Flounder in Maine and come up, depending upon the year, that the Stock is either Overfished, or Not and/or that Overfishing is Occurring, or Not is beyond my comprehension. Away from the Podium I hear from Technical Committee members that they know that as a practical matter there are no Winter Flounder up here to support any sort of fishery. Yet, nothing gets done to assess why they are not here and why they are not returning.

Adding to the AP's recommendations is my personal plea to the Board to not only oppose the Massachusetts proposal but to also charge the Technical Committee with the task of refining the Stock Assessment to reflect what everyone knows to be true and to not let the lack of data in Maine allow this condition to persist.

Thank you in advance for your consideration of my personal comments. I will be working on Spednic Lake during the ASMFC Annual Meeting so I cannot attend. The Lake is being drawn down for my work so I have no choice.

Draft Document for Board Review. Not for Public comment.

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.

October 2012

Draft Document for Board Review. Not for Public comment.

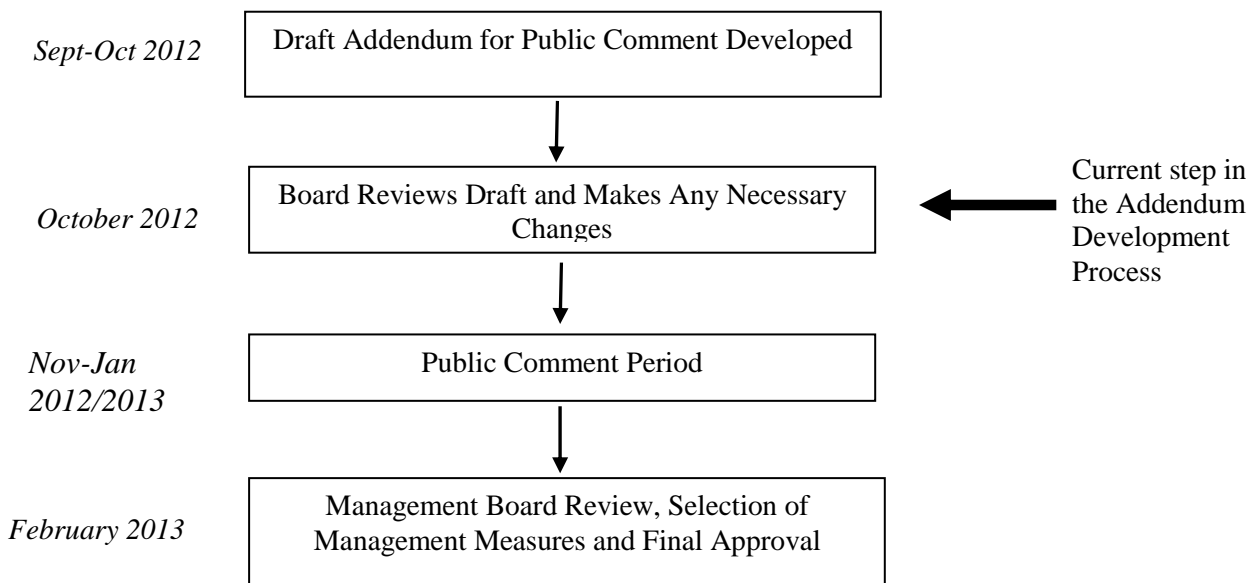
Public Comment Process and Proposed Timeline

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, 2012 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.

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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. 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

The Commission has approved changes to the commercial and recreation measures through the addendum process. Addendum I to Amendment 1 made changes to measures

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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). Currently the Board is considering changes to the GOM commercial and recreational measure in response to the most recent stock assessment and specifications for GOM winter flounder finalized by NOAA Fisheries through draft Addendum II to Amendment I. 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 currently fishing year, concerns have been 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, 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

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.

Draft Document for Board Review. Not for Public comment.

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. Size limits
3. Season
4. Area closures

Recreational measures that could be adjusted through Board action:

1. Size limits
2. Bag limits
3. Season

3.2 Accountability measures

Option 1: Status Quo

There are no accountability measures in the Winter Flounder FMP

Option 2. Commercial Accountability Measures

Establish a trigger for state water commercial trip limits that would close state water fisheries 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) is reached.

The Board is considering triggers at the following levels:

- a. 85%
- b. 90%
- c. 95%

4.0 Compliance

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

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XC159

Fisheries of the Northeast Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of determination of overfishing and approaching an overfished condition as well as inadequate progress in rebuilding.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has determined that the Gulf of Maine (GOM) stock of haddock is subject to overfishing and is approaching an overfished condition. In addition, the rebuilding plans for American plaice and the Southern New England/Mid-Atlantic (SNE/MA) stock of winter flounder were found to have not resulted in adequate progress toward rebuilding the affected fish stocks.

NMFS notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, a stock is approaching an overfished condition, or when a rebuilding plan has not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks.

FOR FURTHER INFORMATION CONTACT: Mark Nelson, (301) 427–8565.

SUPPLEMENTARY INFORMATION: Pursuant to sections 304(e)(2) and (e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2) and (e)(7), and implementing regulations at 50 CFR 600.310(e)(2), NMFS, on behalf of the Secretary, must notify Councils whenever it determines that a stock or stock complex is: overfished; approaching an overfished condition; or an existing rebuilding plan has not ended overfishing or resulted in adequate rebuilding progress. NMFS also notifies Councils when it determines a stock or stock complex is subject to overfishing. Section 304(e)(2) further requires NMFS to publish these notices in the **Federal Register**.

On May 30, 2012, NMFS informed the New England Fishery Management Council of the latest status of the New England groundfish stocks. In that letter they indicate changes in the status of several stocks:

- GOM haddock is now subject to overfishing and is approaching an overfished condition;
- The rebuilding plan for American plaice has not resulted in adequate progress toward rebuilding. The stock is neither overfished nor subject to overfishing;
- The SNE/MA stock of winter flounder is no longer subject to overfishing but remains overfished and the stock's rebuilding plan has not resulted in adequate progress toward rebuilding the stock.

For the above stocks approaching an overfished condition, the Council must prevent overfishing and if the stock becomes overfished, steps must be taken under MSA § 304(e)(3) and (4) to end overfishing and to rebuild the stock. For the above stocks which are subject to rebuilding plans that have been determined to have not resulted in adequate progress towards rebuilding, within 2 years, the Council must revise the rebuilding plan for each stock and implement the revised plan, as required by MSA § 304(e)(3).

Dated: October 11, 2012.

Emily Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–25455 Filed 10–15–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XC100

Marine Mammals; File No. 17115

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to James Lloyd-Smith, Department of Ecology and Evolutionary Biology, University of California, Los Angeles, 610 Charles E. Young Dr. South, Box 723905, Los Angeles, California 90095–7239 to conduct research on California sea lions (*Zalophus californianus*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Joselyd Garcia-Reyes, (301)427–8401.

SUPPLEMENTARY INFORMATION: On July 12, 2012, notice was published in the **Federal Register** (77 FR 41171) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit holder is authorized to study the prevalence of leptospirosis in wild California sea lions. Up to 5,100 California sea lions may be taken annually from Año Nuevo Island including 20 by capture and release, 80 by capture/sample/release and 5,000 by incidental disturbance. Procedures include: capture (stalking, hoop net); restraint (board, cage, hand, net); anesthesia (gas); mark (flipper tag); measure; and sample (blood, urine, vibrissae). Up to 3,000 northern elephant seals (*Mirounga angustirostris*) and up to 60 Pacific harbor seals (*Phoca vitulina*) may be taken annually due to incidental disturbance. Up to four California sea lions may die incidental to the permitted activities. The permit expires September 30, 2017.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 10, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–25480 Filed 10–15–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID DoD–2012–OS–0098]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service, DoD.